



STATE OF SABAH



I assent,

TUN DATUK HAJI MOHAMMAD ADNAN ROBERT,
Yang di-Pertua Negeri.

14TH MARCH, 1984.

No. 6 of 1984

An Enactment to repeal and re-enact the law relating to the provision and control of National Parks and National Reserves in Sabah and to provide for matters incidental thereto and connected therewith so as to make better provisions respecting the constitution, administration, procedure, functions and finance of Parks.

ENACTED by the Legislature of the State of Sabah as follows:—

PART I

PRELIMINARY

- Short title. 1. This Enactment may be cited as the Parks Enactment, 1984.
- Interpretation. 2. In this Enactment unless the context otherwise requires:—
- “animal” means any mammal, reptile, insect, bird, fish, crustacean, living coral and any product thereof or any invertebrate animal or any other living organism;
- “Board” means the Board of Trustee constituted under the provisions of section 24;
- Cap. 68. “Collector” shall have the same meaning as in the Land Ordinance;
- “declaration” means a declaration of land as a Park under section 13;
- “Director” means the Director of Parks appointed under the said section 41;
- “Fund” means the Park Fund established under section 46;
- “hunt” and “hunting” means the doing of any act immediately directed at the killing, wounding, injuring, disturbing, collecting, taking or capture of any wild animal including eggs and young ones, and the following of any animal of its lair;
- Cap. 68. “land” means the State land as defined in the Land Ordinance and any other land granted or leased to the Board for the purpose of a Park and includes the territorial waters of the State and the sea bed beneath;
- “mineral” means all rock, stone gravel, sand, soil and coral other than mineral oil, minerals or mineral substances which are subject to the provisions of the Mining Ordinance, 1960;
- No. 20 of 1960. “Minister” means the minister for the time being responsible for matters relating to Parks;
- “notification of intention” means a notification published under sections 3 and 18;
- “Parks” means any area of land constituted as a Park under the provisions of Part II;

“Park Officer” means any person appointed under section 41 (1) (b);

“trophy” means any animal alive or dead, and any bone, claw, shell, carapace, plastron, feather, hair, hoof, horn, ivory, beak, skin, tooth, tusk, egg, or other durable portion whatsoever of any animal, whether processed or not which is readily recognised as a durable portion of any animal;

“Trustee” means a person appointed as a Trustee under section 25;

“vegetation” means any vegetable matter living or dead to include stems, roots, wood, leaves, flowers sap, latex, fruits, nuts and any product of such vegetation.

PART II

ESTABLISHMENT OF PARKS

3. The Yang di-Pertua Negeri may, with the advice of the Minister, by notification in the Gazette, declare his intention to constitute any State land as a Park and such notification shall:—

Power to constitute Parks.

- (a) specify as nearly as possible the situation and extent of such land; and
- (b) declare that it is proposed to constitute such land a Park.

4. A notification of intention shall lapse at the end of such period as shall in each case be specified therein:

Lapse of notification of intention.

Provided that the Yang di-Pertua Negeri may by notice in the Gazette extend the operation of any notification of intention from time to time for such further period or periods as he may think fit.

5. During the interval between the publication of a notification of intention (such notification not having lapsed as provided in section 4) and the date fixed by the notification declaring a Park as in section 13, no land shall be alienated under the provisions of the Land Ordinance, no new house shall be built or plantation formed and no fresh clearing for a cultivation or for any other purpose shall be made and no hunting shall take place on or in any land mentioned in such notice:

Alienation of land, new buildings and cultivation prohibited after publication of notice.

Cap. 68

Provided that the Minister may, with the recommendation of the Director, in his discretion authorise in writing the doing of any act which would otherwise be prohibited under this section.

Publication
of notice.

6. At any time after the publication of a notification of intention the District Officer or Collector of the district in which the land concerned is situated, shall publish in convenient places on such land, and elsewhere as he may deem expedient, a notice in Bahasa Malaysia and English language and in such other languages as the Yang di-Pertua Negeri may in any particular case direct:—

- (a) specifying as nearly as possible the situation and extent of the land proposed as a Park;
- (b) setting forth the provisions in substance of section 7;
- (c) explaining the consequences which, as hereinafter provided, will ensue on the declaration of such Park;
- (d) fixing the period of not less than three months from the date of publication of such notice, and requiring every person, who has any objection to the proposal or who claims to exercise any right or privilege which is being or has been exercised in or over any part of such land, either to present to such District Officer or Collector within such period a written notice specifying or to appear before him within such period stating, the nature of such objection, right or privilege.

Inquiry by
District Officer
or Collector.

7. (1) The District Officer or Collector shall:—

- (a) take down in writing all statements made in response to his requirement under paragraph (d) of section 6;
- (b) inquire into all objections raised and claims made in response to such requirement;
- (c) inquire into the propriety of maintaining any right or conceding any privilege in and over the land which is being or has been exercised but in respect of which no claim is made.

(2) For the purpose of any inquiry under this section the District Officer or Collector may exercise the same

powers as are vested in a Magistrate's Court for compelling the attendance of witnesses and the production of documents.

