

VOLUME: VI

WILDLIFE CONSERVATION AND NATIONAL PARKS

CHAPTER: 38:01

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Part:I Preliminary (ss 1-4)

An Act to make further and better provision for the conservation and management of the wildlife of Botswana, giving effect to CITES and any other international convention for the protection of fauna and flora to which Botswana is, from time to time, a party, to provide for the establishment, control and management of national parks and game reserves, and for matters incidental thereto or connected therewith.

[Date of Commencement: 11th December, 1992]

PART I

Preliminary (ss 1-4)

1. Short title

This Act may be cited as the Wildlife Conservation and National Parks Act.

2. Interpretation

(1) In this Act unless the context otherwise requires-

"animal" means and includes any vertebrate or invertebrate animal or bird and the eggs and young thereof, but does not include a fish, except in a national park or a game reserve, or a domestic animal or bird, or the eggs and the young thereof;

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

"CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora to which Botswana is a Party as set out in the Fifth Schedule to this Act, and includes any Appendices thereto and any Resolutions of the Conferences of the Parties;

"close season", in relation to any game animal and any area, means any period which is not an open season in respect of that animal and that area;

"controlled hunting area" means an area of land declared to be a controlled hunting area under section 16 and specified in the Fourth Schedule;

"dangerous animal" means any animal specified as a dangerous animal in the Ninth Schedule;

"Director" means any person for the time being holding the public office of Director of Wildlife and National Parks;

"district office" means an office of a district administrative officer;

"domestic animal" means any horse, mare, gelding, ass, mule, bull, cow, ox, ram, ewe, wether, goat, pig, camel, dog or cat, commonly regarded as a domestic animal, or the young of any such animal;

"domestic bird" means any fowl, duck, goose, turkey, or pigeon commonly regarded as a domestic bird or the eggs or young thereof;

"game" or **"game animal"** means any animal specified in the Sixth and Seventh Schedules of this Act;

"game reserve" means an area of land declared to be a game reserve by or under section 12 and specified in the Second Schedule;

"gate attendant" means any person employed in a national park or game reserve as a gate attendant;

"Government trophy" means anything which under this Act is declared to be a Government trophy;

"honorary officer" means a person appointed as an honorary officer under section 4;

"horn" includes rhinoceros horn;

"hunt" means and includes-

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

(b) wilfully disturb or molest by any method;

(c) lie in wait for, or search for, with intent to kill, injure or shoot at;

"ivory" means elephant ivory in whatever form;

"land board" means a land board established as such under the provisions of the Tribal Land Act;

"licence" means a licence issued under this Act;

"licensing officer" means a person appointed as a licensing officer under section 3;

"meat" includes the fat, blood and flesh of any animal, whether fresh, dried, tinned or otherwise preserved;

"national park" means a national park declared as such under this Act and specified in the First Schedule;

"night" in any year from the 1st March to 30th September means the period of time between half past six in the evening and six o'clock in the morning, and from the 1st October to the last day of February means the period of time between half past seven in the evening and half past five o'clock in the morning;

"non-designated animal" means any animal which is not a game animal;

"occupier", in relation to land, means the person in actual lawful occupation of the land who has the right to exercise general control over such land and actually resides thereon;

"open season", in relation to any game animal, other than a protected game animal, and any area, means the period declared by the Minister under section 36 as the period during which such game animal may be lawfully hunted in such area;

"owner", in relation to any land, means-

- (a) in the case of private land, the person in whose name such land is registered in the Deeds Registry;
- (b) in the case of land vested in a city or town council or a township authority, the said council or authority;
- (c) in the case of State Land, the President;
- (d) in the case of a tribal area, the land board established in respect of that tribal area;

"partially protected game animal" means any animal which is so declared under section 18 and specified in Part I of the Seventh Schedule;

"permit" means a permit granted in accordance with the provisions of section 39 or section 40 of this Act;

"possession" shall have the same meaning as is given to the word "possession" in section 2 of the Penal Code;

"private game reserve" means an area of land declared to be a private game reserve under section 13;

"private land" means any land the ownership of which has, by law, grant or title deed, become vested in any person other than the State or a tribe;

"professional guide" means any person, other than a tracker, driver, beater, bearer or domestic servant who, for hire or reward, conducts or assists any other person or party for the purpose of visiting, viewing or photographing animals or places of interest or beauty, or of botanical, historical, geological, ethnological or archaeological significance, or for the purpose of sport fishing, but which purpose shall not include the hunting or capture of animals;

"professional hunter" means any person who, for hire or reward, conducts hunting or photographic parties, or any person other than a tracker, driver, beater, bearer or domestic servant who, for hire or reward, assists any person or party in the hunting or photographing of any animal;

"protected game animal" means any animal which is so declared under section 17 and specified in the Sixth Schedule;

"purchase" includes barter or exchange;

"sanctuary" means an area of land declared to be a sanctuary under the provisions of this Act;

"season" means, in relation to any game animal and any area, the open season or, where no open season has been declared, a year commencing on the first Tuesday in April in such year;

"sell" means sell, barter, exchange, hawk, offer or expose for sale;

"trap" means any net, rod, hook, spring, gin, snare, contrivance or device by means of which an animal can be captured, netted or snared;

"tribal area" has the same meaning as in the Tribal Land Act;

"tribe" has the same meaning as in the Chieftainship Act, and includes a tribal community as defined in that Act;

"trophy" means any horn, ivory, tooth, tusk, bone, claw, hoof, hide, skin, hair, feather, egg or other durable portion whatsoever of any animal, whether processed or not, which is recognizable as a durable portion of such animal;

"trophy dealer" means a person who carries on the business of buying trophies for resale or export, or who carries on the business of processing trophies;

"water installation" means a canal, channel, reservoir, embankment, weir, dam, borehole, well, pipeline, pumping plant, filter-bed, filter, purification plant, machinery, appliance, apparatus, fitting or accessory or anything constructed, erected or used for or in connection with the impounding, storage, passage, drainage, control or abstraction of water, or the development of water power, or the filtration or purification of water, or the use of water, or the conservation of rainfall;

"weapon" means any firearm or ammunition therefor, or any other instrument capable of propelling a projectile or capable of being propelled or used in such manner that any animal can be killed or injured thereby;

"wildlife management area" means an area of land declared to be a wildlife management area under section 15 and specified in the Third Schedule;

"wildlife officer" means any person for the time being holding the public office of Director or any other public officer of the Department of Wildlife and National Parks charged with the implementation and administration of the provisions of this Act, and, to the extent to which an honorary officer is permitted to act, includes an honorary officer.

(2) For the purposes of this Act, a person shall be deemed to be a resident of Botswana if-

- (a) he is a public officer or a teacher employed by the Unified Teaching Service, or the spouse or child of such an officer or teacher;
- (b) he is a member of a class of persons designated for the purposes of this subsection by the Minister by notice in the *Gazette*; or
- (c) he holds a residence permit or an exemption certificate which he has held for a continuous period of 12 months, and has been present within Botswana for at least 9 months of the immediately preceding period of 12 months.

3. Wildlife officers

(1) There shall be designated a public officer to be the Director of Wildlife and National Parks, and there shall be within the public service such wildlife officers as are necessary for the purposes of this Act.

(2) The Director shall designate suitable wildlife officers to be licensing officers for the purposes of this Act.

(3) The Director shall be the Scientific Authority and the Management Authority for the purposes of CITES in respect of animals, but may delegate his responsibilities as such Authorities to any wildlife officer, subject to his own overriding control.

4. Honorary officers

(1) The Minister may, by notice published in the *Gazette*, appoint fit and proper persons to be honorary officers for the purpose of assisting in carrying out the duties imposed on wildlife officers by this Act.

(2) In carrying out their duties under this Act, honorary officers shall have such powers as are conferred by the Act on wildlife officers, unless otherwise specifically provided.

(3) An honorary officer shall hold office for a period of three years, unless the Minister sooner revokes his appointment, and shall be eligible to be reappointed.

5. Declaration of national parks

(1) Any area specified in the First Schedule to this Act is hereby declared to be a national park for the propagation, protection and preservation therein of wild animal life, vegetation and objects of geological, ethnological, archaeological, historical or other scientific interest for the benefit and advantage and enjoyment of the inhabitants of Botswana.

(2) The President may, by order published in the *Gazette*, declare any area of State Land or any land bequeathed or donated to him or to any other person, to be a national park, either on its own or adding it to an existing national park:

Provided that the President shall not declare to be a national park or add to a national park any land so bequeathed or donated to any other person or persons, unless he is satisfied that such person has or all such persons have, as the case may be, consented thereto.

(3) Where circumstances exist that in his opinion so warrant, the President may, by order published in the *Gazette*, amend the boundaries of a national park by adding new areas thereto or by excising part thereof.

(4) Before the President makes an order under subsection (2) or subsection (3), the Minister shall cause public notice of the intended order to be given, and shall, in such notice, call for any intended objections to such order to be lodged, in writing, with him within such reasonable time as shall be specified, and any objections so received shall be laid before the President for his consideration.

(5) For the purposes of subsection (4) "public notice" means a notice published once in the *Government Gazette* and at least once during each of three successive weeks in a newspaper circulating in the area to which the notice relates, the first insertion in the newspaper being made in the same week as the publication in the *Government Gazette*.

(6) Any order made under subsection (2) shall be laid before Parliament as soon as possible after it has been published in the *Gazette*, and shall, unless confirmed by resolution of Parliament during the session it is so laid before it, lapse and cease to have effect as from the date of the conclusion of that session.

6. Control of national parks

(1) The Minister shall be responsible for the control, management and maintenance of national parks, and without derogation from the generality of the foregoing the Minister shall for such purposes, within such parks, have power to-

(a) construct such roads, bridges, aerodromes, soil and water conservation works, irrigation works, buildings and fences, and to carry out such other works as he may consider necessary for the purposes of such national parks;

(b) take such steps as will ensure the security of the animals and vegetation in national parks and the preservation of such parks and the animals and vegetation therein in a natural state;

(c) reserve or set aside any areas of such parks as breeding places for indigenous animals, and nurseries for indigenous trees, shrubs, plants and flowers;

(d) let sites for the erection of shops, hotels, restaurants or other buildings for the accommodation or recreation of visitors, to let sites to yachting clubs, boating

clubs, boatwrights and persons plying boats for hire, and to control the manner in which such undertakings are carried on;

(e) construct, maintain, administer or let hotels, restaurants, rest camps and other buildings and let accommodation therein;

(f) control the charges which may be made by shopkeepers, hotel keepers, restaurant proprietors, boatwrights and persons plying boats for hire;

(g) sell or exchange any specimen of animal or vegetation in a national park;

(h) purchase, exchange or otherwise acquire any specimen of indigenous animal or vegetation which he may consider it desirable to introduce into a national park;

(i) authorize any person to take or collect and remove any specimen of animal or vegetation from a national park, or do anything otherwise prohibited under this Act, for scientific purposes;

(j) authorize any scientific investigations on such terms and conditions as he may approve; and

(k) authorize the killing or capturing of any animal, or the destruction or removal of any species of vegetation in the interest of the conservation of the fauna and flora of such parks, and of their management and control.

(2) The Minister may delegate to the Director or to any wildlife officer such of his powers under this section as he considers necessary or desirable.

7. Entry into national park

(1) Except as is otherwise provided in this Act, and notwithstanding the provisions of any other written law, no person other than a wildlife officer or a gate attendant shall enter, be in or reside in a national park except under and in accordance with the permission of the Minister or of any wildlife officer authorized to grant such permission:

Provided that-

(i) the Minister may by notice exhibited at the entrance to a national park grant permission to persons to enter therein on such days and during such hours as may be stated in the notice, and on payment of such fees and subject to such conditions as may be prescribed by regulations;

(ii) this subsection shall not apply to persons in the employment of the Government who, with the written permission of the Director enter, are in or reside in a national park in the execution of their official duties as employees of the Government.

(2) Permission may be given in accordance with the provisions of subsection (1) subject to such terms and conditions as may be prescribed or as may be deemed necessary by the person granting permission, and shall be granted only for the purposes of-

(a) health, study or recreation, or matters incidental thereto;

(b) travel or transport along such roads as may be prescribed;

(c) transacting any lawful business with or concerning any person within a national park,

or if the person seeking permission was, or belongs to a community which was, resident in the national park prior to the date when the area was declared as a national park.

