

The Flora Protection Act

Date of Commencement: 31st October, 1952.

An Act to protect the indigenous flora of Swaziland.

Short title.

1. This Act may be cited as the Flora Protection Act, 1952.

Interpretation.

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

"land" means with or without buildings thereon;

"Minister" means the Minister from Agriculture;

"plant" means any plant, shrub or tree, indigenous to Southern Africa, and includes the flower, bulb, tuber, stem or root or any part of such plant, shrub or tree;

"owner" when used in relation to land held by the Ngwenyama for the Swazi nation, means the Ngwenyama;

"protected flora" means any plant, shrub or tree included in the Schedule and includes the flower, bulb, tuber, stem or root of any other part of such plant, shrub or tree;

"public road" means -

(a) any road established, proclaimed or recognised as such under the provisions of any law and includes bridges over which such road passes; and

(b) any road or thoroughfare, however created which, before or after the commencement of this Act has been in the undisturbed use of the public or which the public has had the right to use during a period of not less than three years and includes bridges over which such road passes; and includes -

(c) any street or thoroughfare and any other public place whatever open to use of the public for purposes of vehicular traffic;

"sell" includes offering or exposing for sale, being in possession for the purposes of sale, bartering, hawking and peddling.

Inclusion of plants in Schedule and establishment of indigenous flora reserves.

3. The Minister may from time to time by notice in the Gazette -

(a) include in, or delete from the Schedule the name of any species or kind of plant, shrub or tree indigenous to Southern Africa;

(b) with effect from a date specified by him in each case, establish one or more indigenous floral reserves, at the same time defining the boundaries thereof;

(c) extend the boundaries of any indigenous flora reserve, established in terms of (a) of this subsection, or alter such boundaries, or cancel any such reserve,

with effect from a specified date.

Unlawful plucking, etc., of protected flora.

4. (1) Save as provided for in subsection (2) or (3) no person shall pluck, gather, cut, uproot, injure, break or destroy any protected flora.

(2) The owner or occupier of land, or any person authorised by such owner may pluck, cut or uproot -

(a) protected flora which have been cultivated by such owner or occupier or on his specific instructions, on land specially set apart for such cultivation;

(b) or gather, injure, break or destroy protected flora on land which is bona fide required for purposes of farming or the erection of a building thereon;

(3) The holder of a permit issued under section 4(1) may pluck, cut or uproot protected flora as prescribed in such permit.

Permits to pluck, cut or uproot protected indigenous flora.

5. (1) The Minister may issue a permit authorising the holder thereof to pluck, cut or uproot the species and quantities of protected flora specified in such permit, in a locality and during a period likewise specified, subject to such other provisions as may be prescribed in such permit:

Provided that -

(a) when the plucking, cutting or uprooting will take place on land of which the applicant is not the owner of such permit may only be issued if the written permission of the owner of such land has been obtained;

(b) the permit shall not be issued for plucking, cutting or uprooting protected flora on land along either side of a public road within an area of fifty yards in width measured from the centre of such road, unless the Minister or the person authorised by him finds that there are exceptional circumstances which justify the issue of such permit.

2. Any person contravening or failing to comply with any provision contained in a permit issued in terms of subsection (1) shall be guilty of an offence, and liable on conviction, to the penalties prescribed in section 13.

Prohibition of export.

6. (1) No person shall export or attempt to export from Swaziland any protected flora except upon, and subject to the conditions of a permit issued by the Minister.

(2) The Minister may at his entire discretion issue or refuse a permit for the exportation or removal of protected flora from Swaziland, and may insert in such permit such conditions and he considers desirable.

(3) A permit issued in terms of this section shall be a personal one available for the use only of the person to whom and in whose name it is issued.

(4) A person who contravenes the provisions of this section or any condition imposed in terms of subsection (2) shall be guilty of an offence and liable on conviction to the penalties prescribed in section 13.

Unlawful plucking, etc., of indigenous plants in reserves.

7. No person shall pluck, gather, cut, uproot, injure, break or destroy any plant in a flora reserve established in terms of section 2(2) of this Act:

Provided that the owner of land falling within the boundaries of such reserve, or a person authorised by such owner, may pluck, gather, cut, uproot, injure, break or destroy those plants which do not come under the definition protected flora.

Unlawful sale of protected indigenous flora.

8. No person shall sell any protected flora;

Provided that protected flora which have been cultivated by the owner or occupier of land or on his specific instructions, on land specially set apart for such cultivation, may be sold by such owner or occupier or by a person authorised in writing by him:

Provided further that the holder of a permit issued in terms of section 8(1) of this Act may sell protected flora s prescribed in such permit.

Permits to sell protected indigenous flora.

9. (1) The Minister may issue a permit authorising the holder thereof to sell protected flora.

(2) Such permit shall specify the species or kinds of protected flora which may be sold by the holder, and the locality where and the period during which such protected flora may be sold, and other provisions which the Minister may prescribe.

(3) A person contravening or failing to comply with any provision contained in a permit issued under subsection (1) shall be guilty of an offence and liable, on conviction, to the penalties described in section 13.

Cancellation of permits.

10. The Minister may at any time cancel a permit issued in terms of section 4(1), 5(2) or 8(1) of this Act.

Seizure of protected indigenous plants.

11. (1) A member of the Swaziland Police of the rank of sub-inspector or upwards who entertains reasonable grounds of suspicion that any protected flora or plants in the possession of any person have been plucked, gathered, cut, uprooted, or sold unlawfully, may seize and impound such protected flora or plants.

(2) If a person from whose possession protected flora or plants have been seized under subsection (1) is not within one month of the seizure convicted of an offence under this Act, he shall be entitled to recover possession of the seized articles, but no damages in respect of such seizure may be recovered by him in any court.