8. After complying with the provisions of section 7 the District Officer or Collector shall with all convenient speed forward to the Yang di-Pertua Negeri a statement of particulars of all right, privilege, objections and opinion; and the Yang di-Pertua Negeri, after considering the views of the District Officer or Collector and after such further inquiry as the Yang di-Pertua Negeri may think necessary, shall make an order conceding, modifying or disallowing the exercise of such right, and privilege and admitting or rejecting such objections either wholly or in part, as shall seem right to him.

Admission of fact of inquiry to Yang di-Pertua Negeri.

9. (1) Every order made under section 8 conceding any right or privilege within a proposed Park shall prescribe, as far as possible, the quantity and nature of such right or privilege, and the exercise of such right or privilege shall be subject to the control of the Board and to such directions as the Board may give to regulate the mode in which such right or privilege may be exercised.

Board to regulate mode of exercising right and privilege.

(2) In the event of any dispute either party may appeal to the Minister whose decision shall be final.

10. If the Yang di-Pertua Negeri considers it expedient to include in a Park any land leased or granted to, or otherwise lawfully occupied by any person, he may cause such land to be acquired as for a public purpose under the provisions of the Land Acquisition Ordinance, and may thereafter include such land within the limits of the Park.

Acquisition of alienated land for inclusion in Park.

Cap. 69.

11. (1) The Yang di-Pertua Negeri may at any time before the publication of a declaration under section 13, withdraw a proposal to constitute any land a Park.

Abandonment of proposal to reserve.

(2) When a withdrawal is made under subsection (1) a notice shall be published by the District Officer or Collector concerned in the same places and in the same manner in which the notice under section 6 or section 10 was published, announcing that the proposed declaration has been withdrawn.

(3) On the publication of a notice under subsection (2) the provisions of section 5 shall cease to apply to such land.

Conversion of
forest reserve,
game sanctuary
and bird
sanctuary.

No. 11 of 1963.

Declaration
of Park.

12. The Yang di-Pertua Negeri may, with the advice of the Cabinet by notice in the Gazette, declare his intention to convert any forest reserve declared under the Forest Enactment, 1968 or any game sanctuary or bird sanctuary declared under the Fauna Conservation Ordinance, 1963, in whole or in part, to be a Park and such notice shall specify as nearly as possible the situation and extent of area, and he may at any time before the publication of declaration under section 13 withdraw such notice.

13. (1) When any of the following events has occurred namely:—

- (a) the period fixed under paragraph (d) of section 6 has lapsed and all objections and claims, if any, made within such period have been disposed of by the Yang di-Pertua Negeri;
- (b) all land, if any, to be included in the area proposed for declaration which the Yang di-Pertua Negeri has under the provisions of section 10 elected to acquire under the Land Acquisition Ordinance has been vested in the State;
- (c) the notice under section 12 has been published and has not been withdrawn,

the Yang di-Pertua Negeri may, by declaration in the Gazette specifying the land which it is intended to constitute a Park mentioning the rights and privileges conceded in respect of such land and stating the special conditions, if any, governing the declaration thereof, declare such land to be a Park from a date fixed by such declaration.

(2) From the date fixed by such declaration such land as is mentioned therein, together with all the produce thereof, and things found therein, shall be a Park subject only to the rights and privileges mentioned and any special conditions stated in such declaration.

(3) When any land which is within any local authority area is declared to be a Park it shall thereupon cease to be part of the local authority area and section 107 of the Local Government Ordinance, 1961 shall have no application thereto.

(4) When any land which is a forest reserve, game sanctuary or bird sanctuary is declared to be a Park it shall

thereupon cease to be a forest reserve, game sanctuary or bird sanctuary as the case may be.

(5) All land which is specified in a declaration shall, with effect from the date fixed by such declaration and by virtue thereof, vest in the Board for an estate in leasehold for a period of nine hundred and ninety-nine years free of all liabilities and encumbrances not mentioned in the declaration and without payment of any transfer duty, stamp duty, fee of office or other duty, tax or charge otherwise payable under written law in respect of any property or right and for the purposes of the law relating to the registration of title to the land such estate shall be deemed to have been granted under the provisions of such Land Ordinance.

(6) Any public officer or other person having a duty or power to make any entry in any register, or to issue any certificate, in respect of the transfer of any property or right shall, at the request in writing of the Board, make any such entry or issue any such certificate in favour of the Board as is necessary to give full force and effect to the provisions of subsection (5).

14. The Yang di-Pertua Negeri may, by notification in the Gazette after such inquiry as he may deem necessary, rescind, modify or add to any right or privilege conceded or any condition governing the declaration of a Park and mentioned or stated in any such declaration.

Concession, rescission and modification of rights, privileges and conditions.

15. Notwithstanding anything hereinbefore contained, no right or privilege conceded in a declaration shall be transferred by way of grant, sale, lease, charge or by way of inheritance, except with the authority of the Director of Lands and Surveys.

Prohibition of transfer of rights and privileges.

16. Subject to the provisions of this Enactment no right of any description in respect of a Park or any part thereof or any produce therein shall be acquired except such as the Board, in the exercise of its powers under the provisions of this Enactment, may grant.