8. Certain acts in a park prohibited

(1) Except as provided in subsection (2), no person other than a wildlife officer or a gate attendant acting in the exercise of his official duties or any other

employee of the Government with the written permission of the Director and acting in the exercise of his official duties as such employee, shall-

- (a) convey into or be in possession of any weapon, explosive, trap or poison within a national park;
- (b) without lawful excuse, be in possession of, or kill, hunt, injure, capture or disturb any animal, or take or destroy any egg or nest, in a national park;
- (c) cause any damage to or disturb any object of geological, ethnological, historical, archaeological or other scientific interest within a national park, or remove any such object from a national park;
- (d) introduce any wild or domestic animal or any fish or any vegetation into a national park, or permit any domestic animal to stray into a national park;
- (e) remove from a national park any animal or part of an animal or any vegetation, whether alive or dead, other than an animal he has lawfully introduced into the park;
- (f) cut, damage or destroy any tree or other vegetation in a national park;
- (g) erect any structure, whether permanent or otherwise, or make any road or airstrip, or otherwise alter the natural environment, except as may be expressly permitted by the Minister or by a wildlife officer authorized to give such permission;
- (h) destroy or deface any object, whether animate or inanimate, in a national park; or
- (i) wilfully or negligently cause any veld fire in a national park.

(2) Notwithstanding the provisions of subsection (1), it shall not be an offence for any person-

- (a) to kill any dangerous animal in a national park where such killing is necessary in defence of human life or to prevent the infliction of personal injury; or
- (b) with the permission of the Minister or a wildlife officer authorized to grant such permission, to convey into or through a national park any animal or weapon required in connection with lawful travel or transport in or through a national park, or lawful residence or sojourn therein.

(3)(a) Any domestic animal found within a national park, other than an animal in the lawful possession of a wildlife officer or a gate attendant, or introduced into the park in accordance with subsection (2)(b), may be destroyed by a wildlife officer or a park attendant.

(b) Any vegetation introduced into a national park in contravention of the provisions of this Act may be destroyed by or on the instructions of a wildlife officer.

9. Regulations in respect of national parks

Regulations made by the Minister under section 92 may, in respect of national parks, include the following-

- (a) the powers and duties of wildlife officers and gate attendants in relation to national parks;
- (b) the exclusion of members of the public from certain areas within a park;
- (c) the killing, capturing or impounding of any animal within a park and the disposal thereof;
- (d) the burning of grass and the cutting of trees and vegetation within a park;
- (e) the conditions subject to which permission to enter, be or reside in a park may be granted under section 7, and the periods or times during which a park or any part thereof shall be open to the public;
- (f) the conditions under which domestic animals may be introduced into and conveyed through a park in accordance with the provisions of section 8(2)(b);
- (g) the conditions under which the services or attendance of wildlife officers or gate attendants may be obtained by any person entering, passing through or

sojourning within a park, and the fees to be paid in respect of such services or attendance;

(h) the protection and preservation of parks and of the animal life and vegetation therein in a natural state;

(i) the regulation of traffic and the carriage of passengers in a park, including the closing of public roads as defined in the Public Roads Act and other roads, at specified times;

(j) conditions governing the use therein of vehicles, aeroplanes and microlight aircraft;

(k) defining and controlling the points at which persons may enter a park and the roads by which they may pass through a park;

(l) the protection from damage or defacement, by writing or other wise, of any tree, rock, bridge, fence, seat or any other object in a park;

(m) the regulation, control, restriction or prohibition of boating and yachting on, or fishing in, any waters in a park, the issue of permits or licences in respect thereof and any fees to be paid in respect thereof;

(n) any matter, including the setting up of local committees, to advise on the administration of any park, and defining the functions of such committees; and

(o) the fees, if any, to be paid by persons entering therein or doing any specified thing therein or for the use of any article or facility therein.

10. Mining in a national park

Subject to any mining rights lawfully acquired in any area by any person before the date on which such area became a national park, any prospecting or mining in the area or the acquisition of any prospecting or mining rights in the area in terms of the Mines and Minerals Act shall be prohibited except with the written permission of the Minister.

11. Offences in a national park

(1) Any person who kills, hunts or captures any animal in a national park shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P10 000 and to imprisonment for 7 years.

(2) Any person who contravenes or fails to comply with any other provision of section 7(1), 8(1) or 10 shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P2 000 and to imprisonment for 2 years.

12. Game reserves and sanctuaries

(1) Each of the areas defined in the Second Schedule is hereby declared to be a game reserve or a sanctuary in respect of the animals, species, or variety, specimen or sex of animal specified in relation thereto.

(2) The President may, from time to time, by order published in the *Gazette* declare any other area of land to be a game reserve or a sanctuary, or alter the boundaries of, or abolish, any game reserve or sanctuary:

Provided that in respect of any particular game reserve or sanctuary, the President may declare that it shall be a game reserve or a sanctuary only in respect of animals of such species, variety, specimen or sex of animal or animals as may be specified, and may amend any such declaration.

(3) In any game reserve or sanctuary, no person shall hunt or capture any animal, or species or variety, specimen or sex of any animal specified in relation to such game reserve or sanctuary, except only under and in accordance with the terms and conditions of a permit issued under section 39, and any person who contravenes the provisions of this section shall be guilty of an offence and, without derogation from his liability under any other provision of this Act, shall be liable to a fine of P5 000 and to imprisonment for 5 years.

13. Private game reserves

(1) The owner of private land may apply in writing to the President to have his land declared a private game reserve, and the President may, by order published in the *Gazette*, and subject to such terms and conditions as the President may determine, declare such land to be a private game reserve for the protection and preservation therein of all wild animal life or of such species or variety of animals as may be specified in the order.

(2) The President may similarly amend or revoke an order published under this section.

(3) Within a private game reserve, no person shall hunt or capture any animal or any species or variety of animal which is specified in the order declaring it to be a private game reserve, and any person who contravenes the provisions of this subsection shall be guilty of an offence and, without derogation from his liability under any other provision of this Act, shall be liable to a fine of P5 000 and to imprisonment for 5 years:

Provided that the provisions of this subsection shall not apply to the hunting or capture of an animal by the owner of the land, or by a person acting under his written authority, when such hunting or capture is under and in accordance with such terms and conditions as were determined by the President under subsection (1), or as the Director may, in the interest of proper wildlife management, approve.

14. Regulations in respect of reserves and sanctuaries

Regulations made by the Minister under section 92 may, with regard to game reserves, sanctuaries and private game reserves, or any one such reserve or sanctuary, or any part thereof, include the following-

- (a) the administration thereof;
- (b) the prohibition, restriction, control or regulation of entry therein, passage through or sojourn therein;
- (c) the control of persons who, or animals, including domestic animals, which are therein, either permanently or temporarily;
- (d) the prohibition, restriction, control or regulation of introduction therein, passage or conveyance through or keeping therein of any domestic animal;
- (e) the prohibition, restriction, control or regulation of the burning of vegetation or the felling, cutting and removal of trees therein or therefrom;
- (f) the prohibition, restriction, control or regulation of the searching for honey therein or the removal of honey therefrom;
- (g) the prohibition, restriction, control or regulation of fishing therein;
- (h) the prohibition, restriction, control or regulation of the carrying or possession of weapons therein;
- (i) conditions governing the use therein of vehicles, aeroplanes, microlight aircraft and boats; and
- (j) the fees, if any, to be paid by persons entering therein or doing any specified thing therein or for the use of any article or facility therein.

Part:III Wildlife Management Areas and Controlled Hunting Areas (ss 15-16)

15. Wildlife management areas

(1) The areas specified in the Third Schedule are hereby declared to be wildlife management areas.

(2) The President may, by order published in the *Gazette*, declare any area to be a wildlife management area, or in like manner abolish any such wildlife management area, or amend the boundaries of any such wildlife management area by adding new areas or by deleting areas.

(3) Regulations made by the Minister under section 92 may, in respect of wildlife management areas or any wildlife management area, include the following-

- (a) any matter referred to in section 14 paragraphs (a) to (j), except paragraph (g);
- (b) the hunting or capture of animals therein by virtue of any licence or permit to hunt or capture;
- (c) the erection of any dwelling house or other building therein, or the residence therein of any person, or the size of any settlement therein;
- (d) the grazing of any stock therein and any conditions or limitations concerning the husbandry of stock therein;
- (e) the cultivation of any land therein, the conditions under which persons may cultivate, and the allocation of land for cultivation;
- (f) conditions governing the drilling, allocation and use of boreholes;
- (g) conditions governing the use therein of vehicles, aeroplanes, microlight aircraft and boats;
- (h) the entry or the presence therein of persons other than residents thereof; and
- (i) the culling of animals therein in accordance with any approved game animal utilization scheme.

(4) In his duties relating to the development of wildlife management areas, their management plans and their administration, the Director shall consult with the land boards and district councils responsible for the areas concerned.

16. Controlled hunting areas

(1) The areas specified in the Fourth Schedule are hereby declared to be controlled hunting areas.

(2) The Minister may, by order published in the *Gazette*, declare any area of land in Botswana to be a controlled hunting area, and may, in like manner, abolish declared controlled hunting areas or amend the boundaries of declared controlled hunting areas by adding other areas thereto or by deleting areas therefrom.

(3) Except for persons authorized therefor under sections 30, 39 and 40, and notwithstanding the issue of any licence to hunt under this Act, no person shall hunt or capture any animal in a controlled hunting area without such authority to hunt in that area as shall be endorsed on his licence, and without paying such fee, as may be prescribed.

(4) The Minister may, by order published in the *Gazette*, direct that any fees collected in accordance with subsection (3), shall be paid to such district council or councils as may be specified in the order.

(5) Any person hunting in a controlled hunting area shall, as soon as possible and in any event within 7 days of the completion of such hunting, unless otherwise authorized by a licensing officer and endorsed on his licence, report such completion to a wildlife officer, and any person who fails to comply with the provisions of this subsection shall be guilty of an offence and liable to a fine of P500 and imprisonment for 6 months.

(6) Any person hunting or capturing any animal in a controlled hunting area without such authority and paying such fee as may be prescribed in accordance with subsection (3), or contrary to the terms of such authority, shall be guilty of an offence and, without derogation from his liability under any other provision of this Act, shall be liable to a fine of P2 000 and to imprisonment for 2 years.

Part:IV Protected Game Animals (s 17)

17. Protected game animals

(1) The animals specified in the Sixth Schedule shall be protected game animals throughout Botswana.

(2) No person shall, except only under and in accordance with the terms and conditions of a permit issued by the Director under section 39 or section 40, hunt or capture any protected game animal, and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P10 000 and to imprisonment for 7 years:

Provided that, where the animal in respect of which the offence is committed is a rhinoceros, the offender shall be liable to a fine of P100 000, and to imprisonment for 15 years.

Part:V Hunting and Capturing of Animals (ss 18-23)

18. Partially protected game animals

The animals specified in Part I of the Seventh Schedule shall be partially protected game animals throughout Botswana, and no person shall, except under and in accordance with the terms and conditions of a licence or permit issued under this Act, hunt or capture any partially protected game animal.

19. Hunting and capturing of animals generally

(1) Except as, or to such extent as may be, specially provided in this Act, no person shall hunt or capture any animal (other than a non-designated invertebrate animal outside of a national park or a game reserve) otherwise than under and in accordance with the terms and conditions of a licence issued, or a permit granted, under this Act:

Provided that a citizen of Botswana may hunt any non-designated animal, other than in a national park or a game reserve, for consumption by himself or his dependants, without a licence or permit.

(2) The animals specified in Parts II and III of the Seventh Schedule are animals that may be hunted under and in accordance with the terms and conditions of a licence issued under this Act:

Provided that where an area is or areas are specified in relation to a particular animal, that animal may only be hunted in that area or in those areas, as the case may be.

(3) Any person who contravenes the provisions of section 18 or subsection (1) of this section shall be guilty of an offence and shall be liable-

(a) if the contravention is in respect of a partially protected game animal, to a fine of P5 000 and to imprisonment for 5 years:

Provided that where the animal in respect of which the offence is committed is an elephant, the offender shall be liable to a fine of P50 000, and to imprisonment for 10 years;

(b) if the contravention is in respect of any animal specified in Part II of the Seventh Schedule, to a fine of P2 000 and to imprisonment for 2 years;

(c) if the contravention is in respect of a bird specified in Part III of the Seventh Schedule, to a fine of P1 000 and to imprisonment for 1 year;

(d) if the contravention is in respect of any non-designated animal, or in respect of any term or condition of any licence or permit issued to that person, to a fine of P500 and to imprisonment for 6 months.

20. Landholder's privileges

(1) A person shall be entitled to landholder's privileges under this section if-

(a) he is the owner of private land or the owner of not less than a quarter undivided share in private land in Botswana;

(b) in the case of land elsewhere than in a game reserve or national park, he is the occupier of such land under an agreement of lease or of purchase granted to him by the State or a land board other than for the purpose of hunting;

(c) he is the occupier of private land in Botswana and has occupied that land for the immediately preceding period of not less than three months and has the written permission of the owner of the land to enjoy landholder's privileges in respect of that land, which written permission shall be in such form as may be prescribed.

