



**WILDLIFE PROTECTION AND MANAGEMENT
(AMENDMENT) ACT 2017**

(NO. 5 OF 2017)



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PASSED by the National Parliament this twenty-third day of February 2017.

(This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true copy of the Bill)

Clezy Rore

Clerk to National Parliament

ASSENTED to in Her Majesty's name and on Her Majesty's behalf this seventeenth day of March 2017.

Mr. Ajilon Jasper Nasiu

Acting Governor-General

Date of Commencement: see section 2.

AN ACT TO AMEND THE WILDLIFE PROTECTION AND MANAGEMENT ACT 1998 TO COMPLY WITH OBLIGATIONS IMPOSED UNDER THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FLORA AND FAUNA, AND FOR RELATED MATTERS.

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

**WILDLIFE PROTECTION AND MANAGEMENT (AMENDMENT) ACT
2017**

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WILDLIFE PROTECTION AND MANAGEMENT (AMENDMENT) ACT 2017

PART 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Wildlife Protection and Management (Amendment) Act 2016*.

2 Commencement

This Act commences on the day appointed by the Minister by *Gazette* notice.

PART 2 AMENDMENT OF WILDLIFE PROTECTION AND MANAGEMENT ACT 1998

3 Act amended

This Part amends the *Wildlife Protection and Management Act 1998* (the "*principal Act*").

4 Part I heading amended

The heading to Part I of the principal Act is amended by deleting "PART I" and substituting "PART 1".

5 Section 2 amended

- (1) Section 2 of the principal Act is amended by deleting the definitions of "*bred in captivity*", "*convention*", "*permit*", "*plant specimen*" (both occurrences) and "*relevant authority*".
- (2) Section 2 of the principal Act is amended by inserting the following definitions in alphabetical order:

"*bred in captivity*" has the meaning given in CITES Resolution Conf. 10.16 (Rev);

"*certificate of artificial propagation*" means a certificate of artificial propagation issued under section 3K;

“certificate of captive breeding” means a certificate of captive breeding issued under section 3K;

“CITES” means the Convention on International Trade in Endangered Species of Wild Flora and Fauna signed at Washington, D.C., on 3 March 1973;

“CITES management authority” has the meaning given in section 3C;

“CITES scientific authority” has the meaning given in section 3D;

“CITES specimen” means a CITES I, II or III specimen;

“CITES I specimen” means a specimen of a species listed in Appendix I to CITES;

“CITES II specimen” means a specimen of a species listed in Appendix II to CITES;

“CITES III specimen” means a specimen of a species listed in Appendix III to CITES;

“export” means take out of Solomon Islands, but does not include re-export;

“import” means bring into Solomon Islands from another country;

“introduce from the sea”, in relation to a specimen, means bring the specimen into Solomon Islands from a marine environment not under the jurisdiction of any country, having taken the specimen from that marine environment, without the specimen having been imported into another country;

“permit” means:

- (a) for Part 2 – a permit to trade in a CITES specimen issued under section 3H; and
- (b) for Part 3 – a permit to trade in a non-CITES specimen issued under section 14;

“plant specimen” means a live or dead member of the plant kingdom, and includes:

(a) a part of a plant specimen; and

(b) plant reproductive material;

“pre-CITES certificate” means a certificate issued under section 3J;

“re-export”, a specimen, means export a specimen that was previously imported;

“trade”, in a specimen, means export, re-export or import the specimen or introduce the specimen from the sea;

6 Section 3 amended

Section 3 of the principal Act is amended by deleting “the Convention or” and substituting “CITES and”.

7 New Part 2

The principal Act is amended by inserting the following after section 3:

“Part 2 Regulation of trade in CITES specimens

Division 1 Preliminary matters

3A Object of Part

The object of this Part is to ensure that Solomon Islands complies with its obligations under CITES.

3B Application of Part

This Part applies only to CITES specimens.

Division 2 Management authorities and scientific authorities

3C CITES management authority

The **“CITES management authority”** is:

(a) for Solomon Islands, the Director; and

- (b) for another country, the person designated by that country to be the management authority for the purposes of CITES.

