

Union of Myanmar

Ministry of Agriculture and Forests

The Burma Wild Life Protection Act, 1936
and
The Burma Wild Life Protection Rules, 1941

September 1990

Burma Act No. VII of 1936.
(Reprint – 1958)

Passed by the Burma Legislative Council
(Received the assent of His Excellency the Governor on the 28th August 1936, and His Excellency the Governor – General on the 11th October 1936 and published in the “Burma Gazette” of the 7th November 1936.

An Act to consolidate and amend the law relating to the protection and preservation of Wild Life in Burma

Whereas it is expedient to consolidate and amend the law relating to the protection and preservation of wild life in Burma; and whereas the previous sanction of the Governor – General required by sub-section (3) of section 80A of the Government of India Act has been obtained to the passing of this Act; it is hereby enacted as follows:

Chapter I.
Preliminary.

1. (1) This Act may be called the Burma Wild Life Protection Act, 1936.
 - (2) It extends to the whole of Burma: Provided that the Local Government may, by notification, exempt any areas from its operation.
 - (3) A notification under the proviso to sub section (2) exempting an area from the preparation of this Act shall not affect anything done, or the liability for any offence committed or any fine or penalty imposed in such area before exemption.
 - (4) It shall come into force on such date as the Local Government may appoint.
2. In this Act, unless there is anything repugnant in the subject or context,-
 - (a) “to hunt” with its grammatical variations includes hunting, wounding, killing, capturing or (in reserved forests) fishing by any method;
 - (b) “Forest Officer” means a Forest Officer as defined by sub-section (5) of section 3 of the Burma Forest Act, 1902.
 - (c) “Police Officer” means a Police Officer in charge of a police station or other Police Officer of and above the rank of (omitted).
 - (d) “Game Warden” means any person appointed to be a Game Warden under this Act.
 - (e) “Offence” means anything made punishable under the provisions of this Act.
 - (g) “Sanctuary” means any area, which has been or may be declared by the Local Government by notification to be a sanctuary for the preservation of animals.

(h) "Magistrate" means a Magistrate of the first or second class, and any Magistrate of the third class specially empowered by the Local Government to try offences punishable under this Act;

(i) "Animal" includes all birds, mammals and reptiles, other than snakes, that are found in a wild state in Burma and also includes fish in reserved forests.

Chapter II.

General Protection of Animals, their parts and products.

Sanctuaries.

3. The Local Government may, by notification declare any land which is at the disposal of Government, and, subject to the consent of the owner and to such conditions as may be determined by mutual agreement, any land which is private property, to be a sanctuary. Provided that before any area is declared to be a sanctuary, notices of the proposal to declare such area as a sanctuary should be published for period of not less than three months, calling for objections to such proposal.

4. No person shall in a sanctuary

(a) hunt any animal except with the special permission of the local Government, which shall be granted only for scientific purposes or to preserve the balance of animals;

(b) drive, stampede or wilfully disturb any animal.

5. Subject to any right created by grant or contract to the manner prescribed in section 23 of the Burma Forest Act 1902, no person shall in a reserved forest save under and in accordance with the conditions of a licence.

(a) hunt, drive, stamped or wilfully disturb any animal; or

(b) remove any animal or part or product: hereof.

Outside Sanctuaries and Reserved Forests.

6. No person shall hunt any of the following animals or knowingly possesses, sell or buy them alive or dead or any part or product thereof save under and in accordance with the conditions of a special licence issued by the Local Government for scientific purposes:-

Rhinoceros, tipir, thamin, argus pheasant, masked finfoot, peafowl and any other animals that the Local Government may, by notification, declare to be completely protected animals under this section:

Provided that it shall not be an offence for any physician or druggist to possess or sell or for any person to possess for private medical purposes rhinoceros blood or any preparation thereof:

Provided further that it shall not be in offence for any person to continue in the possession of any part or product of any animal specified therein, which has by a process of bona fide manufacture lost its original identity.

