



FAUNA CONSERVATION ORDINANCE, 1963

(Sabah No. 11 of 1963)

Together with the Subsidiary Legislation
made thereunder

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(Act 1) and section 3 of the Sabah Reprint of Laws
Enactment, 1967 (No. 6/1967) respectively and containing
the amended law as in force on the 30th day of June, 1973.*

DICETAK DI JABATAN CETAK KERAJAAN,
OLEH HAJI SULONG SARIUL, PENCETAK KERAJAAN.
SABAH, MALAYSIA
1973

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LIST OF AMENDMENTS

<i>Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
G.N.S. 26/1964	4 (1), 5	18-1-1964
G.N.S. 87/1965	2 (1) (definitions of "wild animal" and "wild bird"), 6 (1), 7 (1), (5), 32, 33 (1), 34, 2nd Sch. item 6	16-9-1963
6/1968	2 (1) (definitions of "Assistant Game Warden" and "Deputy Game Warden")	23-8-1968
3/1973	2 (1) (definition of "Minister"), 4 (1), 5 (NOTE: The substitution of "Minister" for "Chief Secretary" in two places in s. 2 (1) appears to have been made in error, since "Chief Secretary" had been replaced by "Chief Minister" by Enactment 6/68, s. 11)	14-4-1973

FAUNA CONSERVATION ORDINANCE, 1963
(No. 11 of 1963)

An Ordinance to consolidate and amend the law for the protection and conservation of certain species of wild animals and birds; and for purposes connected therewith and incidental thereto.

[15th July, 1964]

ENACTED by the Legislature of North Borneo as follows:—

PART I

PRELIMINARY

1. This Ordinance may be cited as the Fauna Conservation Ordinance, 1963, and shall come into operation upon such date as the Governor may, by notice in the *Gazette*,* appoint. Short title and commencement.

2. (1) In this Ordinance, unless the context otherwise requires— Interpretation.

“Assistant Game Warden” means a District Forest Officer in respect of his Forest District and any other public officer whom the Chief Minister may, by notice in the *Gazette*, appoint to be an Assistant Game Warden;

“authorised officer” means a game officer, a police officer and a forest officer;

“Bird Sanctuary” means a Bird Sanctuary declared as, or deemed to be, such under the provisions of section 7 of this Ordinance;

“Chief Game Warden” means the Conservator of Forests;

“deer” means an animal included in Part III of the First Schedule to this Ordinance;

“Deputy Game Warden” means the Deputy Conservator of Forests, a Circle Forest Officer in respect of the area for which he is responsible and any other public officer whom the Chief Minister may, by notice in the *Gazette*, appoint to be a Deputy Game Warden;

“forest officer” means a person appointed as such under the provisions of the Forests Enactment, 1968; 2/68.

“game animal” means an animal included in Part II of the First Schedule to this Ordinance;

“game officer” means a Game Warden, an Honorary Game Warden, and a Game Ranger;

*In force 15th July, 1964—see G.N.S. 91/64.

“Game Ranger” means a person appointed as such under the provisions of section 5 of this Ordinance;

“Game Sanctuary” means a Game Sanctuary declared as such under the provisions of section 7 of this Ordinance;

“Game Warden” means the Chief Game Warden, a Deputy Game Warden and an Assistant Game Warden;

“Government trophy” means a trophy declared to be a Government trophy by section 18 of this Ordinance;

“Honorary Game Warden” means a person appointed as such under the provisions of section 4 of this Ordinance;

“hunt” includes the doing of any act immediately directed at the killing, wounding, injuring or capture of any wild animal or wild bird;

“licence” means a valid licence issued under the provisions of section 8 of this Ordinance;

“Minister” means the Minister for the time being responsible for matters relating to natural resources;

“protected animal” means an animal included in Part I of the First Schedule to this Ordinance;

“protected bird” means a bird included in Part V of the First Schedule to this Ordinance;

2/68. “reserved forest” has the meaning assigned to it in the Forests Enactment, 1968;

“Sanctuary” means a Game Sanctuary and a Bird Sanctuary;

“scheduled species” means an animal or bird included in the First Schedule to this Ordinance;

“trophy” means any scheduled species, alive or dead, and any bone, claw, feather, hair, hoof, horn, ivory, skin, tooth, tusk or other durable portion whatsoever of any scheduled species, whether processed or not, which is readily recognisable as a durable portion of any scheduled species, and the egg of any protected bird other than the Megapode;

“turtle” means an animal included in Part IV of the First Schedule to this Ordinance;

2/68.