(2) A person shall be entitled to enjoy landholder's privileges under this section if-

(a) he is the *bona fide* employee of any person such as is referred to in subsection (1)(a) or (1)(b) and has the written permission of that person to enjoy landholder's privileges in respect of the land in question, which written permission shall be in such form as may be prescribed;

(b) he is the *bona fide* employee of any person such as is referred to in subsection (1)(c) and has the written permission of the owner of the land in question to enjoy landholder's privileges in respect of such land, which written permission shall be in such form as may be prescribed;

(c) he is the spouse or child of any person such as is referred to in subsection (1)(a) or (1)(b);

(d) he is the spouse or child of any person such as is referred to in subsection (1)(c) or (2)(b) and has the written permission of the owner of the land in question to enjoy landholder's privileges in respect of that land, which written permission shall be in such form as may be prescribed;

(e) he is the spouse or child of any person such as is referred to in subsection (2)(a) and has the written permission of the employer of that person to enjoy landholder's privileges in respect of the land in question, which written permission shall be in such form as may be prescribed.

(3) No person shall be entitled to landholder's privileges or to enjoy landholder's privileges under this section unless he is a citizen or resident of Botswana, or, being a company, has its registered office in Botswana, or at least 51% of its beneficial shareholders are citizens of Botswana, or the Minister has, by notice in writing, declared, in the interests of wildlife management, that such person shall be entitled to such privileges.

(4) A person shall be entitled to landholder's privileges or to enjoy landholder's privileges under this section only in respect of the land from which in terms of this section the privileges are derived.

(5) Notwithstanding any other provision of this Act, an individual entitled to landholder's privileges or to enjoy landholder's privileges in accordance with the provisions of subsection (1) or subsection (2) may, subject to such fees as may be prescribed, hunt and kill, without a licence or permit, any animals, other than protected and partially protected game animals, within the limits of the land in respect of which he is entitled to or to enjoy such privileges, but shall not kill any animal which is listed in the Eighth Schedule in excess of the number specified in relation to that animal in the second column of that Schedule within any one period such as is specified in the corresponding entry in the third column of that Schedule.

(6) Any person who contravenes the provisions of subsection (5) shall be guilty of an offence and, where no other penalty is provided under this Act in respect of the hunting of the animal concerned, shall be liable to a fine of P500 and to imprisonment for 6 months.

(7) Where, in any case such as is referred to in subsection (2), the owner or occupier of land has given written permission under this section to another person to enjoy landholder's privileges in respect of that land, the owner or occupier may, by notice in writing to that person, at any time withdraw such permission, and such notice shall have the effect of cancelling that person's entitlement to enjoy landholder's privileges in respect of that land with effect from the time when the notice is personally delivered to him.

(8) The owner or occupier of land in respect of which he is entitled to landholder's privileges shall not give permission to any other person to hunt and kill any game animal on such land unless such other person is either the holder of a valid licence or permit entitling or authorizing him to hunt and kill such animal on such land, or is otherwise entitled to hunt and kill such animal on such land, and any owner or occupier who contravenes the provisions of this subsection and has failed to take all reasonable steps to satisfy himself that such other person was so entitled or authorized to hunt and kill such animal on that land shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

21. Use of landholder's privileges for profit

Any owner or occupier of land entitled to landholder's privileges may, for his own profit, with the approval of the Director, authorize, in writing, any person who is not so entitled, to hunt on such land those animals that he himself would be entitled to hunt:

Provided that-

(a) nothing in this section shall entitle or authorize such person to hunt any animal on such land without being in possession of such licence or permit to hunt such animal as may be otherwise prescribed in this Act; and

(b) the owner or occupier shall not give such authority unless he has taken all reasonable steps to satisfy himself that such person is in possession of such

licence or permit, and any owner or occupier who contravenes or fails to comply with the provisions of this paragraph shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

22. Record of animals killed in exercise of landholder's privileges

(1) Every owner or occupier of land in respect of which he is entitled to landholder's privileges, shall keep and maintain a record of every animal killed on that land by himself or by any other person hunting on that land with his permission or authority, and shall make that record available forthwith for inspection by any wildlife officer or any police officer who requires him so to do.

(2) The record maintained under this section shall contain, in respect of every animal killed, the following particulars-

- (a) its species and sex;
- (b) the date on which it was killed;
- (c) the location where it was killed;
- (d) the full name of the person who killed it.

(3) Every owner or occupier of land in respect of which he is entitled to landholder's privileges shall, not later than the 15th February in each year, produce to a licensing officer, the record kept by him under this section, or a true copy of every entry made therein, during the immediately preceding year commencing on the 1st January.

(4) Every owner or occupier of such land as is referred to in this section, who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

23. Permission or authority of owner or occupier of land

Any written permission or authority of the owner or occupier of land required in accordance with section 20 or section 21 shall be valid only if signed personally by such owner or occupier, or, where such owner or occupier is a company, by the person duly authorized by the company to sign such permission or authority.

Part:VI Game Farms and Ranches (ss 24-25)

24. Game farms and ranches

(1) Any owner of land or leaseholder, or any person authorized by the Minister for the purposes of this section, who wishes to farm or ranch game animals on the land he owns or occupies may apply therefor, in such form as may be prescribed, to the Director, and the Director may, in conformity with any land use plan, and with any other written law, and subject to the payment of such fees as may be prescribed, and such terms and conditions as he considers necessary or desirable, grant such permission in writing.

(2)(a) Any permission given in accordance with subsection (1) shall be for a period of not less than 10 years, and may be renewed, or, if the applicant is a

leaseholder and the unexpired portion of his lease is less than 10 years, for the period of such unexpired portion.

(b) The Director shall cause notice of such permission to be published in the *Gazette*, and a notice shall be posted at the entrance, or the entrances, of the farm or ranch referring to such *Gazette* notice.

(3) Any permission given by the Director in accordance with subsection (1) may be withdrawn by him forthwith if the person to whom such permission is given is convicted of an offence under this Act, or contravenes any of the terms and conditions subject to which such permission was given.

(4) Any person granted permission under subsection (1) shall be entitled to farm, ranch, hunt or capture animals on his land, for commercial purposes, subject to the provisions of this section and any terms and conditions subject to which such permission was granted:

Provided that protected game animals and partially protected game animals shall only be farmed, ranched, hunted or captured on such land if specifically authorized by the Director.

(5) The terms and conditions subject to which permission may be given under subsection (1), may include the requirement that the land concerned should be enclosed by a game proof fence of such type and specifications as the Director considers suitable and satisfactory.

(6) Where the game farm or ranch is enclosed by a game proof fence to the satisfaction of the Director, there shall be no limit to the number of animals that are specified in Part II of the Seventh Schedule that may be killed or captured on the farm or ranch, unless the Director otherwise directs, but where the farm or ranch is not enclosed by a game proof fence to the satisfaction of the Director, the culling of animals shall be subject to the written permission of the Director, who shall also, if satisfied that such culling is a sustainable form of game utilization, specify the number of animals that may be culled, and such culling shall be subject to the payment of such fees as may be prescribed.

(7) Where the land in respect of which permission is granted under this section is not enclosed by a game proof fence, the Director may require that its boundaries be marked in such manner as he may specify.

(8)(a) The provisions of sections 21, 22, and 23 shall apply, *mutatis mutandis*, with respect to the hunting or capture of animals on game farms and ranches and the keeping of records.

(b) The provisions of section 39(1)(c) shall apply in respect of obtaining permission for the sale of animals, or meat or trophies from such animals, and such animals, meat or trophies shall not be otherwise disposed of in any manner not approved by the Director.

(9) The hunting or capture of animals on game farms or ranches may be permitted throughout the year, and at night, and in respect of animals of any age or either sex, as provided for under this Act, but unlawful methods of hunting or capture as specified under sections 55 and 57 may only be used with the written permission of the Director.

(10) The operation of a live capture business on a game farm or ranch, or anywhere else, shall only be undertaken with the written permission of the Director.

(11) Where dangerous animals, or animals not indigenous to Botswana are on a game farm or ranch in accordance with the terms and conditions of permission granted under subsection (1), the owner or occupier of such farm or ranch shall take

all reasonably possible steps to ensure that they do not escape therefrom, and if they do so escape shall take all reasonably possible steps to recapture or kill them.

(12) No person shall hunt or capture any animal on a game farm or ranch, or be on such farm or ranch with intent to hunt or capture any animal, without the permission of the owner or occupier thereof.

(13) Any person who contravenes any provision of this section shall be guilty of an offence and, without derogation from his liability under any other provision of this Act or any other written law, shall be liable, in respect of an offence under subsections (4), (6), (8)(b) or (12) to a fine of P5 000 and to imprisonment for 5 years, and in respect of any offence under any other subsection, to a fine of P500 and to imprisonment for 6 months.

25. Regulations in respect of game farms or ranches

Regulations made by the Minister may, in respect of game farms or ranches, and without prejudice to his general power to make regulations, include regulations governing the conditions under which animals should be kept on a game farm or ranch, the methods of killing or capturing animals on a game farm or ranch, the fees to be paid for the killing or capturing or selling of animals on a game farm or ranch which is not enclosed by a game proof fence, and any other fees in connection with the operation of game farms or ranches.

Part:VII Licences to Hunt (ss 26-38)

26. Game licences

Licences to hunt game shall be in such form as may be prescribed, and shall be of the following kinds-

- (a) a bird licence;
- (b) a single game licence;
- (c) a small game licence; or
- (d) a special game licence of a kind prescribed under section 30.

27. Bird licence

(1) Subject to the provisions of this Act, a bird licence shall entitle the holder thereof to hunt such birds as are listed in Part III of the Seventh Schedule, in such areas, and in such numbers as shall be specified in the licence.

(2) A bird licence issued to a citizen or a resident of Botswana shall be issued for one year, commencing on the day of issue.

(3) A bird licence issued to a person who is neither a citizen nor a resident of Botswana may be issued for one week, one month or one year, as required, commencing on the day of issue.

(4) No person shall hold more than one bird licence at any one time.

28. Single game licence

(1) Subject to the provisions of this Act, a single game licence shall entitle the holder thereof to hunt on the land specified in the licence one animal only of such

species and kind, listed in Parts I and II of the Seventh Schedule, as may be specified in the licence, and for such period only as may be therein specified.

(2) Regulations made under this Act may provide for the maximum number of valid single game licences which may be held by one person at any one time or during any year.

(3) Where a person is entitled to hunt on any land by virtue of the authority of the owner or occupier of that land in accordance with the provisions of section 21, a single game licence will only be issued to him on production of the written consent of such owner or occupier to the issue of such licence, and the withdrawal of such consent subsequent to the issue of the licence shall have the effect of cancelling such licence.

29. Small game licence

(1) Subject to the provisions of this Act, a small game licence shall entitle the holder thereof to hunt within such area or areas as may be specified in the licence, animals of such species and kind, listed in Part II of the Seventh Schedule and of such numbers as may be specified in such licence.

(2) A small game licence shall be issued only to a person who is a citizen of Botswana, and shall be valid only for the period specified therein, and only one such licence may be held by one person at any one time.

(3) Regulations made under this Act may provide for the maximum number of animals of each species and kind which may be hunted by the holder of a small game licence in any one season, the period for which such a licence may be issued, and the categories of persons to whom such a licence may be issued.

30. Special game licence

(1) Regulations made under this Act may provide for the issue of special game licences in respect of any animals other than protected game animals to citizens of Botswana who are principally dependent on hunting and gathering veld produce for their food, and such regulations may provide for-

- (a) the types of special game licence which may be issued;
- (b) the animals for the hunting of which each type of special game licence may be issued;
- (c) the categories of persons to whom such licences may be issued;
- (d) the periods for which such licences may be issued; and
- (e) the maximum number of animals of each species and kind which may be hunted by virtue of such a licence in any one period, and the area or areas within which they may be hunted.

(2) Subject to the provisions of this Act and any regulations made thereunder, a special game licence shall entitle the holder thereof to hunt, on the land and during the period specified in the licence, animals of the kind and of the number therein specified.

(3) The holder of a special game licence shall not be entitled to and shall not be issued with any other type of licence.

31. Issue of licences

(1) Every application for the issue of a licence referred to in section 26 shall be made to a licensing officer in such form as may be prescribed, and any licensing officer to whom such an application is made may, provided that the applicant is of or

above the age of 15 years and subject to the provisions of subsections (2) and (3) and any regulations made under this Act, issue the licence applied for on payment of such fee as may be prescribed for that licence.

(2)(a) A licensing officer may, before issuing any licence, require the applicant to appear before him in person, to produce for inspection proof of his identity and age and such other information as he considers necessary or desirable, and any arms certificate or permit granted to him in terms of the Arms and Ammunition Act entitling him to have arms in his possession, and if the applicant fails to appear, or fails to satisfy the licensing officer on any matter arising out of his application, the licensing officer may refuse to grant the licence applied for.

(b) A licensing officer may, before issuing any licence, require the applicant to undergo such tests as he considers necessary or desirable to satisfy himself that the applicant is a fit and proper person to be granted a licence.

