

Please note:

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Nyasaland Protectorate

No. 1 of 1927

I assent.

C.C. Bowring

Governor.

22nd February 1927.

An Ordinance relating to Game and Wild Animals.

[22nd February 1927.]

Enacted by the Governor of the Nyasaland Protectorate with the advice and consent of the Legislative Council thereof:

PRELIMINARY.

1. This Ordinance may be cited as the Game Ordinance, 1926.
2. In this Ordinance unless the context otherwise requires:
 - “Animal” includes reptiles, fish, and every kind of vertebrate, and the young, eggs, and spawn thereof respectively.
 - “Game” or “Game Animal” means any animal, not being domesticated, which is specified in any of the first three schedules hereto or any amendment or alteration thereof, and during a close season, any animal which is forbidden to be hunted during such season.
 - “Game meat” means the meat of game or game animal.
 - “Holder” in connection with a license means the person to whom it is issued.
 - “Trophy” means ivory, and any horn, head, tusk, bone, hoof, skin, or specimen, or any portion of such parts of any game, or if so expressed, of any animal, whether game or not.
 - “Ivory” means any tusk of elephant, or tooth of hippopotamus, or part thereof.
 - “Hunting” includes killing, pursuing, fishing for, injuring, capturing, shooting at, disturbing or molesting by any method.
 - “Buy”, “sell”, “purchase”, and “sale” include barter.
 - “Authorised officer” means any district resident, European customs officer, European police officer and European forest officer.
 - “Rules” means rules made under this ordinance.

POWER TO MAKE RULES.

3. The Governor in Council may make rules upon all or any of the following matters, namely:
 - (a) Prohibiting, restricting, and regulating the hunting of any animals or, in any specified locality, of all animals.
 - (b) Prohibiting, restricting, or regulating any method or means of hunting, and the use for

hunting of any weapons, material, instruments, or things, and authorising the seizure of weapons, material, instruments, or things of which the use for hunting is for the time being prohibited, restricted, or regulated.

- (c) Prescribing close seasons within which it shall not be lawful to hunt all or any particular animals.
- (d) Providing for the protection of fish in any stream or waters, and prohibiting, restricting, or regulating any method of hunting fish.
- (e) Allowing and regulating the hunting of game for the purpose of food supply in times of famine or by natives who are habitually dependent for their subsistence on the flesh of wild animals.
- (f) Prohibiting, restricting, or regulating the removal, transfer, sale, and purchase of any game, game meat, or trophies, and the manufacture, removal, transfer, sale, and purchase of material or things manufactured from any trophy.
- (g) Requiring and regulating the registration, identification, and marking of all or any trophies, whether obtained in the Protectorate or imported, and the issue of certificates of ownership in respect thereof, and the transfer and surrender of such certificates, and prescribing who is to issue such certificates, and what conditions are to be fulfilled precedent to the grant thereof.
- (h) Prohibiting, restricting, or regulating the import or export of game, game meat, and trophies, and material or things manufactures from trophies.
- (i) Prescribing measures for the control and killing of vermin, and dangerous or destructive animals, and authorising the payment of rewards for such killing, and defining what animals are to be deemed to be vermin, or to be dangerous or destructive animals.
- (k) Prescribing the forms, conditions, and duration of licenses and permits, by whom, to whom, in what circumstances, and on what conditions they are to be issued, the fees to be paid therefor, the registers to be kept by the holders, and the returns to be made thereunder.
- (l) For fully and effectually carrying out and giving effect to the objects and powers of this Ordinance, and for preventing evasions and offences.

GAME RESERVES.

- 4. (1) The areas described in the fourth schedule to this Ordinance are hereby declared to be Game Reserves in which, except as may be otherwise prescribed, no person shall hunt any animal.
- (2) The Governor may by Proclamation add to or alter the said fourth schedule as to the area or areas described therein.
- (3) Without prejudice to the generality of any other power of making rules conferred by this Ordinance, the Governor may make rules for the effective administration of any Game Reserve and the protection and preservation of the animals therein and in particular, prohibiting, restricting, or regulating;
 - (a) The entry into, passage through and movements in the reserve of persons.
 - (b) Camping, squatting, residing, building, cultivating, and grazing within the reserve.
 - (c) the cutting of trees and the burning of grass and bush in the reserve.
 - (d) the carrying and use in the reserve of instruments or equipment for the purposes of hunting, or of firearms or any weapons.

