

PART XIII

GENERAL

SECTION

- 44. Honorary game wardens
- 45. Power to suspend Act
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CHAPTER 66:03

GAME

An Act to make further and better provision for the preservation
and control of game

[11TH JUNE, 1954]

26 of 1953
1 of 1957
31 of 1958
1 of 1963
4 of 1964(M)
33 of 1969
4 of 1981
G.N.
114/1954
44/1955
144/1956
30/1960
179/1960
22/1963
1/1965
257/1965
137/1966
166/1967
166/1969
109/1975
146/1976
Gen. No.
1024/1968

1. This Act may be cited as the Game Act.

Short title

PART I

PRELIMINARY

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

Interpreta-
tion

“an authorized officer” means any customs officer, forest officer,
police officer not below the rank of inspector, game control

L.R.O. 1/1982

officer, game licensing officer, or any public officer so appointed by the Minister, and includes an honorary game warden;

“animal” means any vertebrate animal, other than a domestic animal, but does not include fish;

“Board” means the Board which may be established under section 4;

“buy”, “sell”, “purchase” and “sale” include barter;

“dangerous animal” means elephant, buffalo, hippopotamus, rhinoceros, lion and leopard and any other animal which the Minister may by notice published in the *Gazette* declare to be a dangerous animal;

“game” and “game animal” mean any animal specified in any of the first three Schedules and, during a close season, any animal which is forbidden to be hunted during such season;

4 of 1981 “game control officer” means any officer of the Department of National Parks and Wildlife of or above the grade of technical officer;

“game licensing officer” means any public officer authorized by the Minister in that behalf;

“game licence” means a licence granted under section 13;

“game meat” means the meat, fat or blood of any game animal;

“honorary game warden” means any person appointed to be an honorary game warden under section 44;

“hunt” means to kill or attempt to kill, shoot at, capture or attempt to capture, or to follow, search for or lie in wait for with intent to kill, shoot or capture;

“ivory” means the tusk of an elephant or part thereof;

“trophy” means ivory and the whole or any part of the horn, head, tusk, bone or skin of any game animal and includes the eggs, egg shells, nests or plumage of any bird, but does not include any article manufactured from any trophy;

“weapon” includes fire arms.

PART II

NATIONAL PARKS

3.-6. [Repealed by 33 of 1969]

PART III

CONTROLLED AREAS

7. The Minister may, by notice published in the *Gazette*, declare any area of land, not being a national park or game reserve or part thereof, to be a controlled area, and may in like manner alter the limits of any such area or cancel such declaration.

Declaration
of controlled
areas

8.—(1) No person shall hunt any game animal in a controlled area or be found in circumstances indicating that it is his intention to hunt any game animal therein unless he is in possession of a valid Minister's licence granted under section 16 or of a permit to hunt in a controlled area granted under section 9:

Restriction
on hunting
in a controlled
area

Provided that this subsection shall not apply to a person who is ordinarily resident within the limits of a controlled area and who is hunting under the authority of a valid game licence.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

9.—(1) A permit to hunt in a controlled area may, subject to the special or general directions of the Minister, be granted by the game licensing officer of the District in which such area is situated or by a game control officer and shall only be issued to a person who is not ordinarily resident in such area and is the holder of a valid game licence.

Permits to
hunt in a
controlled
area

(2) There shall be paid on the grant of a permit to hunt in a controlled area such fee as may be prescribed.

PART IV

GAME RESERVES

10.—(1) The areas of land described in the Fourth Schedule are hereby declared to be game reserves.

Game
reserves

(2) The Minister may by proclamation alter the boundaries of any game reserve, or abolish any game reserve, and may in like manner add to the said Fourth Schedule any new game reserve.

11.—(1) No person shall hunt any animal in a game reserve:

Provided that the Chief Game Warden may, if he considers it desirable that any animals should be hunted for the better preservation of other animal life and subject to the general or special directions of the Minister, give permission in writing to any person to hunt under his direction any animals specified by him. The Chief Game Warden shall cause any permission so given to be published in the *Gazette*.

Prohibition
on hunting
in game
reserves
4 of 1981

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

PART V

LICENCES TO HUNT GAME

12.—(1) Save as in this Act otherwise expressly provided, and save as may be prescribed, no person shall hunt any game unless he holds a valid licence authorizing him to do so.

Prohibition
of hunting
of game
animals
without
licence

(2) No holder of such a licence shall hunt game of a species or sex which he is not by his licence authorized to hunt, or hunt more game than he is by his licence authorized to hunt, or otherwise contravene the terms and conditions of his licence.

(3) Any person who contravenes subsection (1) or subsection (2) shall be guilty of an offence.

13.—(1) Subject to this Act, and any special or general directions of the Minister, the following game licences may be granted by a game licensing officer—

Game
licences

(a) a National licence;

(b) a District licence.

(2) There shall be paid on the grant of a game licence under subsection (1) such fee as may be prescribed.

14.—(1) A National licence shall authorize the holder, subject to this Act, to hunt and kill species of game animals specified in the First Schedule, to the maximum numbers respectively specified.

