

*Ref. No. D. 66:07*  
*Ministry of Justice*  
*National Parks and Wildlife (Amendment) Bill, 2016*  
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NATIONAL PARKS AND WILDLIFE (AMENDMENT) BILL, 2016

## MEMORANDUM

This Bill seeks to amend the National Parks and Wildlife Act (Cap 66:07) in sections 2, 23, 24, 33, 35, 43A, 44, 45, 54, 54A, 74, 82, 86, 87, 95, 99, 107, 108, 109 and 110; further to introduce new sections 110A, 110B and 111, in order to align the provisions of the Act with international standards and to provide for stricter penalties for protected species, endangered species and listed species in Malawi and to bring clarity in some of the provisions of the Act. The Bill further seeks to—

- (a) refine the definition of “endangered species” and “listed species” throughout the Act in order to protect certain category of wild plants and animals;
- (b) prohibit the hunting of protected species, endangered species and listed species inside a protected area unless by a special permit issued by the Director and to allow hunting outside a protected area subject to a valid hunting license issued by the Director in section 54;
- (c) provide for a permit for the import or export or to re-export any specimen of a game species, protected species, endangered species or listed species in section 86;
- (d) align the financial year of the National Parks and Wildlife Fund to the Government financial year as defined under the Public Finance Management Act; and
- (e) provide separate and more strict penalties for offences relating to game species, protected species, endangered species and listed species.

## ARRANGEMENT OF SECTIONS

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2. Amendment of s.2 of Cap 66:07
3. General amendment of the principal Act
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5. Amendment of s.24 of the principal Act
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19. Amendment of s. 99 of the principal Act
20. Replacement of s. 107 of the principal Act
21. Replacement of s. 108 of the principal Act
22. Replacement of s. 109 of the principal Act
23. Replacement of s. 110 of the principal Act
24. Insertion of s.110A and 110B into the principal Act
25. Replacement of s. 111 of the principal Act

A BILL

entitled

An Act to amend the National Parks and Wildlife Act.

ENACTED by the Parliament of Malawi as follows—

Short title and commencement

**1.** This Act may be cited as the National Parks and Wildlife (Amendment) Act, 2016, and shall come into force on a date appointed by the Minister by notice published in the Gazette.

Amendment of s.2 of Cap. 66:07

**2.** Section 2 of the National Parks and Wildlife Act, (hereinafter referred to as the “principal Act”) is amended by—

(a) deleting the definition of “endangered species” and substituting therefor the following new definition—

“endangered species” means any plant or animals occurring within or outside a protected area declared as such pursuant to section 43A”; and

(b) deleting the definition of “protected species” and substituting therefor the following new definition—

“protected species” means any plant or animal within a protected area and declared as such pursuant to section 43”.

General amendment of the principal Act

**3.** The principal Act is amended by—

(a) inserting, immediately after the words “protected species” wherever they appear throughout the Act, the words “endangered species or listed species”;

(b) deleting the words “protected animals” wherever they appear throughout the Act, and substituting therefor the words “protected species, endangered species or listed species”;

(c) deleting the words “game animals” wherever they appear throughout the Act and substituting therefor the words “game species”;

(d) deleting the words “National Parks, Wildlife Reserves and Nature Sanctuaries” wherever they appear

throughout the Act and substituting therefor the words “protected area”;

- (e) deleting the words “shall be guilty of an offence” wherever they appear throughout the Act and substituting therefor the words “commits an offence”;

Amendment of s.23 of the principal Act

**4. Section 23 of the principal Act is amended—**

- (a) by deleting the marginal note and replacing therefor the following new marginal note—

“Request to conduct an environmental and social impact assessment”; and

- (b) in subsection (1) by inserting, immediately after the words “environmental”, the words “and social”.

Amendment of s.24 of the principal Act

**5. Section 24 of the principal Act is amended in subsection (1) by inserting, immediately after the words “environmental”, the words “and social”.**

Amendment of s.33 of the principal Act

**6. Section 33 of the principal Act is amended in subsection (1) by inserting, immediately after the words “section 40”, the words “or under a valid hunting licence issued pursuant to Part VII”.**

Amendment of s.35 of the principal Act

**7. Section 35 of the principal Act is amended—**

- (a) in the main paragraph by inserting, immediately after the words “section 40”, the words “or under a valid hunting licence issued pursuant to Part VII”; and

- (b) in paragraph (c) by inserting, immediately after the word “cultivation”, the words “or settlement”.

