

PAPUA NEW GUINEA



No. 42 of 1974.

[Assented to: 23 July 1974]

Fauna (Protection and Control) (Amendment) Act
1974,

being

An Act to amend the *Fauna Protection Act* 1966, as amended to date,
so as to -

- (a) widen the scope of the Act to allow the control, harvesting and destruction of fauna; and
- (b) allow for the establishment of Wildlife Management Areas and the management of those areas by committees; and
- (c) allow for the taking of fauna for specified purposes,

and for other purposes.

MADE by the House of Assembly to come into operation on a date to be fixed by the High Commissioner by notice published in the *Government Gazette*.

1. - CHANGE OF CITATION.

The Principal Act, as amended by this Act, may be cited as the *Fauna (Protection and Control) Act* 1966 as amended.

2. - TITLE.

The Title of the Principal Act is repealed and the following title inserted in its place :-

"To make provision for the protection, control, harvesting and destruction of fauna, and for other purposes."

3. - PARTS (REPEAL OF SECTION 3).

Section 3 of the Principal Act is repealed.

4. - DEFINITIONS (AMENDMENT OF SECTION 6).

(1) Section 6 of the Principal Act is amended .

- (a) by inserting before the definition of "bird" the following definition :-
"approved organization" means a scientific or zoological organization approved by the

- Minister;"; and
- (b) by omitting the definition of "fauna" and inserting in its place the following definition :-
 "'fauna' means a member of any species included in the animal kingdom, whether native, introduced or imported, or a part or product of a member, but does not include man;"; and
- (c) by adding at the end of the definition of "take or kill" the words "and cognate expressions have a corresponding meaning".

(2) For the avoidance of doubt it is hereby declared that the change in the definition of "fauna" does not affect any notice, permit, authority or exemption made or given under the Principal Act before the commencement of this Act.

5. - PROTECTED FAUNA VESTED IN THE GOVERNMENT
(AMENDMENT OF SECTION 14).

Section 14 of the Principal Act is amended by omitting the words "All protected fauna" and inserting in their place the words "Subject to the Regulations, all protected fauna".

6. - EXEMPTIONS (REPEAL OF SECTION 16).

(1) Section 16 of the Principal Act is repealed.

(2) An exemption in force under Section 16 of the Principal Act immediately before the commencement of this Act shall be deemed to have been made under Section 25A of the Principal Act as amended by this Act.

7. - RULES (REPEAL OF SECTION 19).

(1) Section 19 of the Principal Act is repealed.

(2) Rules in force under Section 19 of the Principal Act immediately before the commencement of this Act shall be deemed to have been made under Section 25B of the Principal Act as amended by this Act.

8. - NEW PART VA.

After Section 21 of the Principal Act the following Part is inserted :-

" PART VA. - WILDLIFE MANAGEMENT AREAS.

'21A. - DECLARATION OF WILDLIFE MANAGEMENT AREAS.

(1) Subject to Subsection (2) the Minister may, by notice in the *Government Gazette*, declare an area to be a Wildlife Management Area for the purposes of this Act.

"(2) Where the Minister intends to declare an area to be a Wildlife Management Area he shall -

- a) consult as far as is practicable with the owners of the land within the area to be declared; and

- (b) where the area he intends to declare is wholly or partly within the area of a Local Government Council, consult with the Council or Councils concerned.

"(3) Failure by the Minister to consult with the Council or Councils concerned, as required by Subsection (2), does not invalidate a declaration made under this Section.

"21B. - ESTABLISHMENT OF WILDLIFE MANAGEMENT COMMITTEES.

In the notice referred to in Section 21A or in a subsequent notice in the *Government Gazette*, the Minister may in his discretion -

- (a) establish a Wildlife Management Committee for that area and specify the number of members of that Committee; and
- (b) appoint one or more persons to be members of the Committee; and
- (c) specify the manner in which persons (other than the persons (if any) appointed under paragraph (b)) may become members of the Committee; and
- (d) specify a person or officer to be the agent of the Committee.

"21C. - RULES FOR WILDLIFE MANAGEMENT AREAS.

(1) Subject to Subsection (2), the Minister may, after consultation with a Wildlife Management Committee make rules for the protection, propagation, encouragement, management, control, harvesting and destruction of fauna in the Wildlife Management Area for which the Committee is appointed.