(3) The previous holder of a licence who has failed, without a satisfactory explanation, to keep, maintain and produce for inspection when so requested, the register required to be kept and maintained in accordance with the provisions of section 38, or has failed, without a satisfactory explanation, to submit the return required to be submitted in accordance with the provisions of section 38 (3), shall have any current licence cancelled and shall not be eligible for the issue of a licence for the following season.

(4) A licensing officer shall not issue a licence to a person who is not a citizen or a resident of Botswana unless he is satisfied that such person will, at all times when hunting, be accompanied by a professional hunter, and may in any other instance when issuing a licence add as a condition of such issue that the holder of the licence shall not hunt without being accompanied by such person as he may stipulate.

(5)(a) Any person aggrieved by the refusal of a licensing officer to issue the licence applied for, or by any request made by the licensing officer under subsection (2), or by any condition imposed by the licensing officer under subsection (4), may ask that the matter be referred to the Director for his decision, and the Director, after such further enquiries as he considers necessary, confirm the decision of the licensing officer, or reverse it, or vary it to such extent as he considers desirable.

(b) Any person aggrieved by any decision of the Director under paragraph (a) may appeal therefrom to the Minister, and the Minister's decision thereon shall be final.

(6) Where a licensing officer issues a licence under this section, other than a bird licence, a special game licence or a small game licence, there shall be attached to such licence as an integral part thereof a register in the prescribed form, and a detachable return in the prescribed form shall be annexed to every licence other than a bird licence and a small game licence.

(7) A licence issued under this section shall bear the stamp of the Department of Wildlife and National Parks in red, and no licence shall be valid or accepted unless it is the original licence and bears such stamp.

(8) A licence issued under this section shall be personal to the person to whom it is issued and shall not be transferable, and may not be amended to permit hunting thereunder to be transferred from one controlled hunting area to another, except only under and in accordance with regulations made under this Act.

32. Number of licences and animals

(1) Regulations under this Act may provide for the maximum number of licences that may be held by any person at any one time or during any one season, and the maximum number of animals of each species that may be hunted in accordance with each licence, but such regulations shall be subject to any determination made by the Director under subsection (2).

(2) The Director may, after consultation with the appropriate local authorities and land boards, determine the number of animals of each species, or of a particular sex, that may be hunted during any season in any specified controlled hunting area, or any other specified area, and shall cause to be displayed a notice to this effect, at offices of the Department of Wildlife and National Parks, and at such other places as he may determine.

(3) Any person who makes any statement which to his knowledge or which he should have known is false or in any way misleading in connection with an application for a licence, which leads to or is likely to lead to his being issued with more licences than he is entitled to, or to the issue of licences purporting to entitle him to hunt more animals than he is entitled to hunt, shall be guilty of an offence and liable to a fine of P1 000 and to imprisonment for one year.

33. Disqualification for grant of licence

(1) A person who has been convicted of any contravention of the provisions of the game laws of Botswana or any other country shall be disqualified for the grant of a licence under this Act for a period of three years from the date of such conviction, or for such other period as the Minister may determine in any particular case.

(2) Any person who fails to inform a licensing officer, at the time of his application for any licence under this Act, of any fact which might disqualify him for the grant of a licence, or that he has been previously refused any licence or who makes a false declaration in or in connection with an application for any such licence, shall be guilty of an offence and liable to a fine of P1 000 and to imprisonment for 1 year.

34. Hunting card

(1) There shall be issued together with the first licence, other than a special game licence, to be granted to any person, a hunting card in the prescribed form, on which the holder thereof shall enter particulars of all licences, permits or other authorizations issued to or held by such person, and such other information as may be prescribed.

(2) A hunting card shall be personal to the person to whom it is issued, shall not be transferable and shall be carried by the holder at all times whilst hunting.

(3) When a hunting card has no room for further entries the holder may apply to a licensing officer for the issue of a new card, and any such new card issued shall be endorsed by the licensing officer to indicate whether it is a second or subsequent card, and shall be pinned or attached to the previous card or to all the previous cards, as the case may be.

(4) The holder of a hunting card shall make it available for inspection-

- (a) when required to do so by a wildlife officer;
- (b) whenever the holder applies for another licence.

(5) The loss of a hunting card shall be reported to a wildlife officer or to a police officer without delay and in any case within 30 days of the loss being detected,

and if the loss is so reported, a licensing officer may issue a new hunting card to replace the one lost, on payment of such fee as may be prescribed, but shall endorse on such card the fact that it is a duplicate card.

(6) Any person who-

- (a) makes a false statement to a licensing officer for the purpose of obtaining a hunting card;
- (b) uses another person's hunting card;
- (c) obtains or attempts to obtain another person's hunting card;
- (d) fails to record on it information which he is required to record on it, or records on it information which he knows or ought to know is false or misleading; or
- (e) refuses or fails to produce it for inspection when required to do so in accordance with the provisions of subsection (4), shall be guilty of an offence and liable to a fine of P500 and to imprisonment for six months.

35. Refund of licence fees

The Minister may, where he considers it just, direct the refund of any licence fees, or any part thereof, to any person whose licence is surrendered or cancelled during the period of its validity:

Provided that no such refund shall be made in respect of any licence fee if the cancellation of such licence is the result of, or in connection with, a contravention of any provision of this Act.

36. Open season

The Minister may, from time to time, by order published in the *Gazette*, declare the period during which game animals may be hunted, either throughout Botswana or in any defined part of Botswana, and such order may make different provisions in respect of different areas, different species of game animals or in respect of animals of a specified sex.

37. Loss or destruction of licence

(1) If a licence is lost or destroyed, the licence holder shall, within 21 days of such loss report the event to the licensing officer who issued it, and shall at the same time furnish the licensing officer with a written statement setting out to the best of his recollection the entries that had been recorded in the register attached to the licence, or, but for the loss or destruction thereof, would have been recorded therein.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

[Ch3801s38]38. Register of animals killed

(1) Every single game licence holder shall, in animals the register attached to his licence, make a record of any animal killed by him, including any animal killed by accident or in error, and any animal deemed to have been killed by him in terms of such licence under section 44, and any animal wounded by him.

(2) Where under this section any person is required to keep and maintain a register, he shall-

- (a) where an animal is killed or deemed to have been killed by him, at the time of the killing where possible, and in any event before the animal is moved or dismembered, record the event in such register, and the date and time of the killing;
- (b) where an animal is wounded, record the date time and circumstances. of the event in such register as soon as pursuit of the wounded animal is abandoned.

(3) Every licence holder shall, in addition to keeping and maintaining a register under this section, within thirty days of the termination of hunting, or of the termination of his licence, or the termination of the hunting season, whichever is the soonest, submit to a licensing officer the return attached to his licence, duly completed, whether or not any animals were killed or wounded by him in accordance with the terms of the licence.

(4) Any person who, being required under this section to keep and maintain a register, or submit a return within the specified period-

- (a) fails to do so;
- (b) fails to record therein any particular which he is required to record therein;
- (c) makes, or is party to the making of, any false entry therein;
- (d) fails to produce his register upon the request of a licensing officer or any other person entitled under this Act to request its production; or
- (e) fails to furnish a true copy of his register to a licensing officer within twenty one days of being requested to do so by a licensing officer, shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

Part:VIII Permits (ss 39-42)

39. Permits that may be granted by the Director

(1) Notwithstanding anything in this Act, the Director may, acting in accordance with such directions as may be given by the Minister, grant permits authorizing-

- (a) the killing or capturing of any animal for the purposes of education or scientific research, providing specimens for museums, zoological gardens and similar institutions, or the breeding, farming or domestication of any animal;
- (b) the killing or capturing of animals in the interests of the conservation, management, control or utilization of wildlife; or
- (c) the selling of animals killed or captured under the authority of a licence or permit and the selling of any meat, trophy or eggs from such animals, where the Director is satisfied that such selling is in the interests of wildlife conservation and the proper regulation of commercial development connected with wildlife.

(2) The Director shall not grant a permit authorizing the killing or capturing of any animal in a national park, game reserve or sanctuary for any of the purposes mentioned in subsection (1), except only on the ground that, and where he is satisfied that, such killing or capturing is necessary for scientific purposes or for the protection of life or property, or in the interests of the conservation, management, control or utilization of wildlife.

(3) The Director may, acting in accordance with any instructions as may be given by the Minister, delegate any of the powers referred to in subsection (1)(c) to a licensing officer.

40. Permits which licensing officer may grant

(1) Notwithstanding anything in this Act, a licensing officer may grant a permit authorizing, elsewhere than in a national park, game reserve or sanctuary-

(a) the killing, capturing and driving of animals for the purpose of the control of disease; or

(b) the killing or capturing of animals in the interests of public safety or for the protection of livestock, grazing, crops, water installations or fences.

(2) Notwithstanding the provisions of subsection (1), where the animals in respect of which the permit is sought are protected game animals, the licensing officer shall refer the matter to the Director, and the grant of the permit shall be by the Director at his discretion.

41. Conditions applicable to permits

(1) Every permit issued under this Act shall be subject to such terms and conditions as may be prescribed and to all such other terms, conditions and requirements as the Minister, the Director or the licensing officer, as the case may be, deems fit to impose in each case, and as shall be endorsed on the permit, and any person to whom such permit is issued who contravenes or fails to comply with any of the terms, conditions or requirements subject to which it is issued shall be guilty of an offence and liable to a fine of P1 000 and to imprisonment for 1 year, and where the contravention is in respect of the killing or capturing of any animal, shall be liable to the same penalties as are provided in sections 17, 18 and 19 in respect of the hunting or capture of the same animal.

(2) The applicant for any permit which may be issued under this Act shall pay such fees as may be prescribed, unless the Minister, in any particular case, and for good cause, grants exemption from the payment of such fees.

(3) The Minister may, at any time, and without assigning a reason therefor, cancel, amend or modify a permit issued under this Act, forthwith so informing the holder of the permit, and such holder shall return such permit to the Minister for cancellation, amendment or modification, as the case may be, within 21 days from the date of his being so informed.

(4) Any permit holder who is required under subsection (3) to return such permit and who fails to do so within the period prescribed, shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

42. Appeal to the Minister

Any person who is aggrieved by the refusal of a licensing officer or the Director to grant a permit under section 39 or section 40, or by any terms and conditions imposed by them in accordance with the provisions of section 41(1), may appeal against that refusal or those terms and conditions to the Minister, whose decision thereon shall be final.

Part:IX General Provisions with regard to Hunting (ss 43-61)

43. Professional guides

(1) No person shall act as a professional guide unless he is in possession of such valid professional guide's licence as may be prescribed, and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for 2 years.

(2) Application for a professional guide's licence shall be made to the Director in such form as may be prescribed, and the Director may, require the applicant to take and pass such examination as he thinks fit.

(3) The Director may, at his discretion, issue a professional guide's licence, subject to such terms and conditions as he may approve, and on payment of such fee as may be prescribed, and such licence shall be valid until the 31st day of December in the year of its issue:

Provided that the Director may revoke the licence of any professional guide who fails to comply with any term or condition of the licence or who is guilty of any offence under this Act or under section 131 of the Penal Code, or who permits a client to contravene any of the provisions of this Act or of any regulations made under the Act.

(4) A professional guide's licence shall not be transferable, and no person other than the person to whom it is issued shall operate under the authority of a professional guide's licence, and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for 2 years.

(5) Any person aggrieved by the refusal of the Director to issue a licence under this section, or by any of the terms and conditions subject to which it is issued may appeal against such refusal or those terms and conditions to the Minister whose decision thereon shall be final.

44. Professional hunters

(1) No person shall act as a professional hunter unless he is in possession of such professional hunter's licence as may be prescribed, and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years.

(2) Application for such licence as is referred to in subsection (1) shall be made to the Director in such form as may be prescribed, and the Director may require the applicant to take and pass such examination as he thinks fit.

(3) The Director may, at his discretion, issue such licence, subject to such terms and conditions as he may approve, and on payment of such fee as may be prescribed, and such licence shall be valid until the 31st day of December in the year of its issue:

Provided that the Director may revoke the licence of any professional hunter who fails to comply with any term or condition of the licence or is guilty of any offence under this Act or under section 131 of the Penal Code, or who permits a client to contravene any of the provisions of this Act or any regulations made under the Act.

(4) A professional hunter's licence shall not be transferable, and no person other than the person to whom it is issued shall operate under the authority of such licence, and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for 2 years.

(5) A professional hunter's licence shall, subject to the provisions of this section, entitle the holder thereof to act as a professional guide and in addition shall entitle the holder to assist any other person who is the holder of any licence or permit

issued under this Act, to do any act or thing which the holder of such licence or permit is authorized to do under his licence or permit.