GAME LICENSES.

- 5. (1) Subject to the provisions of this section, no person shall hunt any game unless he hold the appropriate Game License authorising him to do so, and no person shall hunt any game of a species which he is not by his Game License authorised to hunt, or kill more game than he is by his Game License authorised to hunt.
- (2) Provided that rules under this ordinance may allow, subject to the prescribed conditions, the killing of any animal in defence of any person or for the protection of property.

6. Except as may be prescribed, no person shall hunt the young of any game animal or any female game animal when accompanied by its young.
7. (1) Subject as may be prescribed, the following licenses (in this Ordinance referred to as "Game Licences") may be issued, viz:
 - (a) A Visitor's Full Licence and a Protectorate Full Licence which shall authorise the killing of animals specified in the first schedule hereto in connection with such licences respectively.
 - (b) A Native's Licence which shall authorise the killing in a specified district of such number of animals of any one or more of the species mentioned in the first schedule hereto as the district resident of such district may on the receipt of any application at his discretion determine but not more than the number of any species of any species fixed by that schedule.
 - (c) A Visitor's Temporary Licence and a Protectorate Temporary Licence which shall authorise the killing of the animals specified in the first schedule hereto in connection with such licences for a period of fourteen days.
 - (d) A Private Land Licence which shall authorise the holder to kill upon land of which he is the owner or occupier the animals specified in the first schedule hereto in connection with a protectorate Full licence.
 - (e) A Special License which shall authorise the killing of one Nyala or one Rhinoceros, but unless otherwise prescribed shall only be granted to the holder of a Protectorate Full Licence.
 - (f) An Elephant Licence which shall authorise the killing of the animal specified in the second schedule hereto, but unless otherwise prescribed shall only be granted to the holder of a Visitor's or Protectorate Full Licence.
 - (g) A Governor's Licence which may be issued subject to the provisions hereinafter contained and shall authorise the killing of any animals specified in the licence.
- (2) Provided that every Game Licence shall only authorise such killing subject to any limitations or conditions specified in this Ordinance or in the schedules thereto or prescribed in any rules.
- (3) Except as may otherwise be prescribed no Protectorate Licence shall be issued to any person who does not satisfy the district resident of the district in which he claims to reside that he is a bona fide resident in the Protectorate or a European government official serving in Northern Rhodesia or Tanganyika Territory, or a member of His Majesty's Forces on the active list.
8. The Governor may, if for scientific or administrative reasons he think it desirable, grant to any person, with or without payment of a fee and with or without imposing any conditions, a Governor's Licence to hunt any animal included in the third schedule hereto, or the young of any game animal, or the female of any game animal in a Game Reserve or during a close season, or any animal of which the killing is for the time being prohibited, restricted, or regulated, or to allow the holder of any Game Licence to kill or capture additional animals.
9. The Governor may, by proclamation, vary any of the first three schedules hereto, and vary the species and number of animals which may be killed under any Game Licence, either in the whole Protectorate or any part thereof.
10. (1) Save as is hereinbefore provided a Game Licence shall not entitle its holder to hunt on private land without the written permission of the occupier.
- (2) Any person who, without the written permission of the occupier, hunts any animal upon private land or enters upon private land for the purposes of hunting any animal, or being on private land, refuses on demand to give his name or address to the occupier of the land or his agent or servant, shall be guilty of an offence against this Ordinance.

PROVISIONS APPLICABLE TO ALL LICENCES.

11. No person who has within the previous three years been convicted of an offence against this Ordinance or against the Ordinance hereby repealed or whose license has been cancelled or suspended by the Governor or any court shall be granted any license under this Ordinance except with the Governor's consent.