Amendment of s.43A of the principal Act

**8. Section 43A of the principal Act is amended by inserting, immediately after the words “endangered species”, the words “listed species”.**

Amendment of s.44 of the principal Act

**9. Section 44 of the principal Act is amended by inserting, immediately after the words “protected species”, the words “other than endangered species or listed species”.**

Amendment of s.45  
of the principal Act

**10.** Section 45 of the principal Act is amended by—

- (a) inserting immediately before the word “animals”, the word “wild”; and
- (b) inserting immediately before the words “protected species”, the words “game species or”.

Replacement of  
s.54 of the  
principal Act

**11.** Section 54 of the principal Act is repealed and replaced by the following new section—

“Hunting licence

**54.—**(1) A hunting licence shall authorize the licensee to hunt wild animals which are protected species, endangered species, or listed species.

(2) A hunting licence for hunting wild animals which are protected species, endangered species and listed species shall—

- (a) outside a protected area, be issued only in connection with a professional hunter’s licence and, subject to, and, in accordance with the conditions prescribed generally for such class of licence or specially endorsed on the professional hunter’s licence.
- (b) inside a protected area, be issued subject to the granting of a special permit by the Director, issued only in connection with a professional hunter’s licence and, subject to, and, in accordance with the conditions prescribed generally for such class of licence or specially endorsed on the professional hunter’s licence.”.

Amendment of s.  
54A of the  
principal Act

**12.** Section 54A of the principal Act is amended by inserting immediately after subsection (2), a new subsection (3) as follows—

“(3) The Minister shall, from time to time, publish in the Gazette a set of standards for the keeping of wild animals in captivity.”.

Amendment of s.  
75 of the  
principal Act

**13.** Section 75 of the principal Act is amended—

- (a) by deleting the marginal note and replacing therefor the following new marginal note—

“Killing a game species in defence of property.”

Amendment of  
s.82 of the  
principal Act

**14.** Section 82 of the principal Act is amended—

- (a) in the marginal note by inserting, immediately after the word “provoking”, the word “wild”;
- (b) in subsection (a) by deleting the words “protected or game animal” and substituting thereof the words “wild animals”; and
- (c) in subsection (b) by deleting the words “any protected or game animal” and substituting therefor the words “such wild animal”.

Amendment of s.  
86 of the principal  
Act

**15.** Section 86 of the principal Act is amended by deleting subsection (1) and replacing therefor the following new subsection—

“Except as otherwise provided by subsection (2), any person who possesses, buys, sells, transfers or receives in transfer, or who attempts to possess, buy, sell, transfer or receive in transfer any specimen of a game species, protected species, endangered species or listed species commits an offence.”.

Amendment of  
s. 87 of the  
principal Act

**16.** Section 87 of the principal Act is amended in paragraph (1) subparagraph (a) by inserting, immediately after the word “skins”, the words “and other specimens”.

Amendment  
of s. 95 of the  
principal Act

**17.** Section 95 of the principal Act is amended by deleting the words “protected or game animals” and substituting therefor the words “any wild animal which is a protected species, endangered species, listed species or game species”

Replacement  
of s. 97 of the  
principal Act

**18.** Section 97 of the principal Act is repealed and replaced as follows—

“Import, export  
or re-export  
permits

**97.** The Director may issue to any person a permit in the prescribed form, to import or to export or to re-export any specimen of a game species, protected species, endangered species or listed species:

Provided that—

- (a) in the case of a protected species the Director shall first require the person to produce a valid certificate of ownership in respect thereof; and
- (b) in the case of endangered species or listed species, the Director shall require the person, in addition to a valid certificate of ownership, to produce evidence of compliance with the requirements of any international, regional or bilateral agreement relevant to such species to which Malawi is Party to, or the requirements of this Act, or any other Regulations made under this Act.”.