“wild animal” means any reptile and any mammal found wild within Sabah whatever its state of maturity notwithstanding that it may be tamed or bred in captivity;’; and

“wild bird” means any bird found wild within Sabah whatever its state of maturity or immaturity notwithstanding that it may be tamed or bred in captivity.”.

(2) Any reference in this Ordinance to a type of licence shall be construed as a reference to a licence of that type as set forth in section 8 of this Ordinance.

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3. None of the provisions of this Ordinance shall apply in any area for the time being included in the area of a national park constituted as such under the provisions of the National Parks Ordinance. Non-application.
5/62.

PART II

ADMINISTRATIVE

4. (1) The Chief Game Warden may, with the approval of the Minister, appoint fit and proper persons to be Honorary Game Wardens for the purpose of assisting in the carrying into effect of the provisions of this Ordinance. Honorary Game Wardens.

(2) An Honorary Game Warden shall, unless his appointment be sooner revoked, hold office for a period of three years but at the end of any period of office shall be eligible for re-appointment.

5. The Chief Game Warden may, with the approval of the Minister, appoint such numbers of Game Rangers as he may consider necessary for carrying into effect the provisions of this Ordinance. Game Rangers.

6. (1) The Chief Game Warden shall be charged with the responsibility for the protection and conservation of the wild fauna of Sabah and shall, subject to the provisions of this Ordinance, have the general superintendence of all matters within the provisions of this Ordinance. Responsibilities etc. of officers.

(2) All Deputy Game Wardens, Assistant Game Wardens, Honorary Game Wardens and Game Rangers shall, in the exercise of the powers and performance of the duties conferred or imposed upon them by or under the provisions of this Ordinance, conform with any lawful instructions or directions, whether general or special, which may be given to them in respect of such exercise or performance by the Chief Game Warden.

(3) Game Wardens and Game Rangers shall be deemed to be public servants within the meaning of the Penal Code. 3/59.

“Declaration of authority.”

6A. (1) When any game officer exercises any of his powers or performs any of his duties under this Ordinance he shall declare his office or authority (as the case may be) and produce for inspection an authority card (describing his office or authority) as the Chief Game Warden may direct to be carried by such officer if—

- (a) his act or office or authority is challenged;
- (b) he is acting against any person; or
- (c) he exercises his powers of search seizure or arrest without a warrant to do so.

(2) Notwithstanding anything to the contrary in this Ordinance it shall not be an offence for any person to refuse to comply with any directions given by any game officer if the officer fails to comply with the requirements of subsection (1).”

7. (1) Upon the recommendation of the Chief Game Warden, the Yang di-Pertua Negara may, after such inquiry as he may deem necessary, declare* any area to be a Game Sanctuary or a Bird Sanctuary. Declaration of Sanctuaries.

(2) A declaration under subsection (1) of this section shall be published in the *Gazette* and shall not have effect until after the expiration of a period of four weeks from the date of such publication.

*See G.N. 504/72.

(3) Nothing in this section shall be construed as preventing an area from forming a part or the whole of both a Game Sanctuary and a Bird Sanctuary.

(4) Any bird sanctuary declared as such under the provisions of the Wild Animals and Birds Preservation Ordinance and in existence as such at the date of commencement of this Ordinance shall be deemed to have been so declared under the provisions of subsection (1) of this section.

(5) Upon the recommendation of the Chief Game Warden, the Yang di-Pertua Negara may, by notice in the *Gazette*, declare that any Sanctuary shall cease to be a Sanctuary and may alter the boundaries of any Sanctuary:

Provided that the provisions of subsection (1) of this section shall apply to any such alteration of boundaries which has the effect of including in a Sanctuary any area which was not so included prior to such alteration.

PART III

LICENCES

Issue of
licences.