12. (1) Except as may be otherwise prescribed, any officer applied to for a license under this Ordinance may require the applicant if a visitor to the Protectorate to deposit with the issuing officer a sum not exceeding one hundred pounds or to enter into a bond for a like amount as security for the due observance and performance of the provisions of this Ordinance and of any rules.
 - (2) At the end of two months after the expiration of his licence, there shall be returned to the holder any balance which may remain after deducting any fines or costs which may have been imposed upon him for a breach of this Ordinance or any rules and are still unpaid.
 - (3) Provided that, if it is shown to the satisfaction of any Court that any person who has deposited security under the foregoing provisions has committed an offence against this Ordinance and left the Protectorate with the intention of avoiding being charged or tried, the Court may order the whole or such part as it thinks just of the security to be forfeited to the Government.
13. (1) The Governor may at any time, without assigning a reason, suspend or cancel any licence or permit of any description granted under this Ordinance or any rule, or direct that any licence or permit shall be refused to any applicant.
 - (2) If any licence is cancelled, then, unless the holder has been convicted of an offence against this ordinance, or unless he is convicted of such an offence within two months from the date of cancellation, a proportionate part of the fee paid for the licence shall be repaid.
14. If any person to whom any licence or permit under this Ordinance or any rule has been refused obtains or attempts to obtain such a license or permit without previously disclosing the fact of refusal, or if any person knowingly obtains or attempts to obtain any licence or permit under this Ordinance or any rule to which he is not entitled, he shall be guilty of an offence against this Ordinance and any licence or permit so obtained shall be void, and any fee paid therefor shall be forfeited.

GOVERNOR-OWNED GAME AND TROPHIES.

15. (1) Except as may be otherwise prescribed, the following are the property of the Government, viz:
 - (a) any game which is found dead or which is unlawfully killed, or which has been killed in contravention of any Ordinance hereby repealed, or which is killed in pursuance of any rules authorising the killing of game without a Game Licence in defence of any person or of property, and any meat or trophy of any such game.
 - (b) any elephant tusk weighing less than fifteen pounds or such other weight as may from time to time be prescribed, and any part or fragment of such a tusk;
 - (c) any ivory or rhinoceros horn which by any rule is required to be produced for the purpose of being marked for identification, and is not so produced with the prescribed time;
 - (d) any imported trophy which by any rule is required to be produced for the purpose of obtaining a certificate of ownership and is not so produced within the prescribed time; and
 - (e) Any trophy for which a certificate of ownership is applied or required but refused in accordance with any rule on the ground of failure to prove that there has been no contravention of this Ordinance or any rule or any Ordinance hereby repealed in connection therewith or in connection with the animal from which it was obtained, or, in the case of an imported trophy, on the ground of failure to prove that the trophy was lawfully exported from the country of origin and that all customs regulations have been complied with.
 - (2) Provided that the Governor may waive the right of the Government in particular cases.
 - (3) All game, game meat, and trophies the property of the Government shall be disposed of in such manner as may be prescribed, or in default thereof in such manner as may be ordered by the Governor.
16. (1) Except as may be prescribed, no person shall remove, possess, receive, transfer, export, buy, or sell any game, game meat, or trophy which is by this Ordinance declared to be the property of the Government until such game, game meat, or trophy has been sold or otherwise disposed of

by order of the Governor or officer authorised by him.

(2) Whenever a person is charged with contravening this section it shall be sufficient if the summons or charge alleges that the game, game meat, or trophy is the property of the Government without giving particulars of the reasons or circumstances whereby it became the property of the Government, and the onus shall then be on the person charged to prove either that he is the holder of a duly issued certificate of ownership thereof, or that the game, game meat, or trophy is not the property of the Government.

PROVISIONS FOR PREVENTION AND DETECTION OF OFFENCES.