3D CITES scientific authority

The “*CITES scientific authority*” is:

- (a) in relation to CITES species that are edible plants (other than edible marine plants that fall within the definition of “fish” in section 2 of the *Fisheries Management Act 2015*) – the Ministry responsible for agriculture; or
- (b) in relation to CITES species that fall within the definition of “fish” in section 2 of the *Fisheries Management Act 2015* – the Ministry responsible for fisheries; or
- (b) in relation to CITES species that fall within the definition of “forest produce” in section 2 of the *Forest Resources and Timber Utilisation Act (Cap. 40)* – the Ministry responsible for forestry; or
- (d) in relation to any other CITES species – the Division responsible for conservation in the Ministry responsible for the environment.

Division 3 Requirements for trade in CITES specimens

Subdivision 1 General prohibition on trade

3E Prohibition on international trade of CITES specimens

A person commits an offence if the person trades in a CITES specimen in contravention of this Division.

Maximum penalty: 50,000 penalty units or 5 years imprisonment, or both.

3F Possession of illegally traded specimen

A person commits an offence if:

- (a) the person possesses or offers for sale or display a CITES specimen; and

- (b) the specimen has been traded in contravention of this Act; and
- (c) the person knows or has reason to suspect the specimen has been traded in contravention of this Act.

Maximum penalty: 50,000 penalty units or 5 years imprisonment, or both.

Subdivision 2 Permits and certificates for trade in CITES specimens

3G Application for permit

- (1) A person may apply to the Director for a permit to trade in a CITES specimen.
- (2) The application must be:
 - (a) in the prescribed form; and
 - (b) accompanied by the prescribed fee.

3H Director may issue permit

- (1) The Director may ask the applicant for the permit to provide further information to enable the Director to decide the application.
- (2) The Director may issue the permit if the Director is satisfied that the requirements specified in Subdivision 3, 4 or 5 for the grant of the permit have been met.
- (3) The Director may issue the permit subject to conditions specified in it.
- (4) The permit is valid for the period specified in it.
- (5) The permit must be issued in the prescribed form.

3I Variation or revocation of permit

- (1) The Director may vary or revoke a permit if:
 - (a) the holder of the permit has not complied with a condition of the permit; or

- (b) the variation or revocation is necessary to ensure compliance with CITES.
- (2) Before varying or revoking a permit, the Director must:
 - (a) give the holder of the permit reasonable notice of the proposed variation or revocation; and
 - (b) invite the holder to respond to the proposed variation or revocation within a specified reasonable period; and
 - (c) consider any response received.

3J Pre-CITES certificates

- (1) A person may apply to the Director for a pre-CITES certificate for a specimen.
- (2) The application must be:
 - (a) in the prescribed form; and
 - (b) accompanied by the prescribed fee.
- (3) The Director may ask the applicant for the certificate to provide further information to enable the Director to decide the application.
- (4) The Director may issue the certificate if the Director is satisfied that the specimen was acquired before the provisions of CITES applied to the specimen.
- (5) The certificate must be issued in the prescribed form.

3K Certificate of captive breeding or artificial propagation

- (1) A person may apply to the Director for:
 - (a) a certificate of captive breeding for an animal specimen;
 - (b) a certificate of artificial propagation for a plant specimen.
- (2) The application must be:
 - (a) in the prescribed form; and

- (b) accompanied by the prescribed fee.
- (3) The Director may ask the applicant for the certificate to provide further information to enable the Director to decide the application.
- (4) The Director may issue:
 - (a) a certificate of captive breeding for an animal specimen if the Director is satisfied that the specimen was bred in captivity, or is part or derivative of such a specimen; or
 - (b) a certificate of artificial propagation for a plant specimen if the Director is satisfied that the specimen was artificially propagated, or is part or derivative of such a specimen.
- (5) The certificate must be issued in the prescribed form.

3L Notice of decisions

- (1) The Director must, within 14 days after making a decision under this Subdivision, give written notice of the decision to the applicant.
- (2) The notice must include information about the applicant's right to appeal against the Director's decision under 37.