Amendment of s.  
99 of the  
principal Act

**19.** Section 99 of the principal Act is amended by—

- (a) inserting, immediately before the words “protected species”, the words “game species”; and
- (b) inserting, immediately after the word “agreement” the words “relevant to such species”.

Replacement of s.  
107 of the  
principal Act

**20.** Section 107 of the principal Act is repealed and replaced with the following new section—

“Financial year  
of the fund  
Cap 37:02      **107.** The Financial year of the Fund shall be the Financial Year as defined in the Public Finance Management Act.”.

Replacement of s.  
108 of the  
principal Act

**21.** Section 108 of the principal Act is repealed and replaced with the following new section—

“General  
penalty      **108.** Subject to the provisions of this Act, a person who is convicted of an offence under this Act for which no other penalty is provided for shall be liable to a fine K2,000,000 and to imprisonment for a term of four years.”.

Replacement of s.  
109 of the  
principal Act

**22.** Section 109 of the principal Act is repealed and replaced with the following new section—

“Offences relating to  
game species

**109.** Any person who is convicted of an offence involving—

- (a) taking, hunting, molesting or reducing into possession any game species; or
- (b) possession of, selling, buying, transferring, or receiving in transfer, or attempting to possess, sell, buy, transfer or receive in transfer any specimen of game species,

shall be liable to a fine of K2,000,000 and to imprisonment for a term of four years.”.

Replacement of s.  
110 of the  
principal Act

**23.** Section 110 of the principal Act is repealed and replaced with the following new section—

“Offences relating  
to protected  
species other than  
game species

**110.** Any person who is convicted of an offence involving—

- (a) taking, hunting, molesting, or reducing into possession any protected species other than game species;
- (b) possession of, selling, buying, transferring or receiving in transfer or attempting to possess, sell, buy, transfer or receive in transfer any specimen of protected species other than game species,

shall be liable to a fine of K5,000,000 and to imprisonment for a term of ten years and in any case the fine shall not be less than the value of the specimen involved in the commission of the offence”.

Insertion of s.110A and 110B into the principal Act

**24.** The principal Act is amended by inserting immediately after section 110, new sections 110A and 110B as follows—

“Offences relating to endangered species

**110A.**— Any person who is convicted of an offence involving—

- (a) taking, hunting, molesting, or reducing into possession any endangered species;
- (b) possession of, selling, buying, transferring or receiving in transfer or attempting to possess, sell, buy, transfer or receive in transfer any specimen of endangered species;
- (c) contravention of provision of this Act which provides for the conduct of a licensee under a professional hunter’s licence; or
- (d) the contravention of sections 33, 35 (c) and 38 of this Act,

shall be liable to a fine of K15,000,000 and to imprisonment for a term of thirty years” and in any case the fine shall not be less than the value of the specimen involved in the commission of the offence.”

“Offences relating to listed species

**110B.** Any person who is convicted of an offence involving—

- (e) taking, hunting, molesting, or reducing into possession any listed species;
- (f) possession of, selling, buying, transferring or receiving in transfer or attempting to possess, sell, buy, transfer or receive in transfer any specimen of listed species; or
- (g) contravention of provision of this Act which provides for the conduct of a licensee under a professional hunter’s licence,

shall be liable to imprisonment for a term of thirty years”.”

Replacement of  
s. 111 of the  
principal Act

**25.** Section 111 of the principal Act is repealed and replaced with the following new section—

“Offences under  
section 98

**111.** Any person who is convicted of an offence under section 98 or under regulations made pursuant to section 99 shall be liable to imprisonment for a term of thirty years”.”

#### OBJECTS AND REASONS

The object this Bill seeks to amend the National Parks and Wildlife Act (Cap 66:07) in sections 2, 23, 24, 33, 35, 43A, 44, 45, 54, 54A, 74, 82, 86, 87, 95, 99, 107, 108, 109, 110 and further to introduce new sections 110A, 110B and 111 in order to align the provisions of the Act with international standards and to provide for stricter penalties for endangered species in Malawi and to bring clarity in some of the provisions of the Act.

KALEKENI KAPHALE, SC  
Attorney General