(6) A professional hunter's licence shall not entitle the holder to shoot at any animal except as provided in section 47, or to prevent the escape of an animal already wounded, and any such licence holder who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years.

(7) If a professional hunter, while assisting any other person, kills any animal which he is not otherwise entitled under this Act to kill, and the person whom he is assisting is the holder of a licence or permit entitling such holder to hunt or kill an animal of that species, such animal shall be deemed to have been killed by such holder under that licence or permit, and shall be counted as an animal killed in terms of such licence or permit, and the holder thereof shall record the killing in accordance with the provisions of section 38:

Provided that nothing in this subsection shall be construed as relieving the professional hunter of liability for any contravention of the provisions of subsection (6).

(8)(a) A professional hunter shall take all reasonable steps to ensure that his client understands the terms and conditions of any licence or permit issued to him and does not contravene any of those terms and conditions or any of the provisions of this Act, and where his client commits an offence under this Act or any regulations made under this Act he shall report the commission of such offence to a wildlife officer.

(b) Without derogating from the liability of his client in respect of any contravention of this Act or any regulations under this Act, any professional hunter who fails to comply with any provision of paragraph (a) shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years.

(c) Where a client is convicted of an offence under this Act or any regulations made thereunder it shall be presumed that the professional hunter with whom he was hunting failed to take all reasonable steps to ensure that the client understood the terms and conditions of his licence or permit or to prevent the client from contravening the Act or the regulations, unless the contrary is proved.

(9) Any person aggrieved by the refusal of the Director to issue a licence under this section, or by any terms and conditions subject to which such licence is issued, may appeal against that refusal or those terms and conditions to the Minister, whose decision thereon shall be final.

45. Prohibition of certain activities in specified areas

(1) The Minister may, by order published in the *Gazette*, prohibit, for periods not exceeding 12 months at a time, the hunting or disturbance of any animals, or any species or sex of animals or any specimen of animal, in any defined area or areas, or the removal of any animal or part of any animal from any defined area or areas, for purposes of control of the spread of disease, protection of life or property, or for administrative purposes:

Provided that where the area to which the order relates, or any part thereof, is private land, the Minister shall, in addition to the publication of the order in the *Gazette*, cause it to be published for seven consecutive days on the notice board of the district office for the area in which that land is situated.

(2) No person shall, in any such defined area, hunt, capture or wilfully disturb any animal or any species or sex of animal or any specimen of animal, the hunting or

disturbance of which is prohibited in accordance with an order issued under subsection (1), and no person shall remove or cause to be removed any animal or any part of an animal from any such area, the removal from which is prohibited by the order, and any person who contravenes the provisions of this subsection shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P2 000 and to imprisonment for 2 years.

46. Killing of animals causing damage

(1) Notwithstanding anything to the contrary in this Act, the owner or occupier of land, or any agent of such owner or occupier may, subject to the provisions of this Act, kill any animal which caused, is causing or threatens to cause damage to any livestock, crops, water installation or fence on such land:

Provided that nothing in this section shall authorize the killing of an animal which is in a national park or a game reserve, or the use of any poisoned weapon, pitfall or snare for the killing of any animal.

(2) Any person who has killed an animal in terms of subsection (1) shall, as soon as possible, and in any case not later than 7 days after the event, report the circumstances of such killing, and deliver the trophies of such animal, to the nearest wildlife officer or police station.

(3) The trophies and meat of any animal killed in accordance with the provisions of subsection (1) shall be Government trophies, but where the report required under subsection (2) has been made, and it is established that the killing was in accordance with those provisions, the Director or the licensing officer may issue a permit for the sale of the meat by the person concerned:

Provided that no such permit shall be issued for the sale or other disposal of the meat of any elephant, rhinoceros or cheetah, or the meat of any animal that was killed because it was merely threatening to cause damage.

(4) Compensation may be paid, as may be provided in regulations made under the Act, to any person who satisfactorily establishes that he has suffered damage from the action of an animal.

(5) The Minister may, by notice in the *Gazette*, determine rates of compensation to be paid in respect of claims made under the provisions of this section, where he considers such claims and such rates to be justified.

(6) Any person who-

(a) kills any animal in defence of property otherwise than in accordance with the provisions of subsection (1);

(b) fails to report the killing of any animal in accordance with the provisions of subsection (2); or

(c) uses, retains or disposes of any trophy or meat of the animal so killed otherwise than under or in accordance with this section,

shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P1000 and to imprisonment for 1 year.

47. Killing of animals in self defence

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

(2) The burden of proving that an animal has been killed or wounded in accordance with the provisions of this section shall lie upon the person who did the killing or wounding.

(3) Where any game animal is killed in circumstances such as are referred to in subsection (1) by any person who is not the holder of a licence or permit entitling or authorizing him to kill such animal, such animal shall be a Government trophy and such person shall as soon as possible, and in any event not later than 7 days after the killing, report such killing to the nearest convenient wildlife officer or police station, and shall, if so directed, deliver the animal or such parts thereof as may be specified, to such wildlife officer or police station, as the case may be, and any person who fails to comply with the provisions of this subsection shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

48. Killing of animals by accident or in error

(1) Where any game animal is killed by accident or in error by any person whilst he is hunting, and such person is not the holder of a licence or permit entitling or authorizing him to kill such animal, such animal shall be a Government trophy and such person shall as soon as possible and in any event not later than 7 days after the event report the killing to the nearest convenient wildlife officer or police station, and shall, if so directed, deliver the animal or such parts thereof as may be specified, to such wildlife officer or police station, as the case may be.

(2) Where any animal is killed by accident or in error by any person while he is hunting and such person is the holder of a licence or permit entitling or authorizing him to kill such animal it shall be counted as an animal killed in terms of such licence or permit, and the person who killed it shall record the killing thereof in his register in accordance with the provisions of section 38.

(3) Where any game animal is killed by accident or in error by any person whilst he is driving a vehicle upon any road, he shall, if he retrieves the animal or any part thereof, as soon as possible, report the killing to the nearest convenient wildlife officer or police station, and shall, if so directed, surrender to such wildlife officer or police station, as the case may be, the animal or such of the parts retrieved by him as may be specified.

(4) Any person who contravenes the provisions of subsection (1) or (3) shall be guilty of an offence and liable to a fine of P1 000 and to imprisonment for 1 year: Provided that-

(a) where the animal killed is a rhinoceros the offender shall be liable to a fine of P100 000, and to imprisonment for 15 years; and

(b) where the animal killed is an elephant the offender shall be liable to a fine of P50 000, and to imprisonment for 10 years.

49. Hunting or capturing of animals without permission of land owner or occupier

(1) No person shall enter upon any land for the purpose of hunting or capturing any animal without the written permission of the owner or occupier of such land or unless he is accompanied by such owner or occupier or by the duly appointed representative of such owner or occupier, and any person who contravenes the provisions of this subsection shall be guilty of an offence and shall be liable to a fine of P1 000 and to imprisonment for 1 year.

(2) Any person seen or found on any land in possession of any firearm, or of any other weapon capable of killing any animal by the discharge of any missile, or by the use of any poisoned bait, poisoned weapon, birdlime or trap, or with a dog, shall be deemed to have entered upon such land in contravention of the provisions of this

section, unless he proves to the contrary or proves that he had the permission of the owner or occupier of such land to enter upon the land for the purpose of hunting or capturing animals, as is required under subsection (1).

(3) Any police officer or any owner or occupier of land who finds any person such as is mentioned in subsection (2) upon such land, may require such person to satisfy him that he is not on the land in contravention of the provisions of subsection (1), and if such person is unable so to give satisfactory proof, may demand from him his full name and address and may forthwith direct him to leave the land, and if such person fails to give his name and address, or gives a false or incomplete name and address, or fails forthwith to leave the land after being directed to do so, he shall be guilty of an offence and liable to a fine of P 1000 and to imprisonment for 1 year.

(4) The powers conferred on the owner or occupier of land under this section shall be without prejudice to any other power conferred by any other written law, and liabilities and penalties prescribed for contraventions of the provisions of this section shall be without prejudice to any liability or penalty prescribed under any other written law in respect of a contravention of that law.

50. Conveyance of loaded weapon in certain circumstances

(1) Any person who conveys in any vehicle any loaded weapon, other than a revolver or pistol, whilst travelling along a road to which the public has access, traversing private land in any area where game is or is likely to be found, not being the owner or occupier of such land, or not having the permission of the owner or occupier of the land to hunt any animal thereon, or not having been given the permission of the owner or occupier to convey such weapon across such land in such vehicle, shall be guilty of an offence and liable to a fine of P1 000 and to imprisonment for 1 year.

(2) For the purposes of this section a loaded weapon means a weapon having a bullet or cartridge in the breach thereof.

51. Killing of dogs in certain circumstances

The owner or occupier of private land on which there are any game animals, may kill any dog found hunting on such land if such dog is not in the keeping of and accompanied by a person who is lawfully on such land:

Provided that the provisions of this section shall not apply in respect of land within a township, and nothing in this section shall in any way affect or derogate from the right of such owner or occupier to kill the dog in terms of any other law.

52. Prohibition of certain activities in specified areas

(1) The owner or occupier of private land, or any person authorized thereto by him may, without warrant, search any premises, hut, tent, camping place, vehicle or receptacle on such land or any road traversing such land, if such owner, occupier or authorized person has reasonable cause to suspect that there is contained therein any animal, meat or trophy, or any thing or article by means of which, or in respect of which, any provision of this Act has been contravened, and may seize any such animal, meat, trophy, thing or article found by him.

(2) Any person obstructing or hindering any person carrying out a search in terms of the provisions of subsection (1), shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

53. Permission in respect of tribal land

Where under this Act the authority or permission of the owner or occupier of land is required for the doing of any act, such authority or permission shall in the case of any tribal area, unless otherwise specifically provided in this Act, be valid for the purposes of this Act only if given by the land board established in respect of that tribal area, or by any person authorized by that land board to give such authority or permission.

54. Wounding of animals

(1) Any person who, in any circumstances, wounds any animal, shall take all such steps as may be reasonable in the circumstances to kill such animal at the earliest opportunity.

(2) Any person who, in any circumstances, wounds but does not kill a dangerous animal, shall make a report thereof at the nearest convenient police station or to a wildlife officer at the earliest opportunity after the failure of his efforts to kill such animal, and such report shall specify the date on which and the place at which it was wounded, the type of wound and the weapon with which it was inflicted, the efforts made to kill the animal after it was wounded, the time and place at which the animal was finally lost, and any other information likely to be of use in locating or identifying the animal, and shall include the name of any other person who witnessed the wounding or who participated in the efforts made to kill the animal.

(3) Any person who, whilst hunting, witnesses the wounding of a dangerous animal, shall make a report thereof at the nearest convenient police station or to a wildlife officer at the earliest opportunity after witnessing the event, stating the name of the person who inflicted the wound, unless to his knowledge some other person has already made such report.

(4) Any person who fails to comply with any provision of this section with which it is his duty to comply shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years.

(5) Where the holder of a licence such as is referred to in section 28, or a professional hunter whilst assisting such licence holder, wounds but does not kill any animal which such licence holder is entitled to hunt by virtue of such licence, such animal shall be counted as an animal killed by him in terms of such licence, and shall be recorded as such by him in the register he is required to maintain under the provisions of section 38.

55. Hunting or capturing by night

(1) Subject to the provisions of subsection (2) no person shall hunt or capture any game animal by night or use any dazzling light for the purpose of hunting or capturing any game animal, and any person who contravenes the provisions of this subsection shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P5 000 and to imprisonment for 5 years.

(2) Nothing in subsection (1) shall apply to the holder of a valid permit granted under this Act which specifically authorizes the holder thereof to kill or to capture any game animal by night or by means of a dazzling light, or to any person acting in accordance with the terms of section 46(1) or section 47(1).

56. Hunting or capturing during closed season

No person shall hunt or capture any game animal during the closed season, and any person who contravenes the provisions of this section shall, without prejudice to his liability to be prosecuted under any other section of this Act, be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years:

Provided that the provisions of this section shall not apply to the holder of a valid permit granted under this Act which specifically authorizes the holder thereof to hunt or capture such game animal during the closed season, or to the holder of a special game licence issued under section 30(2), or to any person acting in accordance with the provisions of section 46(1) or section 47(1).

57. Unlawful methods of hunting

(1) Subject to subsections (2) and (3), no person shall-

(a) whilst he is in or on any vehicle, aircraft or mechanically propelled vessel, discharge any weapon at or towards any game animal;

(b) use any vehicle, aircraft or mechanically propelled vessel in such manner as to drive, stampede or disturb any animal for any purpose;

(c) use any vehicle or mechanically propelled vessel for the purpose of capturing any game animal; or

(d) in any vehicle or mechanically propelled vessel approach nearer than 200 metres to any animal for the purpose of hunting or capturing the animal.