3M Marking specimens

- (1) - The Director may mark a CITES specimen for the purpose of identifying it.
- (2) A person commits an offence if the person alters or erases a mark applied by the Director.

Maximum penalty: 10,000 penalty units or 12 months imprisonment, or both.

3N Resolutions of the Conference of the Parties to CITES

In making a decision under this Subdivision, the Director may have regard to a relevant resolution of the Conference of the Parties under Article XI of CITES.

Subdivision 3 Requirements for trade in CITES I specimens

3O Application of Subdivision 3

This Subdivision applies subject to Subdivision 6.

3P Requirements for export of CITES I specimen

- (1) A person must not export a CITES I specimen except in accordance with a permit.
- (2) The Director must not issue a permit to export a CITES I specimen unless:
 - (a) the CITES scientific authority has advised the Director that the export will not be detrimental to the survival of the relevant species; and
 - (b) the Director is satisfied that:
 - (i) the specimen was not obtained in contravention of any law of Solomon Islands; and
 - (ii) if the specimen is a living specimen, it will be prepared for export and exported in a way that will minimise the risk of injury to, damage to the health of, or cruel treatment of, the specimen; and
 - (iii) the CITES management authority of the country to which the specimen is being exported has granted an import permit for the specimen.

3Q Requirements for import of CITES I specimen

- (1) A person must not import a CITES I specimen except in accordance with a permit.
- (2) The Director must not issue a permit to import a CITES I specimen unless:
 - (a) the CITES scientific authority has advised the Director that:
 - (i) the import will be for purposes that are not detrimental to the survival of the relevant species; and

- (ii) if the specimen is a living specimen, the proposed recipient of the specimen is suitably equipped to house and care for it; and
- (b) the Director is satisfied that:
 - (i) the specimen will not be used primarily for commercial purposes; and
 - (ii) the CITES management authority of the country from which the specimen is being imported has granted an export or re-export permit for the specimen.

3R Requirements for re-export of CITES I specimen

- (1) A person must not re-export a CITES I specimen except in accordance with a permit.
- (2) The Director must not issue a permit to re-export a CITES I specimen unless the Director is satisfied that:
 - (a) the specimen was imported into Solomon Islands in compliance with this Division; and
 - (b) if the specimen is a living specimen, it will be prepared for re-export and re-exported in a way that will minimise the risk of injury to, damage to the health of, or cruel treatment of, the specimen; and
 - (c) if the specimen is a living specimen, the CITES management authority of the country to which the specimen is being re-exported has granted an import permit for the specimen.

3S Requirements for introduction from the sea of CITES I specimen

- (1) A person must not introduce a CITES I specimen from the sea except in accordance with a permit.
- (2) The Director must not issue a permit to introduce a CITES I specimen from the sea unless:
 - (a) the CITES scientific authority has advised the Director that the introduction will not be detrimental to the survival of the

relevant species; and

(b) the Director is satisfied that:

- (i) if the specimen is a living specimen, the proposed recipient of the specimen is suitably equipped to house and care for it; and
- (ii) the specimen will not be used primarily for commercial purposes.

Subdivision 4 Requirements for trade in CITES II specimens

3T Application of Subdivision 4

This Subdivision applies subject to Subdivision 6.

3U Requirements for export of CITES II specimen

- (1) A person must not export a CITES II specimen except in accordance with a permit.
- (2) The Director must not issue a permit to export a CITES II specimen unless:
 - (a) the CITES scientific authority has advised the Director that the export will not be detrimental to the survival of the relevant species; and
 - (b) the Director is satisfied that:
 - (i) the specimen was not obtained in contravention of any law of Solomon Islands; and
 - (ii) if the specimen is a living specimen, it will be prepared for export and exported in a way that will minimise the risk of injury to, damage to the health of, or cruel treatment of, the specimen.

3V Requirements for import of CITES II specimen

A person must not import a CITES II specimen unless the CITES management authority of the country from which the specimen is being imported has granted an export or re-export permit for the

specimen.