17. (1) For the purpose of preventing or detecting the commission of an offence against this Ordinance, any authorised officer may without warrant:
- (a) require any person to produce for inspection all or any of the following things which may be in his possession or control, namely, game, game meat, trophies, and material or things manufactured from trophies, and licences, permits, certificates of ownership, and registers issued under or required to be kept by this Ordinance or any rule and all documents of any description relating to any game or trophy;
 - (b) enter and search any land, building, tent, vehicle, or boat, and open and search any baggage or thing;
 - (c) question any person as to any matter in connection with anything which he can under this section be required to produce, and questions in like manner any agent or servant of such person, and require any person, agent, or servant so questioned to sign a written declaration as to the truth of his answers;
 - (d) seize any game, game meat, or trophy appearing to the authorised officer to be the property of the Government, and any weapon, instrument, or thing the use of which for hunting game is for the time being prohibited, restricted or regulated, and which the authorised officer has reason to suspect has been used or is intended to be used illegally; and
 - (e) where the authorised officer has reason to suspect that an offence against this Ordinance has been committed, seize any licence, permit, register, document, or thing, whether of a nature similar to those before enumerated or not, which appears to the authorised officer to be evidence of the commission of the offence.
 - (f) arrest and detain any person whom the authorised officer has reason to believe has committed an offence against this Ordinance and who is likely, unless arrested to fail to appear and answer any charge which may be preferred against him, or whose name and address is unknown to and cannot immediately be ascertained by the authorised officer.
- (2) Provided that any person detained or things seized under the foregoing powers shall, with all practicable speed, be taken before a magistrate to be dealt with according to law.
- (3) No answer to any question asked under the powers conferred by this section and no written declaration required under such powers shall be admissible in evidence against the person making such answer or declaration unless the court thinks it just that such answer or declaration should be admitted.
- (4) Any person who, without reasonable excuse, fails or refuses to produce within a reasonable time anything which under the powers conferred by this section he is required to produce, or fails or refuses to answer any question put to him under the powers aforesaid, or gives any false answer to any such question, or fails or refuses to give a written declaration when so required, or makes any false statement in any such declaration, shall be guilty of an offence against this Ordinance.
18. (1) If any game, game meat, or trophy is found in the possession or control of any person, then that person, unless he proves that he obtained it lawfully, shall be guilty of an offence against this Ordinance and be punishable accordingly, and the game, game meat, or trophy shall be deemed to be the property of the Government.
- (2) The possession of a freshly killed animal or of the meat or trophy of any such animal shall be

prima facie evidence against a person charged with an offence against this Ordinance that he himself killed such animal.

PENALTIES AND LEGAL PROCEEDINGS.

19. (1) Any person who contravenes any provision of this Ordinance or of any rule or who fails to comply with any requirement of this Ordinance or of any rule, or who commits a breach of the conditions of any licence or permit held by him, or who fails to comply with any lawful order given to him under any power conferred by any rule shall be guilty of an offence against this Ordinance.
- (2) Any person guilty of an offence against this Ordinance shall on conviction be liable, in the discretion of the Court, to a fine not exceeding £100 or to imprisonment for a term not exceeding six months, or to both.
20. (1) When any person is charged with an offence against this Ordinance, the Court hearing the charge shall, after the persons appearing to be interested therein have been given an opportunity of being heard, order that any game, game meat, or trophy in respect of which any evidence has been given to the Court and which the Court decides is the property of the Government shall, if in the custody of the Court, be handed over to an authorised officer to be disposed of according to law, and, if not in the custody of the Court, that it be seized by an authorised officer and be disposed of as aforesaid.
- (2) When any person is convicted of an offence against this Ordinance, the Court may, if it thinks fit order that any game, game meat, or trophy, not being the property of the Government, in respect of which the offence was committed, and also any weapon, material, instrument, or thing found in the possession of the person convicted the use of which for hunting game is for the time being prohibited, restricted, or regulated, and which, in the opinion of the Court, has been or was intended to be used in contravention of any rule shall be forfeited to the Government.

GENERAL.

21. (a) The Governor may at his discretion appoint persons to be Honorary Game Wardens for the better carrying out of the provisions of this Ordinance.
- (b) An Honourary Game Warden shall whenever required so to do advise the District Resident on any questions relating to game in his district, and perform such other duties as the Governor may from time to time prescribe.
22. The Governor in Council may by Proclamation suspend the operation of this Ordinance or any part or parts thereof wither as to the whole Protectorate or certain districts or portions of districts.

REPEALS AND SAVING.

23. The Game Ordinance, 1911, is hereby repealed, but licences already issued thereunder and still current shall be deemed to have been issued under this Ordinance, and such repeal shall not prevent or affect a prosecution for an offence against such Ordinance committed before the commencement of this Ordinance.

DATE OF COMING INTO OPERATION.

24. This Ordinance shall come into operation on the 1st day of April, 1927.

Passed in Council the first day of November, one thousand nine hundred and twenty-six.

(Sgd)

Clerk of the Council