8. (1) Subject to the provisions of subsection (2) of section 6 of this Ordinance, the following licences may be issued to any person by a Game Warden in his* absolute discretion—

(a) a “game licence” which shall authorise the licensee to hunt the types and numbers of game animals specified therein:

Provided that no game licence shall authorise the hunting of female elephant;

(b) a “forest game licence” which shall authorise the licensee to hunt, in a reserved forest, the types and numbers of wild animals and wild birds specified therein;

(c) a “megapode egg licence” which shall authorise the licensee to take the eggs of the Megapode;

(d) a “turtle licence” which shall authorise the licensee to hunt the types and numbers of turtles specified therein;

(e) a “turtle egg licence” which shall authorise the licensee to take the eggs of such types of turtle as may be specified therein.

(2) Notwithstanding any other provisions of this Ordinance, the Chief Game Warden may, in his absolute discretion and upon such conditions as he may deem fit, issue to any person or group of persons a “special licence” which

*See Corrigenda in 1963 Annual Volume at page Lxxxii.

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shall entitle the holder thereof to hunt the animals or birds specified therein for the purpose of scientific research or the collection of specimens for zoological gardens, museums and similar institutions:

Provided that no special licence shall authorise the hunting of rhinoceros or orang hutan.

9. (1) For the purpose of computing the number of animals or birds which may be hunted under a licence all animals or birds which are killed, wounded or captured shall be taken into account. General provisions as to licences.

(2) Subject to the provisions of this Ordinance relating to the cancellation of licences, a licence shall only be valid for such period as may be specified therein:

Provided that a licence shall cease to be valid if the total number of animals specified therein have been killed, wounded or captured.

(3) Every licence shall be personal to the person to whom it was issued and shall not be transferable.

(4) A licence shall only be valid in such area or areas as may be specified therein, and no licence shall be issued in respect of any Sanctuary.

(5) Every holder of a licence shall carry such licence with him when engaged upon any of the activities authorised by such licence and any person who fails so to carry such licence shall be guilty of an offence and liable to a fine of two hundred dollars.

(6) A person to whom a game licence, forest game licence or special licence has been issued shall, within seven days after such licence ceases to be valid by virtue of the provisions of subsection (2) of this section, report to a Game Warden the number of head of animals killed, wounded or captured under such licence and the location of each such killing, wounding or capture, and any person who fails to comply with the provisions of this subsection shall be guilty of an offence.

PART IV

REGULATION OF HUNTING

10. Any person who, otherwise than in accordance with a special licence, hunts any protected animal shall be guilty of an offence and liable to imprisonment for five years and a fine of five thousand dollars. Hunting of protected animals.

Hunting of
protected
birds etc.

11. (1) Any person who, otherwise than in accordance with a special licence, hunts any protected bird, or takes the eggs of any protected bird other than the Megapode, shall be guilty of an offence.

(2) Any person who, otherwise than in accordance with a megapode egg licence, takes any eggs of the Megapode shall be guilty of an offence.

(3) Any person guilty of an offence under the provisions of this section shall be liable to imprisonment for three months and a fine of five hundred dollars.

Hunting of
game
animals.

12. Any person who, otherwise than in accordance with a game licence, hunts any game animal shall be guilty of an offence.

Hunting in
reserved
forest.

13. Any person who, otherwise than in accordance with a forest game licence, hunts any wild animal or wild bird in a reserved forest shall be guilty of an offence.

Hunting etc.
of turtles.

14. Any person who, otherwise than in accordance with a turtle licence, hunts any turtle or who, otherwise than in accordance with a turtle egg licence, takes, disturbs or removes any turtle egg shall be guilty of an offence.

Prohibited
methods etc.
of hunting.

15. (1) No person, whether the holder of a licence or not, shall—

(a) discharge any firearm at or in the direction of any animal from any aeroplane or motor vehicle;

(b) wilfully use any aeroplane or motor vehicle so as to drive, stampede or otherwise unduly disturb any protected animal;

(c) hunt any animal within half a mile of any salt lick, that is to say a mineral spring or any ground containing or bearing salt or other mineral which is attractive to animals, or, for the purpose of hunting any animal, wait or build any platform within half a mile of any such salt lick;

(d) for the purpose of hunting any animal, set, place or prepare any set-gun, spring gun, spring trap, engine, sharpened stake, game-pit or pitfall or any contrivance whatsoever likely to endanger human life or cause bodily injury to any person;

(e) hunt any animal by any method, in any manner or by any means that the Chief Game Warden may, by notice in the *Gazette*, declare to be prohibited.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

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16. (1) Nothing in this Ordinance shall make it an offence to kill or injure by any means any animal in immediate defence of human life:

Defence of
life and
property.