Acquisition of rights in a Park.

17. (1) There shall be constituted the following Parks:—

	<i>Plan No.</i>
(a) Taman Kinabalu (75,370 ha.)	99197385
(b) Taman Tunku Abdul Rahman (4,929 ha.)	99197164
	99197302

	<i>Plan No.</i>
(c) Taman Pulau Penyu (1,740 ha.)	99197210
(d) Taman Pulau Tiga (15,864 ha.)	99197215
(e) Taman Bukit Tawau (27,972 ha.)	99197280
(f) Taman Negara (139,919 ha.)	99194663

(2) The situation and extent of each Park are shown and delineated on Plan No. 99197388 deposited in the office of the Speaker of the Legislative Assembly, the Secretary of Natural Resources and the Director of Parks.

(3) The rights and privileges and conditions governing any of the Parks and existing at the time this Enactment comes into operation shall continue and shall be deemed to be conceded or stated as the case may be under section 8 and 13.

(4) The provisions of this Enactment shall apply to the Parks hereby constituted in the manner and to the same extent as Parks constituted under section 13.

Power to
declare cessa-
tion of a Park

18. The Yang di-Pertua Negeri may, with the advice of the Minister, by notification in the Gazette, declare his intention to rescind the Constitution of a Park or part thereof and such notification shall:—

- (a) specify as nearly as possible the situation and extent of such land; and
- (b) declare that it is proposed that such land shall cease to be a Park.

Lapse of
notification
of intention.

19. A notification of intention shall lapse at the end of such period as shall in each case be specified therein:

Provided that the Yang di-Pertua Negeri may by notice in the Gazette extend the operation of any notification of intention from time to time for such further period or periods as he may think fit.

Publication
of notice.

20. At any time after the publication of a notification of intention the District Officer or Collector of the district in which the land concerned is situated, shall publish in convenient places on such land, and elsewhere as he may deem expedient, a notice in Bahasa Malaysia and English language and in such other languages as the Yang di-Pertua Negeri may in any particular case direct:—

- (a) specifying as nearly as possible the situation and extent of the land proposed to cease to be a Park;

- (b) setting forth the provisions in substance of section 21;
- (c) explaining the consequences which, as hereinafter provided, will ensue on the declaration that such land shall cease to be a Park;
- (d) fixing the period of not less than three months from the date of publication of such notice, and requiring every person who has any objection to the proposal either to present to such District Officer or Collector within such period a written notice specifying or to appear before him within such period stating the nature of such objection;

21. (1) The District Officer or Collector shall:

Inquiry by District Officer or Collector.

- (a) take down in writing all statements made in response to his requirement under paragraph (d) of section 20;
- (b) inquire into all objections raised in response to such requirement.

(2) For the purpose of any inquiry under this section the District Officer or Collector may exercise the same powers as are vested in a Magistrate's Court for compelling the attendance of witnesses and the production of documents.

22. After complying with the provisions of section 21 the District Officer or Collector shall with all convenient speed forward to the Yang di-Pertua Negeri a statement of particulars of all objections and opinion; and the Yang di-Pertua Negeri, after considering the views of the District Officer or Collector and after such further inquiry as the Yang di-Pertua Negeri may think necessary, shall make an order as shall seem right to him.

Submission of fact of inquiry to Yang di-Pertua Negeri.

23. (1) The Yang di-Pertua Negeri, after consultation with the Board may, by notice in the Gazette, order that from a date to be fixed by such notice any Park or any portion thereof shall cease to be a Park.

Power to declare cessation of a Park.

(2) The Yang di-Pertua Negeri may give orders dealing with or in regard to the affairs or property of the Board as may be affected by or consequential on any order under subsection (1).

PART III

ESTABLISHMENT AND CONSTITUTION OF A BOARD OF TRUSTEES

Establishment
of a Board
of Trustees.

24. (1) As from the commencement of this Enactment there shall be constituted a Board to be called the Board of Trustees of the Sabah Parks which shall be a body corporate with perpetual succession, capable of suing and being sued in its Corporate name and with power to purchase or otherwise acquire, hold, and exchange or alienate or otherwise deal with in any lawful manner whatsoever, any property movable and immovable, and to enter into contracts and generally to do such acts and things as a body corporate may do by law and as are necessary for, or incidental to, the carrying out of its objects and the exercise of its powers as set out in this Enactment.

(2) The Board shall have a common seal which shall bear such device as the Board may approve and such seal may from time to time be broken, changed, altered and made anew by the Board as the Board may think fit.

Composition
of Board

25. (1) The Board shall consist of the following members:—

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) three ex-officio members, who shall be persons for the time being holding the offices of the Permanent Secretary to the Ministry responsible for Parks, the Secretary of Natural Resources and the Permanent Secretary of the Ministry of Financial Planning and Development;
- (d) four other members;
- (e) the person who for the time being holding the office of the Director:

Provided that the Director shall not be entitled to vote at the meeting of the Board.

(2) The members as specified in paragraphs (a), (b) and (d) of subsection (1) shall be appointed by the Yang di-Pertua Negeri.

