

**WILDLIFE CONSERVATION AND NATIONAL PARKS  
(AMENDMENT) ACT, 2023**

No. 15



of 2023

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**An Act to amend the Wildlife Conservation and National Parks Act.**

*Date of Assent:* 13.11.2023

*Date of Commencement:* 13.11.2023

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Wildlife Conservation and National Parks (Amendment) Act, 2023 and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

2. The Wildlife Conservation and National Parks Act (hereinafter referred to as "the Act") is amended in section 2 by inserting in their correct alphabetical order, the following new definitions —

““animal” means any vertebrate, invertebrate animal or fish, bird and the eggs and young thereof, but does not include a domestic animal or bird, or the eggs and the young thereof;

“commercial fishing” means the catching of fish by the use of factory-made gill nets or any gill net made out of factory-made materials including leads, twines or cork;

“controlled fishing waters” means a river, stream, lake, dam or reservoir;

Short title and commencement

Amendment of section 2 of Cap. 38:01

“fish” includes any marine species, shellfish, finfish and their spat, brood, fry, spawn, ova and young thereof;

“fishing” means an act directed at the taking, catching, killing or injuring of fish including for commercial, recreational and, subsistence purposes;

“fishing licence” means an authorised written document issued to a person to permit fishing;

“recreational fishing” means fishing done on the basis of leisure and sport, using rod and line;

“subsistence fishing” means fishing using traditional fishing gear for personal and household consumption only;

“traditional fishing gear” means gear manufactured in an artisanal manner making use of natural materials available from the natural environment; and

“vessel” includes boat, ship, craft, yacht, ferry, and dugout canoe.”.

Amendment of section 3 of the Act

3. The Act is amended in section 3 by substituting for subsection (3), the following new subsection —

“(3) The Director shall be the Scientific Authority and the Management Authority for the purposes of CITES in respect of animals, but may delegate his responsibilities as such Authorities under this Act to any other officers and or institutions beyond the Department of Wildlife and National Parks subject to his own overriding control.”.

Insertion of section 16A, in the Act

4. The Act is amended by inserting immediately after section 16, the following new section —

“Declaration of controlled fishing waters 16A. (1) The Minister may, in the interests of conservation, by Order published in the *Gazette*, declare any waters to be controlled fishing waters and shall invite any person who wishes to make representations in regard to the matter to do so in writing, on or before a date to be specified in the notice and shall consider every representation made.

(2) For the purpose of fish conservation within any controlled fishing waters the Minister may —

(a) make regulations for the more effective control, protection, introduction, movement and sale of fish, use and sale of gill nets, the control of fishing waters in which fishing may be carried on or prohibition of fishing, the use of some types of fishing methods in such waters and the use of fishing vessels; or

(b) take such measures as he considers necessary or desirable to —

- (i) reduce or increase fish populations in such waters, or
- (ii) eradicate or encourage plant growth within such waters or on the banks thereof.

(3) No person shall fish in any waters, other than those specified in an order made in terms of subsection (1) or in terms of a permit issued under the provisions of this Act for such waters.

(4) The Minister may, by Order published in the *Gazette*, specify any waters for which a permit to fish, issued in terms of section 39 shall not be required.

(5) Any person who contravenes subsection (3) shall be guilty of an offence and liable to a fine of P1 000 or to imprisonment for a term not exceeding 1 year, or to both.”.

5. The Act is amended by substituting for section 17, the following new section —

“Protected fish and game animals

17. (1) The animals specified in the Sixth Schedule shall be protected fish and game animals throughout Botswana.

(2) No person shall, except in accordance with the terms and conditions of a permit issued by the Director under section 39 or section 40, fish, hunt or capture any protected fish or game animal.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of P10 000 or to imprisonment for 7 years, or to both:

Provided that, where the animal in respect of which the offence is committed is a rhinoceros, the person shall be liable to a fine of P100 000 or to imprisonment for 15 years, or to both.”.

Amendment of section 17 of the Act

6. The Act is amended in section 19 by substituting for the section, the following new section —

“Hunting and capturing of animals generally

19. (1) A person shall not hunt or capture any animal (other than a non-designated invertebrate animal outside of a national park or a game reserve) otherwise than in accordance with the terms and conditions of a licence issued, or a permit granted, under this Act:

Provided that a citizen of Botswana may hunt any non-designated animal, other than in a national park or a game reserve, for consumption by himself or his dependants, without a licence or permit.

(2) The animals specified in Parts II and III of the Seventh Schedule are animals that may be captured or hunted in accordance with the terms and conditions of a licence issued under this Act:

Amendment of section 19 of the Act

Provided that where an area is specified or areas are specified in relation to a particular animal, that animal may only be captured or hunted in that area or areas, as the case may be.

(3) No person shall engage in commercial or recreational fishing except in accordance with the terms and conditions of a licence issued, or a permit issued in accordance with section 39.

(4) Subsection (3) shall not apply to subsistence fishing or aquaculture.

(5) Any person who contravenes the provisions of section 18 or subsections (1) or (3) of this section shall be guilty of an offence and shall be liable if the contravention is in respect of —

- (a) fish, to a fine of P1 000 and to imprisonment for 1 year;
- (b) a partially protected game animal, to a fine of P5 000 and to imprisonment for 5 years:

Provided that where the animal in respect of which the offence is committed is an elephant, the offender shall be liable to a fine of P50 000 and to imprisonment for 10 years;

- (c) an animal specified in Part II of the Seventh Schedule, to a fine of P2 000 and to imprisonment for 2 years;
- (d) an animal specified in Part III of the Seventh Schedule, to a fine of P1 000 and to imprisonment for 1 year;
- (e) a bird specified in Part III of the Seventh Schedule, to a fine of P1 000 and to imprisonment for 1 year; and
- (f) any non-designated animal, or in respect of any term or condition of any licence or permit issued to that person, to a fine of P500 and to imprisonment for 6 months.”.