Provided that this subsection shall not apply to the killing or injuring of any animal by a person committing any unlawful act or under circumstances amounting to deliberate provocation or enticement of such animal by, or with the knowledge and consent of the person killing or injuring such animal.

(2) Where any protected animal or bird has done, is doing or is about to do any material damage to or upon any building or any land which is for the time being under cultivation or which is fenced or otherwise enclosed for any agricultural purposes, including the maintenance of domestic stock, it shall, notwithstanding any other provisions of this Ordinance, be lawful for the occupier of such land or any person duly authorised by him to hunt and destroy any such animal:

Provided that this subsection shall not authorise the hunting or destruction of any rhinoceros or orang hutan.

(3) Where any protected animal is killed or injured in any of the circumstances mentioned in this section—

(a) the person so killing or injuring such animal shall report the circumstances thereof as soon as possible to the nearest authorised officer; and

(b) the onus of proof that such killing or injuring was justified under the provisions of this section shall lie upon such person:

Provided that this subsection shall not apply to the killing or injuring of any animal by the game officer.

(4) Any person failing to make any report required by paragraph (a) of subsection (3) of this section shall be guilty of an offence.

(5) Where a report is made under subsection (3) of this section to an authorised officer who is not a Game Warden such officer shall, as soon as is practicable, forward the same to the nearest Game Warden.

17. Notwithstanding any other provisions of this Ordinance, any game officer may kill or authorise the killing of any animal in any place and in any manner if he considers such killing necessary in the interests of public safety or of the protection of property.

Destruction
of dangerous
animals.

PART V
TROPHIES ETC.

Government trophies.

18. (1) The following shall be Government trophies and the property of the Government—

- (a) any ivory or rhinoceros horn found without an owner;
- (b) any scheduled species found dead or killed by mistake or under the provisions of section 16 of this Ordinance;
- (c) any scheduled species killed or captured unlawfully;
- (d) any trophy in respect of which any breach of the provisions of this Ordinance has been committed;
- (e) the meat of any animal referred to in paragraph (c) of this subsection.

(2) Any person who by any means obtains possession of a Government trophy shall forthwith make a report thereof to the nearest authorised officer and shall, if so required, hand such trophy over to such officer.

(3) Any person who—

- (a) fails to make a report required by subsection (2) of this section; or
- (b) is unlawfully in possession of or who unlawfully deals in, any Government trophy,

shall be guilty of an offence.

Ownership, sale etc. of trophies.

19. (1) Any game officer may issue a certificate of ownership to any person who is in lawful possession of a trophy.

(2) No person shall transfer by gift, sale or otherwise to any person any trophy unless he is in possession of a certificate of ownership in respect thereof, and such certificate shall be handed to the transferee at the time of transfer.

(3) No person shall receive by gift, purchase or otherwise any trophy unless he receives, together with such trophy, the certificate of ownership in respect thereof.

(4) Nothing in this section shall make it an offence for any person to have in his possession without a certificate of ownership any trophy, or any article manufactured from such trophy, being, or being part of, an animal killed by himself under the authority of a licence, but the onus of proof that such animal was so killed shall lie on such person.

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(5) Any person who contravenes any of the provisions of subsection (2) or (3) of this section shall be guilty of an offence.

20. (1) No person shall keep in captivity any live animal or bird of any scheduled species except in accordance with a permit issued by a Game Warden in that behalf, and any person contravening the provisions of this subsection shall be guilty of an offence.

Permit to keep live animals etc.

(2) A permit issued under this section—

(a) shall be in addition to any certificate of ownership required by section 19 of this Ordinance;

(b) shall be valid for a period of one year from the date of issue thereof;

(c) shall be personal to the person to whom it is issued and shall not be transferable.

(3) Any animal or bird kept under the authority of a permit issued under this section shall be made available for inspection, together with the cage or other enclosure in which it is normally kept, by any game officer at all reasonable times, and any person who fails to allow a game officer to make such inspection when so required shall be guilty of an offence.