(3) An ex-officio member may by instrument in writing addressed to the Chairman appoint another officer in the public service of the State as an alternate member who

may attend on his behalf any meeting of the Board which such member is for any reason unable to attend and such alternate member when attending such meeting shall for all purposes be deemed to be a member of the Board.

(4) Subject to the provisions of section 28 of this Enactment, a member other than an ex-officio member and the Director, shall hold office for a period of three years from the date of his appointment, and shall be eligible for re-appointment.

26. (1) A member, other than an ex-officio member and the Director, may at any time resign his office by giving notice in writing to the Chairman. Resignation and removal.

(2) The appointment of a member may at any time be revoked by the Yang di-Pertua Negeri if he thinks it expedient to do so.

27. The following persons shall be disqualified from being appointed as, or if appointed, remaining a member:— Disqualification from membership.

- (a) a person who is of unsound mind or otherwise incapable of performing his duties or managing his affairs;
- (b) a person who is prohibited from being a director of a company under the provisions of any written law relating to companies;
- (c) a person who has been convicted of any offence involving fraud, dishonesty or moral turpitude; and
- (d) a bankrupt.

28. The office of a member, other than an ex-officio member and the Director, shall become vacant— Vacation of office.

- (a) on his death;
- (b) if he is absent from three consecutive meetings of the Board without the special leave of the Chairman or leave of absence granted under this Enactment and the Board passes a resolution declaring his office vacant;
- (c) if he resigns his office;
- (d) if he becomes disqualified for membership under section 27 of this Enactment;
- (e) if his appointment is revoked by the Yang di-Pertua Negeri.

Leave of
absence.

29. The Minister may grant to any member such leave of absence as the Minister may deem fit.

Casual vacan-
cies and
temporary
membership.

30. (1) If the office of a member, other than an ex-officio member and the Director, becomes vacant, the Yang di-Pertua Negeri may appoint another suitably qualified person to fill such vacancy for so long only as the member in whose place he is appointed would have held office.

(2) Where any member, other than an ex-officio member and the Director, is prevented by illness, absence from the State or other like cause from performing his duties as a member the Yang di-Pertua Negeri may appoint any suitably qualified person to act as deputy for such member during such period as he is so prevented from performing his duties.

Remuneration
of members
of Board.

31. There may be paid to the members, or to such of them as the Minister may determine, such salaries, fees and allowance out of the Fund as the Minister may from time to time approve.

PART IV

PROCEDURE OF BOARD

Meetings.

32. (1) The Board shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Chairman may determine:

Provided that the Chairman shall not allow more than three months to elapse between such meetings.

(2) Where not less than three members, by notice in writing signed by them and addressed to the Chairman, request that a meeting of the Board be held for any purpose specified in such notice the Chairman shall, within seven days of the receipt by him of such notice, convene a meeting accordingly.

Procedure of
meetings.

33. (1) The quorum necessary for the transaction of the business of the board shall be five.

(2) In the absence of the Chairman from any meeting of the Board, the Deputy Chairman shall preside thereat and, in the absence of both the Chairman and the Deputy Chair-

man, the members present shall elect one of their number to preside thereat.

(3) Questions arising at any meeting of the Board, shall be decided by the votes of the majority of those present and voting thereon and in the case of an equality of votes the Chairman or other person presiding at such meeting shall have a second or casting vote.

(4) Subject to the provisions of this Part, the Board shall have powers to make standing orders to regulate its own proceedings.

34. (1) Any member who has or acquires, directly or indirectly by himself, his partner or agent—

Members
interested
not to act.

- (a) any share or interest in any contract made with or work done for the Board or in any company or with any person or in respect of any undertaking with which the Board proposes to contract; or
- (b) any beneficial interest in land proposed to be acquired, purchased, leased or otherwise dealt with by the Board or which he knows to be affected or to be likely to be affected by any project, scheme or enterprise approved or proposed to be approved by the Board,

shall, before taking part in any proceedings at a meeting of the Board, relating to or affecting directly or indirectly any such contract or land, inform the person presiding at such meeting of the nature and extent of such share or interest, and such information shall be recorded in the minutes of such meeting, and such member shall not vote upon any resolution or question relating thereto, or to matters incidental thereto and if the person presiding at the meeting so requests, such member shall withdraw from the meeting during such deliberation or decision:

Provided that no member shall be deemed to have or acquire any share or interest in a contract with the Board by reason only that he has or acquires a share in any loan issued by the Board or in any security for the same:

Provided further that for the purpose of determining whether there is a quorum a member who attends the meeting shall be treated as being present notwithstanding that, under the provisions of this section, he may not vote or has withdrawn.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine of one thousand ringgits and imprisonment for six months.

Power to
appoint
committee.

35. (1) Subject to the provisions of this Enactment, the Board may, for any general or special purpose, appoint such committees as it thinks desirable.

(2) A committee may do all such things as may be necessary for the effective carrying out of its functions but shall be subject to the general directions of the Board.

(3) A committee shall consist of a Chairman and not more than five other persons.

(4) A committee may consist of persons who are not members of the Board.

(5) Members of a committee may be paid such remuneration or allowance as the Board may, with the approval of the Minister, determine.