(2) Nothing in subsection (1) shall apply to the use of a vehicle, aircraft or mechanically propelled vessel for-

(a) the hunting or capture of any animal by any person acting in accordance with the provisions of section 46(1) or section 47(1);

(b) the hunting or capture of any animal by the holder of a valid permit granted under this Act which authorizes the use of a vehicle, aircraft or mechanically propelled vessel in the hunting or capture of such animal; or

(c) the driving away of any animal from any Government aerodrome or any licensed aerodrome by any person concerned with the maintenance of such aerodrome, or the driving away of any animal from an emergency landing ground by any person when it is necessary so to drive the animal to ensure the safety of any aircraft which is on, or about to land on, or about to take off from such emergency landing ground.

(3) Nothing in subsection (1) shall apply to the use of a mechanically propelled vessel for the hunting of any waterfowl specified in Part III of the Seventh Schedule or the hunting or capture of any crocodile or sitatunga.

(4) No person shall, for the purpose of hunting or capturing of any animal, drive or surround such animal by means of fire or, for the purpose of such hunting or capturing, cause any grass or bush fire, or use any other method of hunting or capture which the Minister may, by regulations, declare to be unlawful.

(5) No person shall, except under and in accordance with the written permission of a licensing officer, use for the purpose of hunting or capturing any animal any immediate means other than a hunting rifle, a shotgun or a dog used subject to such limitations as may be imposed by regulations:

Provided that the provisions of this subsection shall not apply to any person acting in accordance with the provisions of section 46(1) or section 47(1), or to the extent that regulations made for the purposes of section 30 provide otherwise in respect of persons hunting in accordance with the provisions of a special game licence.

(6) Any person who contravenes the provisions of this section shall be guilty of an offence and without derogation from his liability under any other provision of this Act shall be liable to a fine of P5 000 and to imprisonment for 5 years.

58. Elephant and buffalo hunting

(1) No person shall use a Martini Henry or a muzzle loader or any firearm other than a rifle of a calibre not less than 9,3mm or ,375 magnum and capable of firing a cordite cartridge, for the purpose of hunting any elephant or buffalo, and a licence or permit authorizing the hunting of an elephant or a buffalo will only be issued on production by the applicant of an arms certificate or a temporary permit for a rifle which conforms to the requirements of this subsection.

(2) Any person who hunts an elephant or a buffalo with a weapon other than one of a calibre and type specified for such hunting in subsection (1) shall be guilty of an offence and, without prejudice to his liability to any other penalty in respect of any other offence under this Act, shall be liable to a fine of P500 and to imprisonment for 6 months.

59. Killing of lion or leopard

Any licence holder who kills a lion or a leopard shall produce its skull to a licensing officer for inspection, and any person who fails to comply with the provisions of this subsection shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

60. Sale of animals or eggs thereof

(1) No person shall, except under and in accordance with the terms and conditions of a permit granted in terms of section 39(1)(c), sell any game animal or non-designated animal, or the meat, eggs or trophy of any such animal:

Provided that the provisions of this section shall not apply to-

(i) the holder of a trophy dealer's licence, or to any person in effecting a sale to the holder of a trophy dealer's licence in accordance with the terms and conditions of that licence; or

(ii) any person entitled to landholder's privileges, or to enjoy landholder's privileges, in accordance with section 20 in respect of any land, in effecting a sale, with the written approval of the Director, of any game animal or the meat, eggs or trophy of any game animal lawfully killed on that land by such person; or

(iii) the sale of a trophy where a single game licence pertaining to that trophy is handed over with the trophy, or to the sale of a trophy obtained in accordance with the terms of a small game licence, or to the sale of a trophy obtained outside a national park or a game reserve by the holder of a special game licence, where the buyer records and retains the number of the licence and the name and address of the holder of such licence.

(2) Any game animal or non-designated animal, or the meat, eggs or trophy of any such animal found in any shop, store or other place of business, shall be presumed to have been acquired for the purpose of sale, and the person in whose possession it is found shall be presumed to have dealt therewith in contravention of the provisions of this section unless he is the holder of a valid permit granted to him in terms of section 39(1)(c) or unless he proves to the contrary.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine of P1000 and to imprisonment for 1 year.

61. Purchases of animals or parts or eggs thereof

(1) No person shall purchase from another person any game animal or non-designated animal or the meat, eggs or trophy thereof without satisfying himself, by reasonable evidence, that such other person is the holder of a valid permit granted to him in terms of section 39(1)(c) authorizing him to sell such animal, meat, eggs or trophy, or that he is entitled to do so in accordance with the provisions of section 60 or by virtue of regulations made under section 30, and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for 2 years.

(2) Notwithstanding the provisions of subsection (1), a person shall not be guilty of an offence under that subsection if he purchases such animal, meat, eggs or trophy-

- (a) from a stall at any fete, bazaar or other like function which is open to the public;
- (b) from any person who lawfully exhibits his goods for sale in any road, street or other public place; or
- (c) in the ordinary course of business from a person who carries on business in a shop, store or other fixed place of business.

Part:X Export and Import of Animals, Trophies and Meat,

62. Export and import of animals, etc.

(1) No person shall, except under and in accordance with the terms and conditions of a permit granted to him by the Director under subsection (3), export from or import into or transport through or re-export from Botswana any animal, or trophy, meat or eggs thereof.

(2) The export, import, transport through and re-export of animals listed under the Appendices to CITES, and any trophy, meat or eggs thereof shall be permitted only in accordance with the provisions of CITES, and before any permit is issued under subsection (3), the Director, as Management Authority in accordance with the terms of CITES, shall require to be satisfied that-

- (a) the animal, trophy, meat or eggs has or have been lawfully acquired;
- (b) the issue of the permit will not in any way be detrimental to the survival of the species;
- (c) where required, the Management Authority of the importing country has granted an import permit in respect of the animal, trophy, meat or eggs; and
- (d) in the case of a live animal, all necessary steps have been taken to minimize the risk of injury, cruelty or damage to its health during transport or transshipment of the animal to its destination.

(3) Subject to compliance with the provisions of any other written law relating to the export or import of goods, to the provisions of subsections (2) and (4), and to any regulations made or directions given, or terms and conditions imposed by the Minister in respect of certain or specified animals, a licensing officer may, on application being made in such form and on payment of such fee as may be

prescribed, grant permits for the export from or import into or re-export from Botswana of any animal, or trophy, meat or eggs thereof.

(4) Where, subject to the provisions of subsection (2), a permit for the export of any elephant tusk is granted, the weight thereof and the distinctive mark and number placed thereon in terms of section 67(2) shall be endorsed on the permit.

(5) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine of P10 000 and to imprisonment for 7 years:

Provided that-

(a) where the contravention is in respect of a rhinoceros or any trophy thereof, the penalty shall be a fine of P100 000, and imprisonment for 10 years; or

(b) where the contravention is in respect of an elephant or any trophy thereof, the penalty shall be a fine of P50 000, and imprisonment for 10 years.

63. Export duty to be paid

Export duty at such rate as the Minister may, by order in the *Gazette*, from time to time determine, shall be paid to the licensing officer to whom application is made for an export permit, on all animals, or trophies, meat, hide, skins or eggs thereof exported from Botswana:

Provided that-

(a) the provisions of this section shall not apply in respect of any animal, or trophy, meat, hide, skin or eggs thereof acquired by the holder of a Minister's licence issued in accordance with the provisions of section 89, by virtue of such licence, or lawfully imported into Botswana and then re-exported; and

(b) no order by the Minister that has the effect of imposing such a duty, or of increasing the existing rate of duty, in respect of any animal or item, shall have force or effect until the expiration of a period of two months from the date of publication of the order in the *Gazette*.

64. Dealing in trophies

No person shall sell or otherwise deal in, or manufacture any article from, any trophy that has not been lawfully imported into, or which has not been obtained from an animal lawfully killed or captured in, Botswana, and any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years:

Provided that where the offence is in respect of a trophy from a rhinoceros or an elephant, the penalties shall be as provided respectively in paragraphs (a) and (b) of the proviso to section 62(5).

65. Trophy dealer's licence

(1) No person shall carry on the business of a trophy dealer except under the authority of and in accordance with the terms and conditions of a trophy dealer's licence, and no person other than the holder of a trophy dealer's licence shall employ or engage any other person to manufacture any article from any trophy.

(2) Application for a trophy dealer's licence shall be made to the Director in such form as may be prescribed, and the Director may, at his discretion, where the circumstances so warrant, and on payment of such fee as may be prescribed, issue the licence in the prescribed form, subject to such terms and conditions as he may determine, and as shall be endorsed on the licence.

(3) A trophy dealer's licence may be issued in respect of certain classes of trophy only, as may be endorsed on the licence, and the holder thereof shall not deal in trophies other than those so endorsed.

(4) A trophy dealer's licence shall not be transferable, and no person other than the person to whom it is issued shall make use of such licence.

(5) A trophy dealer's licence shall be valid for one year from the date on which it is issued:

Provided that the Director may forthwith cancel the licence of any trophy dealer convicted of an offence under this Act.

(6) Any person aggrieved by the refusal of the Director to issue a licence under this section, or by any terms and conditions subject to which such licence is issued, or by the cancellation of a licence by the Director, may appeal therefrom to the Minister whose decision thereon shall be final.

(7) Any person who contravenes or fails to comply with the provisions of this section or with the terms and conditions subject to which his licence was issued, shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years.

66. Records and returns by trophy dealers

(1) A trophy dealer shall keep and maintain a register in such form and shall make such returns as may be prescribed, and any trophy dealer who contravenes or fails to comply with the provisions of this section shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for 2 years.

(2) A wildlife officer or a police officer may, at all reasonable times, enter the licensed premises of a trophy dealer and inspect the register and returns which he is required to keep or make under subsection (1).

Part:XI Ivory and Rhinoceros Horn (ss 67-70)

67. Killing of elephant and rhinoceros

(1) Any person who kills an elephant shall produce its lower jaw, its tail and its tusks to a licensing officer at such wildlife office as may be prescribed for such purpose, within 7 days immediately after the killing, or within such extended period as the licensing officer may, in any special circumstances, authorize, together with the appropriate licence or permit, and where the licence or permit holder fails to produce any one of such parts, or the licence, the licensing officer may refuse to register the tusks.

(2) The licensing officer to whom such tusks are produced shall, if satisfied after such enquiry as he may consider necessary that they have been lawfully obtained, and that possession and ownership thereof will not be contrary to the terms of CITES, weigh them and cause them to be marked with a distinctive mark and number and the name of the owner, the date and such other information as may be required in a register to be kept for that purpose, and, subject to subsection (3), return them to the person producing them together with a certificate of ownership in the prescribed form, on which shall be endorsed the registered particulars.

(3) Where a licensing officer is not satisfied that the tusks have been lawfully obtained, or that possession or ownership thereof will be in accordance with the terms of CITES, he may retain them pending further investigation:

Provided that if no criminal proceedings are instituted against the person producing the tusks within three months of their being produced, the licensing officer shall, subject to the terms of CITES, proceed to deal with the tusks in accordance with subsection (2).

(4) Where a tusk is of an immature elephant, as determined in accordance with regulations made under section 92, it shall be a Government trophy, and the licensing officer shall not register it or return it to the licence holder.

(5) Any person who fails to comply with the provisions of subsection (1), or who is found in possession of tusks which have not been registered in accordance with the provisions of subsection (2), shall be guilty of an offence and liable to a fine of P50 000 and to imprisonment for 10 years.

(6) Any person who kills a rhinoceros shall produce the horn thereof to a licensing officer, at such wildlife office as may be prescribed for that purpose, as soon as possible, and in any event within 7 days immediately after the killing, and report the circumstances of the killing, the location and the date and time thereof, and any person who fails to comply with the provisions of this subsection or who is found in possession of a rhinoceros horn which has not been produced in accordance with the provisions of this subsection shall be guilty of an offence and liable to a fine of P100 000 and to imprisonment for 15 years.

68. Ivory or tusks imported into or acquired in Botswana

(1) Any person who imports any ivory or any tusk into Botswana, or who acquires, within Botswana, any ivory, or any tusk, without a certificate of ownership issued under section 67(2) shall, within 7 days of so importing or acquiring it, produce such ivory or tusk to a licensing officer, at such wildlife office as may be prescribed for that purpose, for registration, together with such reasonable proof of the lawful importation or acquisition thereof as the licensing officer may require, and where appropriate the provisions of section 67(2) or (3) shall *mutatis mutandis* apply in respect thereof:

Provided that the provisions of this subsection shall not apply in respect of any tusk or ivory which is imported into Botswana by any museum or scientific or educational institution, or in respect of any ivory which is in such form, or is acquired from such source, as the Minister may, bearing in mind the terms of CITES, by regulations made under this Act, or in any particular case exempt therefrom.