Insertion of section 26A, in the Act

7. The Act is amended by inserting immediately after section 26, the following new section —

“Fishing licences  
26A. A fishing licence shall be in such form as may be prescribed, and may be a —

- (a) commercial fishing licence; or
- (b) recreational fishing licence.”.

Amendment of section 31 of the Act

8. The Act is amended in section 31 by substituting for subsection (8), the following new subsection —

“(8) A licence issued under this section shall be personal to the person to whom it is issued and shall not be transferable, and may not be amended to permit fishing or hunting thereunder to be transferred from one controlled hunting area or controlled fishing waters to another, except in a manner as may be prescribed.”.

Amendment of section 39 of the Act

9. The Act is amended in section 39 (1) by inserting immediately after paragraph (c), the following new paragraph —

“(d) the capturing of any fish for the breeding or farming of such fish subject to fishing quotas.”.

- 10.** Section 40 of the Act is amended in subsection (2), by substituting for the subsection, the following new subsection —  
 “(2) Notwithstanding the provisions of subsection (1), where the animals in respect of which the permit is sought are protected fish or game animals, the licensing officer shall refer the matter to the Director, and the Director shall grant the permit at his discretion.”
- Amendment  
of section 40  
of the Act
- 11.** The Act is amended in section 48 (1) by inserting the words “fish or,” immediately after the word “any” where it first appears.
- Amendment  
of section 48  
of the Act
- 12.** The Act is amended in section 60 by inserting —
- (a) in subsection (1),
- (i) the word “fish,” immediately after the word “any” where it first appears,
- (ii) the word “fish,” immediately after the word “any” appearing in subparagraph (ii),
- (iii) the following new subparagraph immediately after subparagraph (iii) —
- “(iv) fish which are not reared and sourced from aquaculture or a fish farm.”; and
- (b) in subsection (2), the word “fish,” immediately after the word “any” where it first appears.
- Amendment  
of section 60  
of the Act
- 13.** The Act is amended in section 61 (1) by inserting the word “fish,” immediately after the word “any” where it first appears.
- Amendment  
of section 61  
of the Act
- 14.** The Act is amended in section 62 (2) by inserting immediately after paragraph (d), the following new paragraph —
- “(e) the animal, trophy, meat or eggs in the case of a CITES Appendix I, listed species shall not be traded internationally for commercial purposes.”
- Amendment  
of section 62  
of the Act
- 15.** The Act is amended in section 91 (1) by substituting for the subsection, the following new subsection —
- “(1) In order to enable Botswana to give full effect to the terms of CITES and to Resolutions of the Conferences of the Parties, as they may from time to time be amended, the Minister shall by Order published in the Gazette amend the Fifth Schedule and the list of animals contained in the Appendices to the Convention after each CITES Conference of the Parties.”
- Amendment  
of section 91  
of the Act
- 16.** Section 92 of the Act is amended by substituting for subsection (4), the following new subsections —
- “(4) The Minister may make regulations which shall apply to such areas as are specified therein, providing for the more effectual management of, and improvement of fish, the management of any specified area in which fishing may be carried out, and without prejudice to the generality of the foregoing, for all or any part of the following purposes —
- (a) imposing and prescribing conditions for the regulation of fishing;
- Amendment  
of section 92  
of the Act

- (b) registering all boats employed in fishing;
- (c) determining the times and seasons at which the taking of any species of fish shall commence and cease;
- (d) the issuing of licences and certificates of registration to persons authorised to take any species of fish;
- (e) prescribing the fees to be paid for or in respect of any licence or registration issued or made;
- (f) providing for and regulating the description and form of nets to be used in fishing and the size of the meshes thereof, or the prohibiting of any special description of nets or meshes or any tackle, instrument or appliance whatsoever tending to impede the lawful taking of fish or being in any manner detrimental to the preservation or increase of fish;
- (g) prohibiting, restricting or regulating the bringing into Botswana of any live fish; and
- (h) prohibiting, restricting or regulating the sale of any fish.

(5) Regulations made under subsection (1) may require acts or things to be performed or done to the satisfaction of an authorised officer, and may empower such officer to issue orders requiring acts or things to be performed or done or prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before such acts or things are to be performed or done.

(6) The Minister may, in regulations made under this section, fix such penalties for the breach or non-observance of any regulation or any order issued under or by virtue of such regulation as he may think fit.

(7) Subject to subregulation (6), the penalty shall not exceed a fine of P1 000 or a term of imprisonment for 1 year, for a first offence or a fine of P2 000 or a term of imprisonment for 2 years for a subsequent offence and where no penalty is fixed the breach of non-observance of any regulation or order shall be punishable to the extent aforesaid.”

**17.** The Fish Protection Act, hereinafter referred to as “the repealed Act”, is hereby repealed.

**18.** (1) Any subsidiary legislation made under and in accordance with the provisions of the repealed Act shall continue to be in force and effect as if made under the provisions of this Act, to the extent that it is not inconsistent with the provisions of this Act.

(2) Any licence, permit or authorisation issued or granted under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, remain in force as if issued or granted under the corresponding provisions of this Act.

(3) The repeal of the Act shall not be construed as invalidating any process undertaken in terms of the repealed Act.

(4) Notwithstanding the repeal of the Act, proceedings commenced under the repealed Act shall be dealt with, inquired into and determined in accordance with the repealed Act.

Repeal of  
Cap. 38:04

Savings and  
transitional  
provisions

PASSED by the National Assembly this 10th day of August, 2023.

BARBARA N. DITHAPO,  
*Clerk of the National Assembly.*