Meetings of
a committee.

36. (1) In the absence of the Chairman of a committee from any meeting of the committee such other member of the committee as may be elected by the member present shall preside over the meeting.

(2) The quorum for the meeting of a committee shall be three.

(3) Any question to be determined at any meeting of a committee shall be decided by the votes of the majority of those present and voting thereon, and in case of an equality of votes the person presiding shall have a second or casting vote.

(4) A committee may invite to any of its meeting any person who can in its opinion contribute to its deliberations but such a person shall have no right to vote at the meeting.

(5) Subject to this section and the directions of the Board, a committee shall regulate its own procedure.

Delegation
of powers.

37. (1) The Board may delegate to any committee officer or servant of the Board, such of its functions as it may deem necessary or desirable.

(2) Any functions delegated under this section—

(a) may be so delegated subject to such conditions

or restrictions as the Board may either generally or specially impose;

(b) shall be exercised by the committee, member, officer or servant concerned in the name and on behalf of the Board.

(3) No delegation made under this section shall preclude the Board itself from exercising or performing at any time any of the functions so delegated.

38. (1) Subject to the provisions of this Enactment and of any regulations made thereunder, the Chairman may delegate in writing to any member, officer or servant of the Board the power and authority to carry out on his behalf such duties, powers or functions as he may determine.

Power of
Chairman to
delegate.

(2) The Chairman may at the time of delegating any power or authority under subsection (1) to any member, officer or servant, or at any time thereafter give directions as to the manner in which such delegated power or authority is to be exercised and may at any time revoke, modify or increase such delegation.

39. (1) The common seal of the Board shall be in the custody of the Chairman and shall not be used except in the presence of the Chairman or Deputy Chairman and one member and such use shall be authenticated by the signatures of such persons and such authentication shall be sufficient evidence that such seal was duly and properly fixed and that it is the lawful seal of the Board.

Execution of
documents, etc.

(2) All documents, other than those required by law to be under seal, to which the Board is a party may be signed on behalf of the Board by the Chairman or any member or by any officer or servant generally or specially authorised in that behalf by the Board.

40. (1) No act or proceeding of the Board or any committee thereof shall be questioned on account of any vacancy among the members or on account of the appointment of any member having been defective.

Vacancy not
to invalidate
acts, etc.

(2) Until the contrary is proved every meeting of the Board of any committee thereof shall be deemed to have

been duly convened and held and all members present thereat shall be deemed to have been duly qualified.

(3) A statement in any document to the effect that any function has been delegated under this Part shall, unless the contrary is proved, be evidence that such delegation has been lawfully made.

PART V

ADMINISTRATION

Appointment of Director, officers and servants.

41. (1) Subject to section 42, the Board shall appoint—
- (a) a Director of Parks; and
 - (b) any number of Park Officers as may be considered necessary for the purposes of this Enactment.

(2) Whenever the Director is prevented by illness, absence from the State, or other like cause from performing his duties as such, or when the office of Director is vacant, the Board may appoint one of its officers to perform the duties of Director during such period as the Director is so prevented from performing his duties or the said office is vacant.

(3) Subject to the approval of the Government, the Director and other officers and servants of the Board shall be engaged on such terms and conditions as the Board may think fit.

Restriction on alterations in establishment.

42. The Board shall not, without the approval of the Government, make any addition to its established posts.

Director as chief executive.

43. (1) The Director shall be the chief executive officer responsible to the Board and shall perform such duties and exercise such powers as may be determined or delegated by the Board.

(2) Subject to the directions and control of the Board, all officers and servants of the Board shall be under the administrative control of the Director who may delegate such of his duties and powers as he may determine.

Officer or servant not to be interested in contracts.

44. (1) No person shall be eligible for employment as an officer or servant of the Board who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, for or on behalf of the Board.

(2) Any officer or servant of the Board who has or acquires any such share or interest shall be liable in the discretion of the Board to summary dismissal without notice.

(3) No officer or servant shall be deemed to have or acquired any such share or interest by reason only that—

- (a) he is or becomes a member of an incorporated company which owns land situated in Sabah or has a contract with or executes work for the Board; or
- (b) he has or acquires a share in any loan, issued by the Board or in any security for the same.

PART VI

FUNCTIONS OF THE BOARD

45. (1) The functions of the Board shall be—

Functions of
the Board.

- (a) to initiate, co-ordinate and control the activities in respect of all Parks in Sabah;
- (b) to make recommendations to the Government as to the methods, measures and policies to be adopted to facilitate the development of the Parks and, where approved by Government, to implement and assist in the implementation of the same; and
- (c) to control, manage and administer the Fund.

(2) The Board shall have power to do all things expedient or reasonably necessary or incidental to the discharge of its function and in particular but without prejudice to the generality of the foregoing—

- (a) to provide and maintain adequate and efficient services and facilities at all Parks constituted under the provisions of this Enactment;
- (b) to promote the use, improvement and development of the Parks;
- (c) to take such steps as will ensure the security and well being of the animal and vegetable life in a Park and the preservation of such Park the natural features and the animal and vegetable life therein in their natural state;

- (d) reserve or set aside any portions of a Park as breeding places for animals and as nurseries for vegetation;
- (e) provide such accommodation, amenities, facilities and services as are likely to attract visitors to the Parks and are not prejudicial to the proper care, control and management thereof;
- (f) to levy fees or to collect dues from persons utilizing the accommodations, amenities, facilities or services provided under this Enactment.