Authority
conferred by
game
licences

(2) A District licence shall authorize the holder, subject to this Act, to hunt and kill in the District specified in such a licence the species of game animals specified in the Second Schedule hereto, to the maximum numbers respectively specified.

15. Subject to this Act, a District licence shall be granted only to an applicant therefor who satisfies the game licensing officer of the District in respect of which the licence is applied for that such applicant is ordinarily resident in such District.

To whom
District
licences may
be granted

16. The Minister may, on the recommendation of the Chief Game Warden grant to any person, with or without payment of a fee and with or without imposing any conditions, a Minister's licence to hunt any animal specified in the Third Schedule, or any immature game animal, or any female game animal when accompanied by her immature offspring, or any animal during a close season, or any animal the hunting whereof is for the time being prohibited, restricted or regulated, and may by such licence authorize the holder of any game licence to hunt game animals additional to those specified in his licence.

Minister's
licence
4 of 1981

Power to vary First, Second and Third Schedules

17. The Minister may, by notice published in the *Gazette*, vary any of the first three Schedules as regards the species and number of animals which may be hunted under all or any kind of licence, either in relation to the whole of Malawi or any specified part thereof.

PART VI

HUNTING ON PRIVATE LAND

Hunting on private land

18.—(1) No person shall hunt any animal on private land without first having obtained the written permission of the owner or occupier thereof, or of the agent of such owner or occupier.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) Any person who, being on private land in circumstances indicating that it is his intention to hunt, refuses on demand to give his name or address to the owner or occupier of such land, or to his agent, shall be guilty of an offence.

(4) A certificate under the hand of a Commissioner for Lands that any land is private land shall be *prima facie* evidence of that fact in any prosecution for an offence under this section.

PART VII

PROVISIONS RELATING TO LICENCES AND PERMITS

Power of Minister to cancel licence or permit

19.—(1) The Minister may at any time, without assigning a reason, cancel any licence or permit of any description granted under this Act, or direct that any licence or permit be refused to any applicant therefor.

(2) If any licence or permit is cancelled under subsection (1), then, unless the former holder thereof has been convicted of an offence against this Act while such licence or permit was valid, or unless he is convicted of such an offence within two months from the date of such cancellation, a proportional part of the fee paid for such licence or permit shall be repaid to such former holder.

Power to suspend or refuse to grant licence

20.—(1) A game licensing officer may, subject to the general or special directions of the Minister, refuse to grant a game licence to any person.

(2) Any authorized officer may, at any time, subject to the general or special directions of the Minister, by notice in writing suspend a game licence, whereupon such licence shall, subject to this Act, cease to be valid.

(3) Where the grant of a game licence has been refused or a game licence has been suspended under subsection (1) or (2),

the fact of such refusal or suspension and the reasons therefor shall be reported to the Minister by the game licensing officer or authorized officer concerned.

21.—(1) Any person who is aggrieved by the refusal or suspension of a game licence under section 20 (1) or (2) may within thirty days of the date upon which he is notified of such refusal or suspension, appeal to the Minister, who may—

Appeals
against
refusal or
suspension
of licence

(a) in the case of a refusal, confirm such refusal or direct that a licence be granted; and

(b) in the case of a suspension, cancel the licence or direct that the suspension shall cease,

in either case unconditionally or subject to such conditions as he may consider necessary in the circumstances of the case.

(2) If the Minister cancels a game licence under subsection (1) then, unless the former holder thereof has been convicted of an offence against this Act before such licence was cancelled, or unless he is convicted of such an offence within two months from the date of such cancellation, a proportional part of the fee paid for such licence shall be repaid to the former holder thereof.

22. Every decision of the Minister under section 19 and section 21 shall be final.

Minister's
decision
final

23. No person shall, except with the written permission of the Minister, be granted a game licence if at any time during the three years immediately preceding his application therefor—

Restriction
on grant of
game licence
to convicted
persons

(a) he has been convicted of an offence against this Act, or against the Game Ordinance, 1953 (now repealed); or

26 of 1953

(b) any game licence granted to him has been cancelled by the Minister under section 19; or

(c) any game licence granted to him has been suspended under section 20 (2) and such person has either not appealed or has appealed unsuccessfully against such suspension.

24. Any person who—

Attempting
to obtain
licence
previously
refused or
licence to
which appli-
cant is not
entitled

(a) obtains or attempts to obtain any licence or permit under this Act, the grant of which has previously been refused to him, without disclosing the fact of such refusal at the time of applying for such licence or permit; or

(b) knowingly or recklessly makes any false statement for the purpose of obtaining any licence or permit under this Act,

shall be guilty of an offence, and any licence or permit so obtained shall be null and void and any fee paid in respect of such licence or permit shall be forfeited.