(4) If upon an inspection made under this section a game officer is satisfied that the animal or bird concerned is not being adequately cared for or that the conditions under which such animal or bird is kept are not reasonably healthy or humane the game officer may forthwith cancel the permit concerned and confiscate such animal or bird.

21. Notwithstanding any of the provisions of the Animals Ordinance, no licence to import or export any animal or bird of any scheduled species shall be issued by any officer under the said Ordinance without the approval of a Game Warden.

Import and export under Animals Ordinance 16/62.

22. (1) Save as hereinafter provided, any person who buys, sells or exports, or is found in circumstances showing that it is his intention to buy, sell or export, the meat of any scheduled species shall be guilty of an offence.

Sale etc. of game meat.

(2) A native resident in any area other than an urban area may barter with any other native resident in such area for food to be consumed by himself or his dependants the meat of any deer lawfully obtained by him.

(3) In this section “buy” and “sell” include exchange and barter and “sell” includes offering or exposing for sale.

PART VI

OFFENCES, PENALTIES ETC.

Powers of search, seizure and arrest.

23. (1) If any authorised officer or District Officer has reasonable grounds for believing that any person has committed an offence against this Ordinance, he may—

- (a) require any such person to produce for inspection any animal, bird, meat or trophy in such person's possession, or any fire-arm or other weapon, trap, net, or other instrument, material or thing whatsoever in relation to or in connection with which an offence appears to such officer to have been committed, or any licence or other document required to be kept by such person under the provisions of this Ordinance;
- (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, meat or trophy which appears to such officer to be the property of the Government, or any vehicle, boat, firearm or other weapon, trap, net, or other instrument, material or thing whatsoever in relation to or in connection with which such offence appears to such officer to have been committed, whether or not it is in immediate possession of any person;
- (d) arrest or detain any such person unless such officer is satisfied that the person concerned will appear and answer any charge which may be preferred against him.

(2) Any person detained or thing seized under the powers conferred by subsection (1) of this section shall forthwith be taken before a competent court to be dealt with according to law:

Provided that wherever any apparently unlawful means of hunting cannot practicably be removed from its location such means of hunting may forthwith be rendered inoperative.

(3) Any person who—

- (a) without reasonable excuse, fails to produce anything which under the powers conferred by this section he is required to produce; or

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(b) resists or obstructs any officer in the exercise of the powers conferred upon such officer by this section, shall be guilty of an offence.

(4) An authorised officer may stop and detain any person whom he sees doing an act for which a licence or permit is required under the provisions of this Ordinance for the purpose of requiring such person to produce such licence or permit, and if such person fails to produce such licence or permit he may be arrested by such officer without a warrant unless he furnishes his name and address and otherwise satisfies such officer that he will duly answer any summons or other proceedings which may be taken out or instituted against him.

(5) The Government shall not be responsible for any loss or damage which may occur to any property during an act of seizure or whilst such property is detained under subsection (1) of this section, and no officer shall be responsible for any such loss or damage unless he shall have caused the same maliciously or fraudulently or by gross negligence.

24. Any Game Warden may, subject to the directions of the Attorney-General, conduct any prosecution for an offence against this Ordinance. Prosecutions.

25. (1) Where any person is convicted of an offence against this Ordinance, or, in default of a conviction, where no person has within three months of a seizure of anything mentioned in paragraph (c) of subsection (1) of section 23 of this Ordinance appeared to answer a charge preferred against him in relation thereto, a court may order that any animal, bird, 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 Government. Powers of court on conviction, etc.

(2) Any conviction of the holder of any licence or permit issued under this Ordinance for any offence against the provisions of this Ordinance shall, unless the court otherwise directs, have the effect of cancelling any 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 Ordinance the court may direct that such person be disqualified from holding any licence 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 shall be guilty of an offence.

(4) Where any person is convicted of an offence against this Ordinance 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.

Summary
imposition
of penalties.

26. (1) A Game Warden may, if he is satisfied that any person is guilty of an offence against this Ordinance or any regulations made thereunder, summarily demand from such person a fine in respect of such offence not exceeding five hundred dollars or one-half of the maximum fine prescribed for such offence, whichever is the less.