7. No person shall hunt any of the following animals or knowingly possess or sell or buy them alive or dead or part or product thereof save under and in accordance with the conditions of a licence:-

Elephant, bison, saing, serow and general and any other animals that the Local Government may, by notification, declare to be protected animals under this section:

Provided that it shall not be an offence to possess, buy or sell any domesticated elephant or any part for product thereof.

Provided further that it shall not be an offence for any person to continue in the possession of any article which he possessed before this Act came into force or to possess or sell or buy any part or product of any animal specified therein, which has by a process of bona fide manufacture lost its original identity.

8. No person shall hunt any of the following animals or sell or buy or possess them alive or dead during the close seasons specified against them bellow; and no person shall possess or sell or buy any part or product of any such animal if it has been killed or captured during the close season, and, if the corpse or flesh of any such animal is found in the possession of any person during a close season, it shall be presumed until the contrary is proved that the animal was unlawfully killed or captured by him during the close season:-

Hog-deer

Sambhur

Barking deer 15th June to 30th September

All species of:

Pheasant (except Argus pheasant)

Partridge

Jungle fowl

Quail

Wild duck

Teak 15th March to 30th September

Provided that the President of the Union may, by notification, vary the close seasons given above or add any other animal to the list of animals protected there in prescribe the close seasons therefor.

9. No person shall capture or possess or sell or buy any live animal herein specified during any part of the year:-

All species of snipe, wild duck, teal, wild geese, all species of partridge, pigeon, dove, egret, moorhen and grackle.

Provided that the President of the Union may, by notification, add any other animal to the above list of animals protected therein.

General.

10. No person shall do any of the following acts, namely-

(a) lay down poison for any animal except as permitted under section 11A, subsection (3) of the Burma Fisheries Act, 1905.

(b) hunt any animal by means of pitfalls;

(c) hunt any animal other than carnivora from any platform or machan, hide or pir; or

(d) use artificial light for the purpose of hunting any animal other than carnivora;

(e) shoot any animal other than carnivora from the back of an elephant or from any kind of wheeled vehicle or aircraft; or

- (f) use any elephant, wheeled vehicle or aircraft in such manner as to drive, stampede or disturb any animal other than carnivora for any purpose whatsoever including that of filming and photographing; or
- (g) hunt within two hundred yards of the compound of an inhabited Buddhist monastery or of a religious edifice for which trustees have been appointed; or
- (h) use explosive for fishing in reserved forests; or
- (i) hunt with dogs any animals except carnivora, hares and birds;

Provided that the President of the Union may, by notification, prohibit any other method of hunting.

11. (1) No person shall export from or import any of the following animals or any part or product thereof:-

- (a) Rhinoceros;
- (b) Except under licence issued by an officer empowered to do so by the President of the Union-

- (a) any living animal other than rhinoceros;
- (b) any part or product of elephant, and egret's feathers;

Provided that this section shall not apply to any such part or product which has by a process of bona fide manufacture lost its original identity;

Provided further that the President of the Union may, by notification, extend this section to any animal not specified therein.

(2) Any Customs Officer or other officer authorized by Government may detain any animal or any part or product of any animal specified in clause (i) and sub-clause (ii) (b) of sub-section (1) unless a licence has been obtained as herein required.

12. Nothing in this Chapter shall be deemed to apply to the killing or wounding of any animal by any person in defence of himself or of any other person, or in bona fide defence of property:

Provided that-

- (a) any such person killing, capturing or wounding any animal protected under sections 6, 7 and 8 shall at once report the fact to the nearest Magistrate, Forest Officer or Police Officer, and
- (b) that the animal so captured or destroyed and all parts thereof other than parts subject to speedy decay shall be the property of Government but such animal or any part thereof may at the discretion of a Forest Officer specially empowered by the President of the Union in this behalf be given to the person who has killed it.

Chapter III Penalties and Procedure.

Penalties, Police Powers and Protect and Seizure of Property.