"(2) Where the Minister intends to make rules in respect of a Wildlife Management Area he shall -

- (a) consult as far as is practicable with the owners of the land within the area to be declared; and
- (b) where the area he intends to declare is wholly or partly within the area of a Local Government Council, consult with the Council or Councils concerned.

"(3) Failure by the Minister to consult with the Council or Councils concerned, as required by Subsection (2), does not invalidate rules made under this Section.

"(4) Without limiting the matters in respect of which rules may be made under Subsection (1) the rules may provide for -

- (a) licences to authorize a person to take or kill any fauna; and
- (b) fees for licences referred to in paragraph (a); and

- (c) a scale or scales of royalties in respect of fauna taken or killed in the Wildlife Management Area; and
- (d) the disposal of any fees and royalties.

"(5) Failure by the Minister to consult with the Wildlife Management Committee concerned, as required by Subsection (1), does not invalidate rules made under this section.

"(6) A person shall not, without reasonable excuse (the burden of proof of which is upon him), contravene or fail to comply with a provision of a rule made under Subsection (1).

Penalty: \$20.00.

"21D. - FUNCTIONS OF AGENT.

(1) Where the rules made by a Wildlife Management Committee provide for the issue of licences, the agent of the Committee shall issue the licences.

"(2) The agent of a Wildlife Management Committee is responsible for receiving any licence fees or royalty payments provided for under the rules made by that Committee.

"(3) The agent of a Wildlife Management Committee shall account to that Committee for any moneys received by him under Subsection (2).

"21E. - AGENT NOT TO RECEIVE REMUNERATION ETC.

The agent of a Wildlife Management Committee is not entitled to receive any remuneration or allowance."

9. - NEW SECTIONS 25A and 25B.

Before Section 26 of the Principal Act the following sections are inserted in Part VII. :

"25A. - EXEMPTIONS.

(1) Where, in the opinion of the Minister, it is, in the circumstances of Papua New Guinea, expedient to do so, he may, by notice in the *Government Gazette*, exempt a person or class of persons from all or any of the provisions of Part III., IV. or V.

"(2) An exemption under Subsection (1) may be absolute, or subject to conditions.

"25B. - RULES APPLYING TO SANCTUARIES AND PROTECTED AREAS.

(1) The Minister may, in relation to -

- (a) a Sanctuary or class of Sanctuaries; or
- (b) a Protected Area of class of Protected Areas,

make rules for the protection, propagation, encouragement, management, control, harvesting and destruction of fauna in the Sanctuary or class of Sanctuaries or the Protected Area

or class of Protected Areas, as the case may be.

"(2) A person shall not, without reasonable excuse (the burden of proof of which is upon him), contravene or fail to comply with a provision of a rule made under Subsection (1).

Penalty: \$20.00."

10. - NEW SECTION 29A.

After Section 29 of the Principal Act the following section is inserted :-

"29A. - FAUNA MAY BE TAKEN FOR SPECIFIED PURPOSES.

(1) Notwithstanding anything in this Act, fauna being -

- (a) protected fauna; or
- (b) fauna in a Sanctuary; or
- (c) fauna, in relation to which a Protected Area has been declared, in that Protected Area,

may be taken for a purpose specified by the Minister by notice in the *Government Gazette*, and the Minister may, in the notice or in a subsequent notice in the *Government Gazette*, restrict the taking of fauna in any one or more of the following ways :-

- (d) to one or more species of fauna; or
- (e) to a Sanctuary or class of Sanctuaries; or
- (f) to a Protected Area or class of Protected Areas; or
- (g) to a person or class of persons.

"(2) A notice under Subsection (1) may be absolute or subject to conditions."

11. - REGULATIONS (AMENDMENT OF SECTION 31).

Section 31 of the Principal Act is amended by inserting after paragraph (a) in Subsection (1) the following paragraph :-

"(aa) prescribing the circumstances in which a person may acquire ownership of protected fauna; and"

12. - CONSEQUENTIAL AMENDMENTS.

The Principal Act is further amended in accordance with the Schedule.

Sec. 12.

SCHEDULE.

Consequential Amendments.

<i>Provision.</i>	<i>Amendment.</i>
Section 6	(a) Omit the definition of "bird".
	(b) Omit the definition of "mammal".

Section 15(1)

Omit -

"on the application of a bona fide representative of a scientific or zoological organization approved by him",

insert -

"on the application of a representative of an approved organization".

Section 21(2)

Omit "A person", insert "Subject to this Act, a person".