PART VII

FINANCIAL PROVISION

Parks Fund.

46. (1) There shall be established a Fund to be known as the "Parks Fund" which shall consist of such contributions or gifts of requests of moneys as may be made thereto of any money raised or received by the Board in the exercise of its powers hereunder (including moneys paid for the compounding of offences and fees) and of such money as may be provided for by the Legislative Assembly, together with—

- (a) such additions or accumulations as may be made or accrue thereto;
- (b) any investment from time to time representing the same or any of them; and
- (c) the interest and income derived from any such investment.

(2) Notwithstanding the provisions of subsection (1), it shall be lawful for the Board to accept gifts or bequests which do not consist of money but, unless such course is lawfully precluded by the terms of any such gifts or bequests, it shall be the duty of the Board to convert the same into money and to pay the same into the Fund.

(3) It shall be the duty of the Board in the absence of any lawful condition or direction to the contrary to pay into the fund all income derived from any property vested in it, whether forming part of the Fund or not, and any moneys derived from the sale of any property vested in the Board.

(4) Any moneys forming part of the Fund may, from time to time and as occasion requires, be invested by the Board in any form of investment authorised by law for the investment of trust funds in Sabah or Malaysia including the deposit of the same in the Government Treasury or in any bank or as the Minister for Financial Planning and Development may in his discretion from time to time approve, and the Board may from time to time, with the like approval, realize any investment and reinvest such proceeds or any part thereof.

(5) The Board may apply the income of the Fund for any of the purposes of this Enactment and, with the approval of the Minister for Financial Planning and Development, may apply for the like purpose any moneys forming part thereof or realized by the sale of any investment forming part thereof:

Provided that, in the case of any moneys provided for any specified purpose, such moneys shall be applied only in such manner as may be authorised by any trust condition, resolution or other method by which such provision is made.

(6) It is hereby declared that the expression "the purposes of this Enactment" shall include the discharge of any debt incurred by the Board in the discharge of its duties and the satisfaction of any claim made against the Board, whether in legal proceedings or otherwise.

(7) The duty to convert into money imposed by subsection (2) shall not apply to any animal or vegetable life or to any property which the Minister for Financial Planning and Development, for any reason which he may deem sufficient, may authorise the Board to retain its original form.

47. (1) The Board shall, before the first day of January in each year, cause to be prepared and submitted to the Minister for Financial Planning and Development for his approval detailed estimates of revenue and expenditure of the Fund for the ensuing year, and when approved such estimates shall be laid by the Minister for Financial Planning and Development before the Legislative Assembly.

Board to
keep
accounts, etc.

(2) When additional financial provisions are required during the course of any year, supplementary estimates thereof

shall be submitted in the same manner for approval by the Minister for Financial Planning and Development and shall be laid before the Legislative Assembly.

(3) A statement in any document to the effect that any of all money received into and disbursed from the Fund.

(4) The accounts of the Fund shall be examined and reported upon annually by the Auditor-General or such other auditor as the Minister for Financial Planning and Development may appoint, and the expenses of, and incidental to, the audit shall be paid by the Fund.

(5) The Board shall, when required by the auditor, produce and lay before him all books and accounts of the Fund with all vouchers in support thereof, and all books and writings in its possession or control relating thereto, and the auditors shall be entitled to require such information and explanation as he may deem necessary for the performance of his duties as auditor.

(6) As soon as may be after the close of each financial year, the Board shall cause to be prepared in such manner and containing such particulars as the Minister for Financial Planning and Development may from time to time require, a statement of the accounts of the Fund for such year and such statement shall be approved by the Board, signed by the Chairman, and submitted to the auditor of the Board who shall furnish a report thereon to the Board.

(7) Upon the receipt of the report of the auditor under subsection (6) the Board shall transmit it, together with the statement of accounts to which it relates and the report of the operations of the Board for that financial year concerned, to the Minister for Financial Planning and Development who shall publish the same in such manner as he may think fit and shall lay all such documents before the Legislative Assembly.

PART VIII

CONTROL OF PARKS

Prohibitions of certain acts except with the permission of the Board.

48. No person, other than a person acting and in accordance with the written permission of the Board, or the Director or any Park Officer authorised by the Director in that behalf, shall—

- (a) convey into a Park or being within the confines thereof or be in possession of any weapon, explosive, trap, poison or noxious substance ;
- (b) within a Park hunt, kill, injure, capture or disturb any animal or take or destroy any egg or nest;
- (c) cut, damage, injure or destroy or set fire to any vegetable or any object of geological, prehistoric, archaeological, historical or other scientific interest in a State Park;
- (d) introduce any animal, or permit any domestic animal to enter or stray into a Park or introduce any vegetation into a Park;
- (e) remove from a Park any animal or vegetation whether alive or dead;
- (f) remove from a Park any mineral or object of geological, prehistoric, archaeological, historical or other scientific interest;
- (g) destroy or deface or object, whether animate or inanimate, in a Park;
- (h) erect any building in a Park;
- (i) clear or break up any land in a Park.

without prejudice to any rights lawfully acquired before the commencement of the Enactment and to the provisions of any written law relating to mining, prospect for metals or minerals in any Park.