13. Whoever commits or attempts to commit an offence under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend, where the damage resulting from the offence amounts to more than two hundred and fifty rupees, to double the amount of such damage, and in any case, to five hundred rupees or with both:

Provided that for the offence of illegal possession under sections 6, 7, 8 and 9 no person shall be prosecuted without the prior sanction of the District Magistrate.

14. Every Magistrate, Forest Officer, Game Warden and Police Officer shall prevent and may interfere for the purpose of preventing, the commission of any offence under this Act.

15. (1) Any Forest Officer, Game Warden or Police Officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any offence under this Act if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Every officer making an arrest under sub-section (omitted) shall without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or the officer in-charge of the nearest police-station.

16. (1) When there is person to believe that an offence has been committed in respect of any animal, such animal or any part or product thereof together with all hunting implements as well as all tools, animals, vehicles, vessels or other conveyances used in the commission of such offence, may be seized by any Forest Officer, Game Warden or Police Officer.

(2) Every officer seizing any article or thing under this section shall place on such article or thing, or the receptacle if any, in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that when the offender is unknown it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Compounding of, and Compensation for, Offences.

17. (1) The President of the Union may, by notification, empower any Forest Officer of or above the rank of Extra Assistant Conservator and any Game Warden –

(a) to accept from any person against whom a reasonable suspicion exist that he has committed an offence under this Act, a sum of money not exceeding five hundred rupees by way of compensation for the offence which such person is suspected to have committed, and

(b) omitted

(2) On the payment of such sum or sums of money as the (omitted) to such officer, the suspected person, if (omitted), shall be discharged, the property, if any, shall be released, and no further proceedings shall be taken against such person or property.

Disposal of Property Seized.

18. (1) When any person is convicted of an offence under this Act any animal and any part or product thereof in respect of which such offence has been committed, and all hunting implements as well as all tools, animals, vehicles, vessels or other conveyances used in the commission of such offence may be confiscated by order of the Court.

(2) Such confiscation may be in addition to any other penalty prescribed for such offence.

19. When the trial of any offence under this Act is concluded, any thing or animal confiscated under section 18 may be disposed of in such manner as the Court may order.

20. (1) When the offender is not known or cannot be found, the Magistrate inquiring into the offence may, he finds that an offence has been committed and on application in this behalf, order any thing or animal (omitted) to confiscation under section 18 to be confiscated and taken possession of by a Forest Officer or (omitted) Warden specially empowered in this behalf, or to be (omitted) over to such Forest Officer or Game Warden or other person as the Magistrate considers entitled to the same:

Provided that no such order shall be made till the expiration of one month from the date of seizure of such (omitted) or such animal and without hearing the person, if any, claiming within that period any right thereto, and the evidence if any, which he may produce in support of his claim.

(2) The Magistrate shall either cause a notice of any application under sub-section (1) to be served upon any person whom he has reason to believe to be interested in the thing or animal seized, or publish such notice in any way which he thinks fit.

21. Notwithstanding anything hereinafter contained the Magistrate may at any time direct the sale of any thing or animal seized under section 16, if such thing or animal is subject to speedy decay, may deal with such thing or animal if it had not been sold.

22. Any person claiming to be interested in any article, thing or animal seized under section 16 may, within one month from the date of any order passed by a Magistrate under sections 18,19 or 20, present an appeal therefrom to the Court to which orders made by such Magistrate or ordinarily appealable, and the order passed on such appeal shall be final.

23. When an order for the confiscation of any article, thing or animal has been passed under section 18 or section 20 and the period limited by section 22 for presenting an appeal from such order has elapsed and no such appeal has been presented or when, on such an appeal being presented, the Appellate Court confirms such order in respect of the whole or a portion of such thing or animal, such thing or animal or portion, as the case may be, shall vest in the Government free from all claims.

24. Notwithstanding anything hereinbefore contained, any Forest Officer, Game Warden or Police Officer empowered in this behalf by the President of the Union may direct at any time the immediate release of any thing or animal seized under section 16 which is not the property of the Government and the withdrawal of any charge made in respect of such property.

25. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land revenue.

Chapter IV.

Forest Officers, Game Wardens and Police Officers.

26. The President of the Union may invest any Forest Officer, Game Warden or Police Officer with all or any of the following powers, to be exercised for the purposes of this Act, namely-

- (a) the powers of a Demarcation Officer under the Burma Boundaries Act, 1880;
- (b) the powers of a Civil Court to compel the attendance of witnesses and production of documents;
- (c) power to hold inquiries into offences under this Act, and in the course of such inquiries to receive and record evidence;
- (d) power to take possession of property under this Act;
- (e) power to direct the release of property or withdrawal of charges;
- (f) power to Forest Officers and Game Wardens only to issue licences referred to in sections 5 and 7.

27. All Forest Officers, Game Wardens and Police Officers performing functions under this Act shall be deemed to be public servants within the meaning of the Indian Penal Code.

Chapter V.

Supplemental Provisions.

28. (1) The President of the Union may make rules to carry out the object and purposes of this Act.

(2) In particular and without prejudice to the generality of the forgoing power, such rules may-

- (a) declare by what Forest Officers, Game Wardens or Police Officers, the powers or duties conferred or imposed by or under this Act on a Forest Officer, Game Warden or Police Officer are to be exercised or performed;
- (b) regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscation under this Act or from the public treasury;
- (c) prescribe the form and conditions of licences and provide for the issue production and return of licences for regulating any meter provided for in this Act and fix the fees payable for such licences;
- (d) The President of the Union may, by a rule under this (omitted) to the breach of any rule under this section, any punishment not exceeding imprisonment (omitted) which may extend to six months, or fine which may extend to five hundred rupees, or both.

29. All rules made by the President of the Union under this Act shall be published in the Gazette and shall thereupon have the same effect as if enacted in this Act.

30. No suit or criminal prosecution shall lie against any public servant for anything in good faith done or purported to be done under this Act.

31. The Government shall not be responsible for any loss or damage which may occur in respect of any thing or animal while detained for the purposes of this Act, and no Forest Officer shall be responsible for any such loss or damage unless he causes the same negligently or maliciously.

Acquisition of Land.

32. Whenever it appears to the President of the Union that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land within the meaning of section 4 of the Land Acquisition Act, 1891.

Saving Clause.

33. (1) Nothing in this Act shall apply to the acquisition, possession, sale, exchange, import and export of any animals by or on behalf of the Trustees of the Victoria Memorial in good faith for the purposes laid down in the Rangoon Victoria Memorial Act, 1908.

(2) Nothing in sections 8 and 9 shall apply to the keeping in captivity of animals kept for purposes or in public parks and gardens.

34. The enactments mentioned in the schedule are hereby repealed to the extent specified in the fourth column thereof.

Schedule

(see section 34)

Year (1)	No. (2)	Short title (2)	Extent of Repeal (3)
		Acts of the Governor-General in Council.	
1912	VIII	The Wild Birds and Animals Protection Act, 1912.	
1929	IV	The Wild Birds and Animals Protection (Amendment) Act, 1934.	
The whole.			
1902	IV	The Burma Forest Act, 1902	(1) Clause (h) of sec. 26; (2) in section 33- (i) clause (e) of sub-sec. (2); and (ii) in sub-sec. (3), the words "in the case of an offence involving a breach of any rule made under clause (c) of sub-sec. (2), where the damage resulting from the offence amounts to more than two hundred and fifty rupees to double the amount of such damage, and in any other case"; (3) clause (e) of section 54; and (4) in section 55 – clause (g), and the words "in the case of an offence involving a breach of any rule made under clause (g) where the damage resulting from the offence amounts to more than two hundred and fifty rupees, to double the amount of such damage; and, in any other case.
1926	V	The Burma Forest (Amendment) Act, 1926.	Sections 2 and 4.