Registers of
game killed
to be kept

25.—(1) Every holder of a game licence shall keep an accurate register in the prescribed form of all game animals killed by him under the authority of his licence, and shall deliver such licence, together with the completed register signed by him, to a game licensing officer or game control officer within 15 days of the date upon which such licence expires or, if the holder is leaving Malawi before that date, before his departure from Malawi.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

PART VIII

TROPHIES

Trading in
trophies

26.—(1) No person shall carry on a trade in trophies or manufacture articles from trophies for sale unless he is in possession of a permit (hereinafter referred to as a trophy dealer's permit) in the prescribed form.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

Grant of
trophy
dealers'
permits

27. Subject to the general or special directions of the Minister, a trophy dealer's permit may be granted by any game licensing officer or game control officer on payment of the prescribed fee and shall be subject to such conditions as may be prescribed.

Certificate
of ownership

28.—(1) A game licensing officer or game control officer may grant a certificate of ownership to any person who is in lawful possession of a trophy.

(2) No person shall transfer by gift, sale or otherwise any trophy unless he is in possession of a certificate of ownership in respect thereof and such certificate shall be handed over to the transferee at the time of transfer.

(3) Any person who contravenes subsection (2) shall be guilty of an offence.

Elephant
ivory and
rhinoceros
horns to be
produced

29.—(1) Every person who kills an elephant or rhinoceros shall within one month of such killing produce the ivory or horn to a game licensing officer or game control officer, together with the game licence under the authority of which such elephant or rhinoceros was killed.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

Registration
of ivory and
rhinoceros
horns

30.—(1) The game licensing officer or game control officer to whom any ivory or horn is produced under section 29 (1) shall, if satisfied that it has been lawfully obtained and that the person

producing it is the lawful owner, cause it to be weighed, marked and registered in the prescribed manner, and shall return it to the person producing it together with a certificate of ownership in the prescribed form.

(2) If the game licensing officer or game control officer to whom any ivory or horn is produced under section 29 (1) is not satisfied that it has been lawfully obtained or that the person producing it is the lawful owner, he shall register such ivory or horn in the prescribed manner, but shall refuse a certificate of ownership and shall retain such ivory or horn pending the institution of proceedings under this Act:

Provided that if no proceedings are instituted within two months after the production of such ivory or horn, a certificate of ownership shall be issued in respect thereof and it shall be returned to the person who produced it.

31.—(1) No trophy shall be imported or exported except at a customs office. Importation and exportation of trophies 4 of 1981

(2)—(a) Any person wishing to export any trophy shall deliver to the Chief Game Warden the certificate of ownership relating to such trophy and the Chief Game Warden shall issue in exchange for such certificate an export certificate in the prescribed form.

(b) No person shall export or attempt to export any trophy unless he is in possession of an export certificate relating thereto.

(3) Any person importing any trophy shall, within one week of the same being removed from the control of the Customs produce it to a game licensing officer or game control officer, who shall issue a certificate of ownership in respect thereof if he is satisfied that the same was lawfully exported from its country of origin and lawfully imported into Malaŵi.

(4) If a trophy produced under subsection (3) consists of ivory or rhinoceros horn, it shall on production be weighed, marked and registered in accordance with section 30.

(5) Any person who fails to comply with or contravenes any of the provisions of subsection (1), (2) or (3) shall be guilty of an offence.

(6) In this section, the expression "custom house" has the same meaning as in the Customs and Excise Act or in any Act amending or replacing the same. Cap. 42:01

PART IX

GOVERNMENT OWNED GAME AND TROPHIES

32.—(1) Subject to this Act, the following are the property of the Government— Enumeration of Government owned game and trophies

(a) any game which is found dead, or which has been unlawfully killed, or which has been killed in defence of

human life or property, and any meat or trophy of any such game;

(b) any elephant tusk weighing less than seven kilograms or such other weight as may from time to time be prescribed, and any part or fragment of such tusk;

(c) any ivory or rhinoceros horn which is required under this Act to be produced for the purpose of being marked and registered and is not so produced within the time allowed;

(d) any imported trophy which under this Act is required to be produced for the purpose of obtaining a certificate of ownership, and is not so produced within the time allowed;

(e) any trophy in respect of which a certificate of ownership has been refused under this Act:

Provided that the Minister may waive the right of the Government to any game or trophy in any particular case.

(2) All game, game meat and trophies which are the property of the Government shall be disposed of in such manner as may be prescribed or, in default thereof, as the Minister may order.

Production of Government owned game or trophy

33. Any person, into whose possession any game, game meat or trophy which is the property of the Government shall come, shall forthwith produce the same to a game licensing officer or game control officer.

Illegal possession of Government owned game or trophies

34.—(1) Subject to this Act, any person who, without lawful excuse, removes, possesses, receives, transfers, exports, buys or sells any game, game meat or trophy which is the property of the Government, such game, game meat or trophy not having first been disposed of in accordance with section 32 (2), shall be guilty of an offence.

4 of 1981

(2) Whenever a person is charged with an offence under section 34 (1), it shall be sufficient if the summons or charge alleges that the game, game meat or trophy is the property of the Government without giving particulars of the reasons or circumstances whereby it became such property.

PART X

SALE AND MOVEMENT OF GAME MEAT

Control of sale and movement of game meat

35.—(1) No person shall sell any game meat within a controlled area unless—

(a) he is ordinarily resident in such area; or

(b) he is in possession of a valid licence authorizing him to do so, granted by a game licensing officer, game control officer or Chief.