49. Notwithstanding any other provisions of this Enactment, the Director or any Park Officer authorised by the Director may kill, capture or authorise the killing or capture of any animal in any part of any Park in any manner if he considers such killing or capture necessary in the interest of public safety, the protection of property, for scientific research, for the better preservation of the environment or other fauna, except that rhinoceros and orang utan may only be killed in the defence of human life.

Power of Director.

50. (1) All trophies found or taken within a Park shall be Park trophies and the property of the Board.

Trophies deemed property of the Board.

(2) Any person who by any means obtain possession of a Park trophy shall forthwith make a report thereof to the nearest available Park Officer and shall if so required hand the trophy over to such officer.

(3) Any person who:—

- (a) fail to make a report required by subsection (2) of this section; or
- (b) is unlawfully in possession of or who unlawfully deals in any Park trophy shall be guilty of an offence.

Power of
inspection of
Director
Trustee or
Park Officer.

51. (1) If the Director or any Trustee or any Park Officer authorised by the Director in that behalf has reasonable grounds for believing that any person has committed an offence against this Enactment he may—

- (a) require such person to produce for inspection any animal, trophy, mineral or vegetation in such person's possession, or any firearms or other weapon, trap, net, or other instrument, material or thing whatsoever in relation to or in connection with which an offence appears to the Director, such Trustee or Park Officer to have been committed or any permit required to be kept by such person under the provision of this Enactment;
- (b) enter and search, with or without assistance, any land, building, tent, vehicle or boat in the occupation or possession of such person and open and search any baggage or any other thing in the possession of such person:

Provided that no dwelling house shall be entered without a warrant.

- (c) seize and detain any animal trophy, mineral or vegetable matter which appears to the Director, such Trustee or such Park Officer to be the subject of an offence against this Enactment, or any vehicle, boat, firearms or other weapon, trap, net or instrument, material or thing whatsoever in relation to or in connection with which such offence appears to the Director such Trustee or Park Officer to have been committed whether or not it is in the immediate possession of any person and if any apparent means of hunting cannot be removed from its locations, it may be rendered inoperative by the Director such Trustee or Park Officer.

(2) Where any property is seized or detained under subsection (1) of this section the person making the seizure or

detention not being the Director shall forthwith report such seizure to the Director.

52. The Director or any Park Officer authorised by the Director in that behalf may arrest without warrant any person reasonably suspected of committing any offence against this Enactment or regulation made hereunder and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law:

Power of
arrest, search
and seizure.

Provided that no person shall be arrested or detained without warrant unless reasonable grounds exist for believing that, except by the arrest of such person, he could not be found or made answerable to justice without undue delay, trouble or expense.

53. (1) Any person who—

- (a) hunts, or is found in circumstances showing that it is his intention to hunt, any animal or bird or disturbs or removes the nest or eggs of any animal or bird in a Park; or
- (b) collects any vegetation or any mineral or is found in circumstances showing that it is his intention to collect vegetation or minerals in a Park; or
- (c) without reasonable excuse, fails to produce anything which he may be required to produce under the powers conferred by section 51; or
- (d) resists, threatens or obstructs the Director any Trustee or Park Officer in the performance of their duties shall be guilty of an offence.

Offence.

(2) The Director or any Park Officer authorised by the Director in that behalf may stop and detain any person whom he sees doing an act for which a permit is required under the Provisions of this Enactment for the purpose or requiring such person to produce such permit, and if such person fails to produce such permit he shall be guilty of an offence.

54. The Director or any other person authorised by the State Attorney may conduct any prosecution for any offence under this Enactment.

Prosecution
Officer.

55. (1) Where any person is convicted of an offence against this Enactment, or, in default of a conviction, where

Forfeiture and
disqualification

no person has within three months of a seizure of anything mentioned in paragraph (c) of section 51 of this Enactment appeared to answer a charge preferred against him in relation thereto, a court may order that any animal, meat trophy, firearm or other weapon, trap, net or other instrument, material or thing whatsoever in relation to or in connection with which the offence has been committed shall be forfeited to and become the property of the Board.

(2) Any conviction of the holder of any licence or permit issued under this Enactment for any offence against the provisions of this Enactment shall, unless the court otherwise directs, have the effect of cancelling any such licence or permit with effect from the date of such conviction.

(3) Where any person is convicted of a second or subsequent offence against this Enactment the Court may direct that such person be disqualified from holding any licence or permit for a period not exceeding three years from the date of such conviction, and any person who whilst so disqualified obtains or attempts to obtain any licence or permit shall be guilty of an offence.