(2) Any person from whom payment of a fine has been demanded under the provisions of this section may elect to admit his liability and pay the fine or dispute his liability and await prosecution, and he shall be so informed at the time by the Game Warden making the demand.

(3) The payment forthwith, or within such time as the Game Warden may specify, of any fine demanded under the provisions of this section shall operate as a bar to any further penal proceedings against the person making such payment in respect of the offence concerned.

(4) Should the person from whom a fine is demanded under the provisions of this section fail to pay such fine forthwith, or within the time specified, as the case may be, such summary demand shall not in any way relieve such person of any liability which he may have incurred or be a bar to his conviction and punishment by a competent court in respect of the offence alleged.

(5) The payment of a fine demanded under the provisions of this section shall not, for the purposes of this or any other written law, be deemed to be a conviction in respect of the person making such payment.

(6) A Game Warden receiving payment of a fine from any person under the provisions of this section shall give a receipt to such person in such form as may be prescribed and shall pay such fine into the general revenue.

Offences in
Connection
with
Sanctuaries
and reserved
forest.

27. (1) Subject to the provisions of subsection (4) of this section, any person who, whether the holder of a licence or not—

(a) hunts, or is found in circumstances showing that it is his intention to hunt, any wild animal in a Game Sanctuary, or

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(b) hunts, or is found in circumstances showing that it is his intention to hunt, any wild bird, or disturbs or removes the nest or eggs of any wild bird, in a Bird Sanctuary,
shall be guilty of an offence.

(2) Save as is hereinafter provided, any person who carries, or has in his possession, in any Sanctuary or reserved forest any firearm or any net, snare, trap or other apparatus for hunting shall be guilty of an offence.

(3) Subsection (2) of this section shall not apply to—

- (a) any game officer or public officer on duty requiring his presence in the Sanctuary or reserved forest concerned;
- (b) any resident in a Sanctuary or reserved forest who, in such Sanctuary or forest, carries or is in possession of a firearm or apparatus in accordance with a permit in that behalf issued by a Game Warden;
- (c) the holder of a forest game licence who, in any reserved forest specified in such licence, carries or in possession of such firearms or apparatus as may reasonably be required for the purpose of hunting any animals or birds specified in such licence;
- (d) any person carrying a firearm or apparatus whilst travelling through a Sanctuary or reserved forest along a public road or along any route authorised by a Game Warden.

(4) The Chief Game Warden, if he is satisfied that any animal or bird should be hunted in a Sanctuary for the better preservation of other fauna or for other good and sufficient reason, may authorise any person to hunt, subject to the directions of the Chief Game Warden, such animal or bird in such Sanctuary, and the foregoing provisions of this section and the provisions of this Ordinance relating to hunting of scheduled species without a licence shall not apply to such person whilst so hunting.

28. Any person guilty of an offence against this Ordinance for which no other penalty is provided shall be liable to imprisonment for six months and a fine of one thousand dollars.

General
penalty.

29. Any Government trophy and anything which is confiscated or forfeited to the Government under the provisions of this Ordinance shall be destroyed or otherwise disposed of in accordance with any general or special directions which the Chief Game Warden may issue.

Disposal of
confiscated
etc.
property.

PART VII

GENERAL

Cancellation
of licences
etc. by Chief
Game
Warden.

30. (1) Notwithstanding any other provision of this Ordinance, the Chief Game Warden may, in his absolute discretion and without assigning any reason therefor, suspend or cancel any licence, permit or authorisation issued under the provisions of this Ordinance.

(2) Where a licence or permit is cancelled under the provisions of this section the Chief Game Warden may, if he thinks fit, refund the whole or any part of any fee paid in respect of such licence or permit.

Fees.

31. The fees set forth in the Second Schedule to this Ordinance shall be payable in respect of the matters therein stated.

Alteration
of First
Schedule.

32. The Yang di-Pertua Negara may, by order published in the *Gazette*, delete from, vary or add to the First Schedule to this Ordinance any wild animal or wild bird.

Special
provisions
as to
turtle eggs.

33. (1) The Yang di-Pertua Negara may, by notice in the *Gazette*—

(a) specify* areas which shall be reserved for the collection of turtle eggs by natives;

(b) constitute† turtle farms wherein exclusive rights may be granted for the collection of turtle eggs.