3W Requirements for re-export of CITES II specimen

- (1) A person must not re-export a CITES II specimen except in accordance with a permit.
- (2) The Director must not issue a permit to re-export a CITES II specimen unless the Director is satisfied that:
 - (a) the specimen was imported into Solomon Islands in compliance with this Division; and
 - (b) if the specimen is a living specimen, it will be prepared for re-export and re-exported in a way that will minimise the risk of injury to, damage to the health of, or cruel treatment of, the specimen.

3X Requirements for introduction from the sea of CITES II specimen

- (1) A person must not introduce a CITES II specimen from the sea except in accordance with a permit.
- (2) The Director must not issue a permit to introduce a CITES II specimen from the sea unless:
 - (a) the CITES scientific authority has advised the Director that the introduction will not be detrimental to the survival of the relevant species; and
 - (b) if the specimen is a living specimen, the Director is satisfied that it will be handled in a way that will minimise the risk of injury to, damage to the health of, or cruel treatment of, the specimen.

Subdivision 5 Requirements for trade in CITES III specimens

3Y Application of Subdivision 5

This Subdivision applies subject to Subdivision 6.

3Z Requirements for export of CITES III specimen

- (1) A person must not export a CITES III specimen that has been included in Appendix III to CITES at the request of Solomon Islands except in accordance with a permit.
- (2) The Director must not issue a permit to export a CITES III specimen unless the Director is satisfied that:
 - (a) the specimen was not obtained in contravention of any law of Solomon Islands; and
 - (b) if the specimen is a living specimen, it will be prepared for export and exported in a way that will minimise the risk of injury to, damage to the health of, or cruel treatment of, the specimen.

3ZA Requirements for import of CITES III specimen

A person must not import a CITES III specimen:

- (a) unless the person holds a certificate of origin for the specimen issued by the CITES management authority of the country from which the specimen is being imported; and
- (b) if the specimen has been included in Appendix III to CITES at the request of that country – unless the CITES management authority of that country has granted an export or re-export permit for the specimen.

Subdivision 6 Exemptions and waivers

3ZB Transit and transshipment

A requirement to hold a permit or certificate under Subdivisions 3, 4 or 5 does not apply to the transit or transshipment of a CITES specimen through Solomon Islands if the specimen remains under the control of a customs officer throughout the transit or transshipment.

3ZC Pre-CITES specimens

A requirement to hold a permit or certificate under Subdivision 3, 4 or 5 does not apply to the export or re-export of a specimen if the

Director has issued a pre-CITES certificate for the specimen.

3ZD Personal and household effects

- (1) Subject to this section, a requirement to hold a permit under Subdivision 3 or 4 does not apply in relation to a CITES specimen that is a personal or household effect.
- (2) Subdivision 3 applies to the import of a CITES I specimen that is a personal or household effect if:
 - (a) the owner of the specimen ordinarily resides in Solomon Islands; and
 - (b) the owner acquired the specimen outside Solomon Islands.
- (3) Subdivision 4 applies to the import of a CITES II specimen that is a personal or household effect if:
 - (a) the owner of the specimen ordinarily resides in Solomon Islands; and
 - (b) the owner acquired the specimen outside Solomon Islands; and
 - (c) the specimen was removed from the wild; and
 - (d) the country where the specimen was removed from the wild requires permission to be granted before the export of the specimen.
- (4) Subsections (2) and (3) do not apply if the Director has issued a pre-CITES certificate for the specimen.

3ZE Specimens bred in captivity or artificially propagated

A requirement to hold a permit or certificate under Subdivision 3, 4 or 5 does not apply in relation to:

- (a) the export or re-export of a CITES specimen if the Director has issued a certificate of captive breeding or artificial propagation for the specimen; or
- (b) the import of a CITES specimen if the management authority

of the state from which the specimen is exported has issued a certificate equivalent to a certificate of captive breeding or artificial propagation for the specimen.