(4) Where any person is convicted of an offence against this Enactment in respect of any pitfall, game pit or similar excavation or any device fixed to the ground which such person has made for the purpose of hunting, the court may, in addition to or in lieu of any other punishment, order that such pitfall, game pit, excavation or device shall be destroyed or obliterated in such manner as the court may specify, and any expenditure incurred on account of such order shall be recoverable from such person as a civil debt.

Power of
Director to
compound
offences.

56. (1) The Director may in his discretion compound any offence against this Enactment or against any regulation made thereunder, by collecting from the person reasonably suspected of having committed the same a sum not exceeding five hundred ringgits as the Director may determine.

(2) The Director or any Park Warden making an offer of composition of any offence may require the payment of the sum so determined to be made forthwith or specify a period within which the payment is to be made as he may deem reasonable and on such payment being made shall give a receipt to the person making such payment and shall pay such sum into the Fund.

(3) The payment forthwith, or within such period as the Director may specify, of the sum so determined shall operate as a bar to any or any further penal proceeding in respect of such offence, in respect of which such composition was offered against the person making such payment.

(4) No offence against this Enactment or against any regulation made thereunder in respect of which a prosecution is actually pending shall be compounded under this section otherwise than with the consent of the Court before which such prosecution is pending.

(5) Any attempt of any offence against this Enactment or against any regulation made thereunder or any attempt to commit such offence (when such attempt is itself an offence) may be compounded in accordance with subsections (1), (2), (3) and (4) of this section.

PART IX

GENERAL

57. (1) No action, suit prosecution or other proceedings shall be brought or instituted personally against any Trustee or against any officer or servant appointed by the Board in respect of any act done or statement made *bona fide* in pursuance or execution or intended execution of this Enactment. Protection
against legal
proceedings.

(2) Where a person is exempted from liability by reason only of the provision of this section the Board is liable to the extent that it would be if such person were a servant or agent of the Board.

58. (1) Any person who contravenes any of the provisions of this Enactment shall be guilty of an offence and in the case of a first offence, shall be liable to imprisonment for three months and a fine of one thousand ringgits and in the case of a second or subsequent offence, to imprisonment for twelve months and a fine of five thousand ringgits and in the case of killing of a rhinoceros or orang utan to imprisonment for five years and a fine of ten thousand ringgits. Penalties.

(2) Any domestic animal found within a Park, except a domestic animal in the lawful possession or custody of an officer or servant of the Board or introduced into a Park

in accordance with the provisions of this Enactment may be destroyed.

(3) Any vegetation introduced into a Park in contravention of the provisions of this Enactment may, by order of the Board, or the Director, be destroyed.

Power of the Board to make regulations.

59. (1) The Board may, with the approval of the Minister make regulations generally for carrying out the provisions of this Enactment and, in particular but without prejudice of the generality of the foregoing such regulations may provide for—

- (a) the powers and duties of the Director, the Park servants and agents appointed by the Board in regard to—
 - (i) the exclusion of members of the public from a Park, or any part thereof;
 - (ii) the killing, capturing or impounding of any animal within a State Park;
 - (iii) the burning and cutting of vegetation within a Park; and
 - (iv) the disposal of animal, vegetable, mineral or other products of the Park.
- (b) the conditions subject to which permission to enter a Park may be granted, and the periods or times during which a Park or any part thereof shall be open to the public;
- (c) the conditions under which the services or attendance of officers or servants of the Board or the services or attendance of any person licensed by the Board, may be obtained by any person entering, passing through or sojourning within a Park and the fees to be paid in respect of such services or attendance;
- (d) the fees to be paid for permission to enter or reside in a Park for the admission of vehicles or boats and for photography and cinematography within a Park, or for any other purpose connecting with the use and enjoyment of a Park;
- (e) the protection and preservation of a Park and the animal and vegetable life and property therein;
- (f) the regulation of traffic in and over a Park, the carriage of passengers, goods and weapons in a

Park and the points by which the persons may enter, and the route by which they may pass through or over, a Park.

(2) Any regulations made under subsection (1) may provide that any breach thereof shall be an offence and may prescribe for any such breach a fine not exceeding one thousand ringgits.

60. (1) The Minister may give to the Board such directions not inconsistent with the provisions of the Enactment as he may deem fit as to the exercise and performance by the Board of its powers, duties and functions under the Enactment and the Board shall give effect to all such directions.

Direction of
the Minister.

(2) The Board shall furnish the Minister with such informations with respect to its property and the activities as he may from time to time require.

61. The National Parks Enactment, 1977 is hereby repealed:

Enactment
13 of 1977.

Provided that the National Parks Fund established shall be deemed to be the Parks Fund and any appointment made under the Enactment hereby repealed shall be deemed to be an appointment under this Enactment and shall continue to have effect unless and until revoked, cancelled or otherwise annulled in accordance with the provisions of this Enactment and that anything done or omitted to be done under any power or duty vested or placed upon any person under the Enactment hereby repealed and not having been completed shall be deemed to have been done or omitted under this Enactment and may be continued thereunder unless such thing shall be prohibited or disallowed by or contrary to the provisions of this Enactment.

CERTIFIED by me to be a true copy of the Bill passed by the Assembly on Thursday, 8th March, 1984.

DATUK HAJI MOHD. SUNOH MARSO,
Speaker.