Persons in possession of protected indigenous plants in reserves to give names and addresses.

12. (1) Whenever a person is found in possession of protected flora or plants

within the boundaries of a flora reserve, established under section 2(2), the owner of such land or any person appointed in writing by him or any police officer may call upon such person to furnish his full name and address.

(2) Any person who when called upon under subsection (1) to furnish his name and address, fails or refuses to do so, or furnishes a false or incorrect name and address shall be guilty of an offence and liable, on conviction, to a fine not exceeding thirty rand and in default of payment thereof to imprisonment for a period not exceeding two months.

Presumptions.

13. A person who has or had custody of or who is or has been in possession of or who handles, carries or conveys or who has handled, carried or conveyed, or who causes or who has caused to be handled, carried or conveyed any protected flora or plants shall, if there is a reasonable suspicion that such protected flora or plants have been plucked, gathered, cut or uprooted such protected flora or plants in contravention of this Act, unless the contrary is proved.

Penalties.

14. A person who contravenes or fails to comply with any provisions of this Act shall be guilty of an offence and shall, if no penalty is expressly provided in this Act for such contravention or failure, be liable, on conviction, to a fine not exceeding one hundred ran or in default of payment thereof to imprisonment for a period not exceeding six months.

In addition to such penalty the court may -

- (1) order that any protected flora in respect of which the offence was committed be forfeited to the Government;*
- (2) cancel a permit issued to the person in terms of section 4(1), 5(2) or 8(1).*

SCHEDULE

<i>Common Name</i>	<i>Scientific Name</i>
<i>Aloes</i>	<i>Aloe spp.</i>
<i>Arum Lilies</i>	<i>Zantedeschia spp.</i>
<i>Barberton Daisy</i>	<i>Gerbera jamesoni Bolus.</i>
<i>Cape Primrose</i>	<i>Streptocarpus spp.</i>
<i>Cycads</i>	<i>Encephalartos spp.</i>
<i>Cyrtanthus or Fire Lilies</i>	<i>Cyrtanthus spp.</i>
<i>Gladioli</i>	<i>Gladiolus spp.</i>
<i>Maidenhair Fern</i>	<i>Adiantum capillusveneris. Linn.</i>
<i>Nerinas</i>	<i>Nerine spp.</i>
<i>Paint-brush or Pin-cushions</i>	<i>Haemanthus spp.</i>
<i>Red Hot Pokers</i>	<i>Kniphofia spp.</i>
<i>Stapeliads</i>	<i>Riocreuxia spp.</i>
	<i>Ceropegia spp.</i>
	<i>Brachystelma spp.</i>
	<i>Caralluma spp.</i>
	<i>Huernia spp.</i>
	<i>Stapelia spp.</i>
	<i>Duvalia spp.</i>
<i>Stone Plants</i>	<i>Lithops spp.</i>
	<i>Frithia spp.</i>
<i>Tree Ferns</i>	<i>Cyathea dregei.</i>
	<i>Kze Hemiletia capensis (L. Fil.) Klf.</i>

Water Lilies

Watsonias

Nymphaea spp.

Watsonia spp.

(Under section 2)

<i>Common Name</i>	<i>Swazi Name</i>	<i>Scientific Name</i>	
Boekenhout	Isiqalaba	Faurea saligna	All trees less than 6 inches in diameter 4½ feet from the base.
Cape Ash	Umnyamatsi	Ekebergia capensis	All trees less than 9 inches in diameter 4½ feet from the base.
Clivias	-	Clivia spp.	-
Elephantwood or Tree Wistaria	Umhhohlo	Bolusanthus speciosus	-
Fever Tree	-	Acacia xanthophloea	All trees less than 4 inches in diameter 4½ feet from the base.
Haworthias	-	Haworthia spp.	All trees less than 9 inches in diameter 4½ feet from the base.
Impala Lily	-	Adenium multiflorum	-
Ironwood	Ubukhunku	Androstachys johnsonii	-
Kaffir Plum	Umgwenye	Harpephyllum caffrum	-
Kiaat	Umbangati	Pterocarpus angolensis	-
Leadwood	Impondozendlovu	Combretum imberbe	All trees less than 6 inches in diameter 4½ feet from the base.
Red Ivory	Umneyi	Rhamnus zeyheri	All trees less than 6 inches in diameter 4½ feet from the base.
Rhodesian	Umkholikholi	Afzelia quanzensis	All trees less than 12 inches in diameter 4½ feet from the base.
Mahogany	Umvongothi	Kigelia pinnata	All trees less than 8 inches in diameter 4½ feet from the base.
Sausage Tree	Sivangatana	Albizzia versicolor	-
Sivangatana	Umthathe	Pteroxylon obliquum	All trees less than 9 inches in diameter 4½ feet from the base.
Sneezewood	-	Stultitia spp.	-
Stapelias	Umthomobtsi	Spirostachys africanus	-
Tamboetie	Vovovo	Schotia brachypetala	All trees less than 9 inches in diameter 4½ feet from the base.
Tree Fuchsia	Umhlume	Adina galpinii	-
Umhlume	Musonti	Podocarpus spp.	-
Yellowwood	-	Adenium swazicum	All trees less than 9 inches in diameter 4½ feet from the base.
Summer flowering	-	Plectranthus floribundus	-
Impala Lily	-	Chironia transvaalensis	-
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-			-
			All trees less than 8 inches in diameter 4½ feet from the base.
			All trees less than 9 inches in diameter 4½ feet from the base.
			All trees less than 9 inches in diameter 4½ feet from the base.
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