3ZF Scientific use of specimens

- (1) This section applies to the following CITES specimens:
 - (a) herbarium specimens;
 - (b) preserved, dried or embedded museum specimens;
 - (c) live plant specimens.
- (2) A requirement to hold a permit or certificate under Subdivision 3, 4 or 5 does not apply in relation to a specimen to which this section applies if:
 - (a) it is traded for the purposes of a non-commercial loan, donation or exchange between scientists or scientific institutions; and
 - (b) the scientists or scientific institutions are registered by the CITES management authority of their country; and
 - (c) the specimen carries a label issued or approved by a CITES management authority.

3ZG Travelling exhibitions

The Director may waive a requirement to hold a permit or certificate under Subdivision 3, 4 or 5 in relation to a CITES specimen if:

- (a) the specimen is being traded for the purpose of a travelling zoo, circus, menagerie or exhibition; and
- (b) the exporter or importer of the specimen registers full details of the specimen with the Director; and
- (c) the specimen is eligible for the issue of a pre-CITES certificate or a certificate of captive breeding or artificial propagation; and
- (d) if the specimen is a living specimen, the Director is satisfied that it will be prepared for transport and transported in a way

that will minimise the risk of injury to, damage to the health of, or cruel treatment of, the specimen.”

8 Section 4 repealed

Section 4 of the principal Act is repealed.

9 Part II heading replaced

The heading to Part II of the principal Act is repealed and replaced with the following:

“Part 3 Regulation of trade in non-CITES specimens”

10 Section 5 repealed and replaced

Section 5 of the principal Act is repealed and replaced with the following:

“5 Application of Part

This Part does not apply to a CITES specimen.”

11 Section 6 amended

Section 6 of the principal Act is amended by deleting “Act” and substituting “Part”.

12 Sections 9 and 10 repealed

Sections 9 and 10 of the principal Act are repealed.

13 Section 11 amended

Section 11(3) of the principal Act is amended by:

- (a) deleting “five thousand dollars” and substituting “50,000 penalty units”; and
- (b) deleting “six months” and substituting “5 years”; and
- (c) deleting “three thousand dollars” and substituting “30,000 penalty units”; and
- (d) deleting “three months” and substituting “3 years”.

14 Part III heading repealed

The heading to Part III of the principal Act is repealed.

15 New section 12A and 12B

The principal Act is amended by inserting the following after section 12:

“12A Exemption for specimens used for traditional activities

The Minister may, on the advice of the Director, declare by *Gazette* notice a class of specimens to be exempt from the requirements of this Part if the class of specimens:

- (a) is used for a traditional activity; and
- (b) is not part of an approved management programme in the area within which the traditional activity takes place.

12B Exemption for household pets

This Part does not apply to the export of an animal that is a household pet if:

- (a) the exporter of the animal has owned and kept the animal as a household pet for at least 2 years immediately before the export; and
- (b) the exported has been ordinarily resident in Solomon Islands for at least 3 years immediately before the export; and
- (c) the exporter is leaving Solomon Islands with the intention of taking up permanent residence in another country; and
- (d) the exporter is not exporting more than 2 animals to which this Part would otherwise apply; and
- (e) the Director has given written approval for the export.”

16 Section 16 amended

Section 16(d) is repealed and replaced with the following:

“(d) section 12B applies;”

17 Repeal of Part IV heading

The heading to Part IV of the principal Act is repealed.

18 Amendment of sections 24, 25 and 26

(1) Section 24(4) of the principal Act is amended by:

(a) deleting "five thousand dollars" and substituting "50,000 penalty units"; and

(b) deleting "three months" and substituting "5 years".

(2) Section 25(4) of the principal Act is amended by:

(a) deleting "five thousand dollars" and substituting "50,000 penalty units"; and

(b) deleting "three months" and substituting "5 years".

(3) Section 26(b) of the principal Act is amended by deleting "ten thousand dollars" and substituting "50,000 penalty units".