(2) Any person who fails to comply with or contravenes the provisions of subsection (1), or who is found in possession of any tusk or ivory and cannot produce a certificate of ownership issued under section 67(2) therefor, or proof of registration thereof or any reasonable proof of lawful importation or possession thereof, shall be guilty of an offence and liable to a fine of P50 000 and to imprisonment for 10 years.

69. Transfer of ivory

(1) Except as otherwise specially provided in CITES, and as may be provided in regulations made under this Act, no person shall transfer to another person any tusk or any ivory which, under the provisions of this Act, is required to be registered and which has not been so registered.

(2) Where any tusk or ivory that has been registered under the provisions of this Act is transferred, the transferor shall hand over to the transferee the certificate of ownership in respect thereof, or proof of registration thereof, as the case may be, after he has endorsed thereon the fact of such transfer and such endorsement has been signed by both the transferor and the transferee.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of P50 000 and to imprisonment for 10 years.

70. Rhinoceros horn

Any rhinoceros horn shall be a Government trophy and, except only as provided in section 67(6), no person shall have in his possession, transfer or in any way deal in rhinoceros horn, and any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of P100 000 and to imprisonment for 15 years:

Provided that the provisions of this section shall not apply in respect of the possession of any duly registered rhinoceros horn by a person who acquired it lawfully prior to the commencement of this Act and who registers such possession with a licensing officer, at such wildlife office as may be prescribed for the purpose, within three months after the commencement of this Act.

Part:XII Government Trophies (s 71)

71. Government trophies

(1) The following are declared to be Government trophies, in addition to any other Government trophies so declared in any other provision of this Act-

- (a) any game animal found dead, and any trophy or part thereof;
- (b) any animal killed or captured in contravention of any provision of this Act, and any trophy or part of such animal;
- (c) any trophy in respect of which a breach of this Act has been committed;
- (d) any animal or trophy which is, on reasonable grounds, suspected of being stolen or otherwise unlawfully obtained, and which is in the possession of any person who is unable to give a reasonable explanation to a licensing officer as to how he came by it; and
- (e) any other animal or trophy which may be prescribed as a Government trophy.

(2) Except as otherwise specially provided in this Act, any person who by any means obtains possession of a Government trophy, shall forthwith make a report thereof to the nearest wildlife officer or police station and shall, if so directed, deliver such trophy to such wildlife officer or police station, as the case may be.

(3) Any person who contravenes the provisions of subsection (2) or who is found in unlawful possession of a Government trophy shall be guilty of an offence and, without derogation from his liability under any other provision of this Act, shall be liable to a fine of P5 000 and to imprisonment for 5 years.

(4) Government trophies shall be disposed of in such manner as the Minister may, where relevant in accordance with the terms of CITES, direct.

72. Evidence and presumptions

(1) The possession of any animal or the meat or trophy of a freshly killed animal shall be *prima facie* evidence against a person accused of contravening any provision of this Act, that he has hunted, killed or captured such animal.

(2) Any holder of a licence or permit issued or granted under this Act who is found in possession of animals, or the meat or trophies thereof, in excess of the numbers specified in such licence or permit, or of any animal or species or sex of animal not authorized therein shall be presumed, unless the contrary is proved, to have hunted, killed or captured such animal or animals in contravention of the provisions of this Act.

(3) Where any animal, or the meat or trophy of an animal is found upon or in any vehicle, boat or aircraft, or at any camping place, every person who is upon or in or in any way associated with such vehicle, boat or aircraft, or who is at or in any way associated with such camping place, shall be presumed, unless the contrary is proved, to be in possession of such animal, meat or trophy.

(4) Any person charged with doing any act which constitutes an offence under this Act if done without a licence, permit, authority or permission, shall be presumed to have done such act without such licence, permit, authority or permission, as the case may be, unless the contrary is proved.

(5) The burden of proving any fact which would be a defence to a charge of contravening or failing to comply with any provision of this Act shall lie on the person charged with such contravention or failure.

(6) In any prosecution for an offence under this Act, whenever-

(a) the question whether any fresh, dried, unprocessed or partly processed meat is or was the meat of any animal, is relevant to the issue before the court, such meat shall be presumed to be or to have been the meat of such animal, unless the contrary is proved;

(b) the question whether any unprocessed or partly processed hide or skin, which has been rendered unidentifiable as the hide or skin of any particular animal or species or sex of animal, is or was the hide or skin of any animal or species or sex of any animal is relevant to the issue before the court, such hide or skin shall be presumed to be or to have been the hide or skin of such animal or species or sex of animal, unless the contrary is proved.

(7) Whenever, in any proceedings against any person upon a charge alleging that he committed an offence under this Act on any particular piece of land, it is proved that any act constituting or forming an element of such offence was committed in or near the locality wherein such land is situated, such act shall be presumed to have been committed on such piece of land, unless it is proved that it was committed on another piece of land.

(8) Whenever the hunting of one or other sex, or of any particular class or species of animal is unlawful, and the hunting of the other sex or any other class or species of such animal is lawful, any carcass of such animal from which the distinguishing features of sex or of such particular class or species have been removed shall be presumed to be the carcass of an animal of the sex or class or species which it is unlawful to hunt, unless the contrary is proved.

(9) Whenever, in any prosecution under this Act it is alleged that an offence was committed in connection with or in respect of any species of animal, it shall be

presumed that the offence, if committed, was committed in connection with or in respect of such species of animal, unless the contrary is proved.

(10) Whenever, in any prosecution under this Act, it is alleged that the person charged has failed to report any matter, or to deliver any article or thing to a wildlife officer or to a police station, it shall be presumed that he so failed to report the matter or to deliver the article or thing, as the case may be, unless the contrary is proved.

(11) Any person found at night on any land on which there are any animals or where animals may reasonably be expected to be, and has in his possession any dazzling light and any firearm or other weapon capable of killing or capturing any animal by the discharge of any missile, or any trap or other contrivance capable of being used in the hunting or capture of any animal, shall be presumed to be acting or to have acted in contravention of the provisions of section 55, unless the contrary is proved.

(12) Any person found at night conveying any game animal, or any meat, trophy or egg thereof, and not being in possession of a valid licence or permit to hunt or capture such animal, shall be presumed to have hunted or captured such animal in contravention of the provisions of section 55, unless the contrary is proved.

(13) In any prosecution under this Act, any record, book or document kept by a wildlife officer or gate attendant, and any other person authorized thereto under this Act, in the course of his duties under this Act, shall, upon production to the court by such wildlife officer, gate attendant or other person, be *prima facie* evidence of the facts recorded therein.

(14) If any vehicle fails to stop when required or signalled to do so by any person authorized to stop such vehicle under this Act, it shall be presumed that the person in whose name the vehicle is registered was driving the vehicle at the time it failed to stop, unless the contrary is proved.

(15) Any person found traversing any land in an area where game is or is likely to be found, conveying any loaded weapon, other than a pistol or revolver, and not being the owner or occupier of such land, or having the permission of the owner or occupier to convey such weapon across such land shall be presumed to be hunting or to have hunted unlawfully on such land, unless the contrary is proved.

(16) Any person who is found in or leaving a national park, game reserve or a sanctuary, and to have in his possession any object of geological, ethnological, archaeological, historical or other scientific interest shall be presumed to have acquired such object unlawfully in such national park, game reserve or sanctuary unless the contrary is proved.

73. Powers of wildlife officers, gate attendants and police officers

(1) If any wildlife officer or police officer has reasonable grounds for believing that any person has committed an offence under this Act, he may-

(a) stop and search such person or require him, or enter upon any land and there search or require him, to produce for inspection any animal, meat, trophy or weapon in his possession, or any licence, permit or other document issued to him or required to be kept by him under this Act or the Arms and Ammunition Act;

(b) enter and search any land, building (including a dwelling house), tent, vehicle, boat or aircraft in the possession of or being used by such person, and open and search any baggage or thing in his possession;

(c) stop, seize and search any vehicle, boat or aircraft which he believes to have been used in the commission of the offence, or to contain anything which might provide evidence of the offence;

(d) require such person, or the driver of such vehicle, or the pilot of such aircraft, or the person in charge of such boat, or any passenger in such vehicle, boat or aircraft to furnish his full name and address and the details of any licence, permit, authority or permission issued to him under this Act.

(e) seize any animal, meat, trophy or weapon in the possession of any person, which he believes, on reasonable grounds, to constitute evidence of the offence and, unless he is satisfied that such person will appear and answer any charge that may be preferred against him, arrest and detain him;

(f) undertake any inspection which he may deem necessary to determine whether the provisions of this Act and any other written law relating to the hunting, capture, acquisition, game farming, keeping in captivity, destruction or disposal of animals in Botswana are being complied with; and

(g) destroy any pitfall or trap suspected of being used for the unlawful hunting or capture of any animal, and which cannot be removed from the place where it is found, or the removal of which is difficult.

(2) Within a national park or a game reserve, a gate attendant may exercise such powers conferred on a wildlife officer by subsection (1) as are appropriate.

(3) Where it is necessary for the discharge of his duties or the exercise of his powers under this Act, and notwithstanding the provisions of the Arms and Ammunition Act, a wildlife officer may carry a firearm with him, even on land of which he is not the owner, for the protection of himself or any other person, the prevention or investigation of offences against this Act, or the arrest of any person committing or suspected of committing an offence under this Act, and where the Director so directs, such firearm may be of a type not otherwise permitted under the Arms and Ammunition Act.

(4) Every wildlife officer and gate attendant shall, when discharging his duties or exercising his powers under this Act, have in his possession and produce on request, an identity card in such form as may be prescribed, signed by the Director, as evidence of his identity and his appointment as a wildlife officer or gate attendant, and such identity card shall be sufficient proof of identity and such appointment.

(5) Every person who is detained, and every thing seized under powers conferred by this Act shall be taken as soon as possible before a court of competent jurisdiction, to be dealt with according to law.

(6) Any person who fails to comply with any request or direction made or given in accordance with powers conferred by this section, or who gives information which he knows or ought reasonably to know is false, shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for 2 years.

(7) Any person who assaults, wilfully obstructs or resists arrest by a wildlife officer or a gate attendant in the performance of his duties under this Act, and any person assisting or encouraging such person, shall be guilty of an offence and liable to a fine of P5 000 and to imprisonment for 5 years.

74. Erection of road barriers

(1) For the effective carrying out of the provisions of this Act, and notwithstanding the provisions of any written law relating to the obstruction of roads, any wildlife officer may erect a temporary barrier across any road:

Provided that at the same time the officer shall erect warning signs or notices in such form as may be prescribed at such distances either side of such barrier as may be prescribed and take all such other steps as may be reasonably necessary to protect users of the road from injury to themselves or their property.

(2) Where a person is required to do so by a uniformed wildlife officer in the exercise of his duties under subsection (1), whether by word, sign or signal, he shall stop, and any person who fails to comply with such request shall be guilty of an offence and liable to a fine of P1 000 and to imprisonment for 1 year.

75. Forfeitures, etc.

(1) Where any person is convicted of an offence under this Act, the court may order, and shall order where the offence is one punishable with a fine of P2 000 or over, that any weapon, trap, animal, vehicle, aircraft or boat used for the purpose of or in connection with the commission of the offence, shall be forfeited to the State.

(2) Where the holder of a licence, permit, authority or permission issued or granted under this Act is convicted of an offence under the Act for which the penalty prescribed is P1 000 or over, such conviction shall have the effect of cancelling such licence, permit, authority or permission, unless the court in any particular case decides otherwise.

(3) Anything forfeited to the State under this section shall be disposed of as the Minister may direct:

Provided that such disposal shall not in any way include returning any of the items to the offender or any party to the offence.

76. Admission of guilt

(1) Notwithstanding any provision contained in this or any other written law, it shall be lawful for any wildlife officer specially authorized therefor by the Minister, to serve personally on any person reasonably suspected of having committed an offence under this Act or any regulations made under this Act, for which the prescribed penalty does not exceed a fine of P500 and imprisonment for 6 months, or such other offence as the Minister may by order published in the *Gazette* prescribe, a notification in the form set out in the Tenth Schedule, charging such person with having committed the offence or offences indicated in the notification, and requiring such person to attend court to answer such charge or charges at such time, which shall not be sooner than 21 days after the date of delivery of the notification, as is indicated in the notification.

(2) Such notification shall for all purposes be deemed to be a summons issued under the provisions of the Criminal Procedure and Evidence Act:

Provided that the person served with the notification shall not be obliged to attend court in answer to the charge or charges if he has pleaded guilty in writing, and sent the plea together with the notification and a sum equal to half the prescribed maximum fine for the offence or offences, or such other amount as the Minister may, by order published in the *Gazette*, prescribe for the purposes of this section, to such police station as shall be specified in the notification, within 14 days from the date on which the notification was served on him.

(3) If any person, having been served with a notification issued under this section, fails either to attend court on the day and at the time specified in such notification, or to plead guilty and pay the fine as provided in subsection (2), he may be brought before the court to answer the charge or charges either by summons or by warrant.

(4) The provisions of this section shall be without prejudice to the power to proceed in the normal manner against the accused person.

77. Magistrates' courts' special jurisdiction

(1) Notwithstanding anything to the contrary contained in any law relating to magistrates' courts, a court presided over by a Magistrate Grade I or over shall have special jurisdiction to hear any case under this Act, to impose any penalty provided in this Act for an offence thereunder, and to exercise the powers conferred by subsection (2).

(2) Where any person is convicted of an offence under this Act punishable by a fine of P5 000 or over, and where the Director is satisfied that the offender has received pecuniary benefit resulting from the contravention or contraventions of this Act giving rise to the conviction, he may make or cause to be made an application to the court before which the conviction was obtained, or to the High Court, for a confiscation order in accordance with the provisions of the Proceeds of Serious Crime Act, and for the purpose of that Act the offence giving rise to the conviction shall be deemed to be a serious crime.

78. Alternative verdicts

Where any person is charged with contravening any particular provision of this Act, and the evidence discloses that he was not guilty of contravening that provision, but such evidence supports a conviction for a lesser offence under the Act, the court trying him may find him guilty of such lesser offence notwithstanding that he was not so charged.

79. Second or subsequent offence

Where any person is convicted of any offence under this Act, having previously been convicted for a contravention of the Act or of regulations under the Act, the maximum penalty prescribed for such offence shall be increased by fifty percent:

Provided that where the offence is one in connection with a rhinoceros or an elephant the penalty for a second or subsequent offence shall be a term of imprisonment without the option of a fine, in addition to the imposition of a fine.

Part:XIV General (ss 80-94)

80. Destruction of animals by wildlife officers in certain circumstances

(1) Any wildlife officer may, with the consent of the owner or occupier in respect of private land, where it is necessary for the purpose, go onto any land, and destroy any animal which-

(a) has caused or is causing or is likely to cause damage to any livestock, crops, water installation or fence;

(b) is or is likely to be dangerous to human life;

(c) he has been directed to destroy as part of his official duties:

Provided that, where the animal is a dangerous animal which has been previously wounded or otherwise injured so as to make it a potential source of danger to human life, the wildlife officer may follow such animal with the intention of killing it on any land notwithstanding that the consent of the owner or occupier of the land has not been first obtained, but he shall as soon as possible inform such owner or occupier of the fact that he has followed such animal on to the land and whether he was successful in killing it or whether it is still at large.

(2) Any wildlife officer may destroy any dog found hunting an animal on land other than private land, if such dog is not in the keeping of or accompanied by a person who is lawfully on such land.

81. Hunting in forest areas

Nothing in this Act, and no licence, permit authority or permission issued or granted under this Act shall, or shall be deemed to, authorize any person to hunt or capture any animal in an area declared to be a reserved area under the Forest Act except under and in accordance with such permit, authorization or permission as may be required by that Act, and any person who contravenes the provisions of this section shall be guilty of an offence and, without derogation from his liability under any other provision of this Act or the Forest Act, shall be liable to a fine of P2 000 and to imprisonment for 2 years.

82. Keeping of animals

(1) No person shall keep or possess any live animals in confinement except only under and in accordance with a permit issued therefor by the Director:

Provided that this shall not apply to the temporary keeping or possession of a sick or injured animal for the purpose of affording it treatment, or to animals within private game farms, ranches or reserves surrounded by game proof fences, or to such animals and in such circumstances as may be specified in regulations and sold or kept as pets.

(2) A permit issued by the Director in terms of subsection (1) may be granted subject to such conditions relating to the manner in which the animal is to be kept as the Director may see fit to impose, or as may be prescribed.

(3) No person shall exhibit any animal to the public, or to any section thereof, except in accordance with a permit issued by the Director and such conditions thereof as the Director may see fit to impose relating to the manner in which the animal is to be kept and members of the public are to be allowed access to it, or as may be prescribed.

(4) Any person keeping an animal in accordance with a permit issued under this section shall not release such animal or otherwise dispose of it without first obtaining the approval of the Director.

(5) Where a dangerous animal or an animal not indigenous to Botswana is kept in confinement in accordance with the provisions of subsection (1), or is confined within a game proof fence on a private game reserve, ranch or farm, the person keeping it shall take all

reasonably possible steps to ensure that it does not escape, and if it does so shall take all reasonably possible steps to recapture it or kill it.

(6) Any person who contravenes or fails to comply with the provisions of this section, or who fails to comply with the provisions of any permit issued under this section shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for 2 years.

83. Rights of ownership in animals

(1) Notwithstanding the provisions of any other written or unwritten law, the owner of land on which any animal is kept or confined, and which is enclosed by a game proof fence or in such other manner as may be approved by the Director, shall enjoy rights of ownership over such animal.

(2) Such rights of ownership shall not be lost merely because the animal escapes from such land or confinement, and any person who, knowing or having reason to know that the animal came from such land or confinement, appropriates it, shall be guilty of the offence of stealing it in accordance with the provisions of section 274 of the Penal Code, or, if he kills it with intent to appropriate the carcass or skin thereof, shall be guilty of an offence in accordance with the provisions of section 285 of the Penal Code.

84. Powers of licence and permit holders etc. in respect of other hunters

(1) Any person who is lawfully on any land by virtue of any licence or permit to hunt or capture animals thereon, or being entitled to or to enjoy landholder's privileges in respect of that land, may require any other person found by him on such land and whom he reasonably believes to be hunting or capturing animals on that land, to produce any licence, permit, authority or permission authorizing him to be on such land, or to furnish him with his full name and address.

(2) Any person who, upon being requested to do so in accordance with subsection (1)-

(a) refuses, or being able to do so fails to produce any such licence, permit, authority or permission; or

(b) refuses or fails to furnish his full name and address, or furnishes a false or incomplete name and address, shall be guilty of an offence and liable to a fine of P500 and to imprisonment for 6 months.

85. Personation of officers etc.

Any person who-

(a) falsely represents himself to be a wildlife officer, honorary officer or a gate attendant; or

(b) without lawful excuse wears any uniform, or carries or displays any badge or letter or other document of appointment or identity authorized or required under this Act to be worn or carried by a wildlife officer, honorary

officer or gate attendant, or so nearly resembling any such uniform, badge, letter or other document as to be calculated to deceive,

shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for 2 years.

86. Delivery of firearms to gate attendant

Without obtaining an arms certificate or permit under the Cap 24:01 Arms and Ammunition Act to authorize the delivery or possession of firearms, the Minister, the Director and any wildlife office may deliver arms and ammunition to any gate attendant which he may require for the performance of his duties as such gate attendant, and any gate attendant may possess such arms and ammunition for such purpose.

87. Freedom from liability

No liability shall attach to the State or to the Minister or the Director or any wildlife officer or gate attendant for any loss of life or property or any damage or injury sustained by any person anywhere in Botswana by reason of the presence, action or depredations of any non-captive animal, whether or not such animal is within a national park, game reserve or sanctuary.

88. Directions by Minister

(1) Where he considers it in the public interest to do so, and in particular where he considers it necessary or expedient to do so in order to facilitate compliance by Botswana with CITES and any other international agreement to which Botswana is a party, or the discharge by Botswana of any other international obligation by which it is bound, the Minister may give directions, either generally or in a particular case, to all or any public officers, or to all or any wildlife officers or other persons appointed by him under this Act as to the carrying out of their functions or the performance of their duties under this Act, and any person to whom such directions are given shall comply therewith.

(2) Subject to the provisions of this Act and to any directions that may have been given to him by the Minister under subsection (1), where any person is vested by this Act with a power to allow, give consent to, grant, specify or revoke or cancel any matter or thing, that person may, without giving any reasons therefor and in his absolute discretion, allow or disallow, give or withhold consent, grant or not grant, specify or not specify, revoke or cancel or not revoke or cancel that matter or thing as he thinks most conducive to the public good:

Provided that nothing in this section shall be construed as referring to any function of or any power vested in any court by or under this Act.

89. Minister's licence

(1) Notwithstanding anything in this Act, the Minister may, upon such terms and conditions as he deems fit, grant to any person a complimentary licence, to be known as a Minister's licence.

(2) A Minister's licence shall, subject to the terms of CITES, entitle the holder thereof to hunt any animals, other than protected game animals, in any area of Botswana which is not

in a national park, a game reserve or private land, in any season, whether or not such area is an area in which hunting is prohibited or restricted, and whether or not such season is the open season for such animals in that area, and as may be specified in the licence.

(3) The Minister may at any time, and without assigning any reason therefor, cancel any licence issued under this section.

90. Power to suspend, etc. operation of Act

The Minister may, by order published in the *Gazette*, suspend, restrict or limit the application of any of the provisions of this Act, either generally or in respect of any area, for such period and subject to such conditions as he deems fit:

Provided that such suspension, restriction or limitation does not contravene the terms of CITES.

91. Amendment of Schedules

(1) In order to enable Botswana to give full effect to the terms of CITES and to Resolutions of the Conferences of the Parties, as they may from time to time be amended, the Minister may by order published in the *Gazette* amend the Fifth Schedule and the list of animals contained in the Appendices to the Convention.

(2) Where the President has, by order published in the *Gazette* declared any area of land to be a national park, a game reserve or sanctuary or a wildlife management area, or has amended the boundaries of such a park, reserve, sanctuary or area, or has abolished the same, the Minister may by order published in the *Gazette* amend the First, Second, Third or Fourth Schedule, as appropriate, to reflect such additions or changes.

(3) The Minister may, at any time, or from time to time, as necessary or desirable, by order published in the *Gazette*, amend any of the other Schedules to this Act.

92. Regulations

(1) The Minister may make regulations to give force and effect to the provisions of this Act and for its better administration, and without derogating from the generality of the foregoing such regulations may provide for the following matters-

(a) any matters which this Act specially provides may be prescribed or may be made by regulations;

(b) forms of applications, licences, permits, certificates, registers, returns and other forms that may be required for the purposes of this Act, and any fees to be paid in respect thereof;

(c) the administration of controlled hunting areas or any such area or any part thereof the restriction, control or regulation of the hunting or capture of animals in such areas or any such area or part thereof, and the terms and conditions under which animals may be hunted or captured therein and the fees

to be paid for such hunting or capture or in respect of the doing of any specified thing therein or the use of any article or facility provided therein;

(d) the terms and conditions to be complied with by the holder of any licence or permit;

(e) facilitating the compliance by Botswana with CITES and any other international agreement to which Botswana is or becomes a party;

(f) the payment of royalties by holders of permits, the circumstances in which such royalties shall be paid, and fixing and altering such royalties;

(g) prohibiting, restricting, controlling or regulating the coursing of animals with dogs, or the driving of animals by beaters;

(h) the care and handling during and after capture of animals captured under the authority of a permit, the stabling and feeding of such animals and the conditions under which they may be transported;

(i) prohibiting, restricting, controlling and regulating the sale of any trap or similar contrivance, which may be used in the trapping, snaring or capture of animals;

(j) the payment of rewards to persons finding and surrendering trophies generally, or particular trophies, the amounts of such rewards and the conditions subject to which they shall be paid;

(k) the payment of the costs of transporting trophies generally or particular trophies surrendered or delivered to district offices or police stations, and the manner of calculating the amounts to be paid;

(l) the wearing of uniforms or badges by wildlife officers, gate attendants and honorary officers, and the type or description of such uniforms or badges;

(m) the provision of a code of conduct to regulate the conduct and discipline of wildlife officers; and

(n) the control of the use of and the administration of firearms within the Department.

(2) Different regulations may be made in respect of different animals or classes or species of animals, or in respect of the same animals, classes or species in different circumstances, or in respect of different or particular areas.

(3) Different regulations, including the prescribing of different fees to be paid, may be made in respect of citizens of Botswana, residents of Botswana and other persons.

(4) Regulations made under this Act may provide that any offence thereunder may be punishable by a fine of P1 000 and by imprisonment for one year.

93. Payment of fees to district councils

Where the Minister so recommends, any revenue deriving from the payment of fees for licences or permits to hunt, capture, sell or farm any animals or in respect of any other wildlife activity in its area, other than in a national park or game reserve, shall be paid to the district council concerned.

94. Repeal and saving

(1) The Law 21 of 1961 Fauna Conservation Act and the Act 48 of 1967 National Parks Act are hereby repealed.

(2) Any subsidiary legislation made under and in accordance with the provisions of the Fauna Conservation Act or the National Parks Act shall continue of force and effect as if made under the provisions of this Act, to the extent that it is not inconsistent with such provisions, until revoked or amended by or under this Act.

(3) Any licence, permit or authorization issued or granted under the Acts repealed by this Act shall, in so far as it is not inconsistent with the provisions of this Act, remain of force and effect as though issued or granted under the responding provisions of this Act.