19 Part V heading replaced

The heading to Part V of the principal Act is repealed and replaced with the following:

"Part 4 Administration and enforcement"

20 Repeal and replacement of section 29

Section 29 of the principal Act is repealed and replaced with the following:

"29 Powers of inspectors

For the purpose of ensuring compliance with this Act, an inspector may do any of the following:

(a) subject to section 29A, enter and search premises;

(b) stop, enter and search a vehicle, vessel or aircraft;

(c) require a person to produce a permit or certificate issued

under this Act or by the CITES management authority of another country, and take copies of any such document;

- (d) require a person to give specified information about a specimen in the person's possession;
- (e) require a person to state their name and residential address;
- (f) take a sample of a specimen;
- (g) seize anything, including a specimen, connected with the suspected commission of an offence under this Act.

29A Notice of entry to premises

- (1) This section applies if an inspector intends to enter premises under section 29 that are ordinarily occupied for residential purposes.
- (2) The inspector must not enter the premises unless the inspector has:
 - (a) the consent of the owner of the premises to enter the premises; or
 - (b) a warrant to enter the premises issued by a Magistrate.
- (3) A Magistrate may issue the warrant only if satisfied the warrant is reasonably required in the circumstances.

29B Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
 - (a) the Director;
 - (b) a CITES scientific authority;
 - (c) an inspector.
- (2) In this section:

"exercise", of a power, includes the purported exercise of the power.

“performance”, of a function, includes the purported performance of the function.”

21 Section 31 amended

Section 31(b) of the principal Act is amended by deleting “two thousand dollars” and substituting “10,000 penalty units”.

22 New section 31A

The principal Act is amended by inserting the following after section 31:

“31A Proof of documents

If, under this Act, a person is required to hold a permit or certificate issued by a CITES management authority of another country, the person bears the onus of proving that:

- (a) the person holds the permit or certificate; and
- (b) the permit or certificate is valid.”

23 Section 33 amended

Section 33 of the principal Act is amended by deleting “two thousand dollars” and substituting “20,000 penalty units”.

24 New section 34A

The principal Act is amended by inserting the following after section 34:

“34A Delegation of powers and functions

The Director may delegate his or her powers and functions under this Act to another public officer.”

25 Amendment of section 35

- (1) Section 35 of the principal Act is amended by inserting the following after paragraph (f):

“(fa) the powers and functions of the CITES management authority

and scientific authority for Solomon Islands;

(fb) any matters necessary to be prescribed to implement CITES;".

(2) Section 35 of the principal Act is amended by:

(a) deleting "and;" at the end of paragraph (g) and substituting "."; and

(b) deleting paragraph (h).

26 Schedules amended

(1) Schedule I to the principal Act is amended by:

(a) deleting the following species:

Crocodylus porosus

Dermochelys coriacea (Leatherback turtle)

Eretmochelys imbricata (Hawksbill turtle)

Chelonia mydas (Green turtle)

Lepidochelys olivacea (Olive Ridley turtle)

Caretta caretta (Loggerhead turtle)

Pteropus cognatus

Pteropus howensis

Pteropus mahaganus

Pteropus nitidenis

Pteropus rayneri

Pteropus tuberculatus

Pteropus sp. (new species); and

(b) deleting the headings "Crocodiles", "Turtles" and "flying foxes".

(2) Schedule II to the principal Act is amended by:

(a) deleting the following species:

Cacatua ducorpsi (white cockatoo)

Chalcopsitta cardinalis (Coconut lory)

Eclectus roratus (Eclectus parrot)

Lorius chlorocercus (Yellow-bibbed lory)

Trichoglossus haematodus massena (Rainbow lorikeet)

Varanus indicus

Corucia zebrata

Candoia bibroni
Candoia carinata
Ornithoptera victoriae
Ornithoptera priamus urvillianus
Tridacna gigas
Tridacna derasa
Tridacna squamosa
Tridacna crocea
Tridacna maxima
Hippopus hippopus; and

- (b) deleting the headings "BIRDS", "INSECTS" and "MAMMALS"; and
- (c) deleting "(All species of flying foxes not in Schedule 1)".

PART 3 CONSEQUENTIAL AMENDMENTS

27 Amendment of Protected Areas Act 2010

Section 16(2) of the *Protected Areas Act 2010* is amended by deleting "Part III of the" and substituting "The".