(2) Notwithstanding any other provision of this Ordinance, where any area has been specified under paragraph (a) of subsection (1) of this section—

(a) turtle eggs may, subject to any regulations or rules made under this Ordinance, be collected by natives without a turtle egg licence;

(b) no turtle egg licence shall be issued to any person in respect of such area.

Power to
make
regulations.

34. The Yang di-Pertua Negara may make regulations‡—

(a) prescribing close seasons within which it shall not be lawful to hunt all or any particular animals;

(b) prohibiting or regulating hunting in or near roads or inhabited areas;

(c) controlling settlement in Game Sanctuaries or Bird Sanctuaries with a view to preventing disturbance of natural fauna;

*See G.N.S. 94/64.

†See G.N.S. 93/64.

‡See Fauna Conservation (Turtle Farms) Regulations, 1964 at page 25 infra.

FAUNA CONSERVATION

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- (d) regulating the taking of turtle eggs in areas specified under section 33 of this Ordinance;
- (e) prescribing the terms and conditions upon which, and the method by which, exclusive rights may be acquired and exercised in respect of turtle farms constituted under the said section 33;
- (f) generally for the better carrying out of the provisions of this Ordinance.

35. The Chief Game Warden may make rules*—

Power to
make rules.

- (a) prescribing the forms to be used and the procedure to be followed in respect of any application, licence, permit, certificate, return or other documents made, issued or kept under the provisions of this Ordinance;
- (b) specifying conditions subject to which any licence or permit may be issued under this Ordinance;
- (c) limiting the number of licences, or the types or numbers of animals which may be included in licences, in respect of any specified area during any specified period;
- (d) prohibiting any type or calibre of weapon from being used in the hunting of any specified type or kind of animal;
- (e) generally for matters touching the day to day administration of the provisions of this Ordinance.

36. The Turtle Preservation Ordinance and the Wild Animals and Birds Preservation Ordinance are hereby repealed:

Repeals
and saving.
Caps. 150
and 157.

Provided that any licence or permit issued under the provisions of the said Ordinance shall, for the period of validity thereof, continue to have effect as if the said Ordinances had not been repealed.

37. (*Omitted.*)

FIRST SCHEDULE

(Section 2)

SCHEDULED SPECIES

PART I PROTECTED ANIMALS

Sumatran Rhinoceros	Orang hutan
Dugong	Gibbon
Tarsier	Proboscis monkey

*See Fauna Conservation Rules, 1965 at page 29 infra.

PART II GAME ANIMALS

Elephant	Banteng (<i>Bos sondiacus lowi</i>)
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Clouded leopard	Malay Bear
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PART III DEER

Sambur Deer	Barking Deer/Mouse Deer
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PART IV TURTLES

Green turtle	Hawksbill Turtle
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PART V PROTECTED BIRDS

FRIGATE BIRDS:

Lesser Frigate Bird	Fregatidae <i>Fregata ariel</i>
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DARTERS:

Darter	Anhingidae <i>Anhinga anhinga</i>
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HERONS AND BITTERNs:

Dusky-Grey Heron	Ardeidae <i>Ardea sumatrana</i>
Purple Heron	<i>Ardea purpurea</i>
Reef Egret	<i>Egretta sacra</i>
Chestnut Bittern	<i>Ixobrychus cinnamomeus</i>

STORKS:

Storm's Stork	Ciconiidae <i>Ciconia stormii</i>
Lesser Adjutant Stork	<i>Leptoptilos javanicus</i>

EAGLES, HAWKS, KITES:

Honey Buzzard	Accipitridae <i>Pernis ptilorhynchus</i>
Crested Goshawk	<i>Accipiter trivirgatus</i>
Grey-Headed Fishing Eagle	<i>Ichthyophaga ichthyaetus</i>
Lesser Fishing Eagle	<i>Ichthyophaga nana</i>
Crested Serpent Eagle	<i>Spilornis cheela</i>

OSPREYS:

Osprey	Pandionidae <i>Pandion haliaetus</i>
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FALCONS:

Common Falconet	Falconidae <i>Microhierax caerulescens</i>
White-Fronted Falconet	<i>Microhierax latifrons</i>
Peregrine Falcon	<i>Falco peregrinus</i>

MEGAPODES:

Megapode	Megapodiidae <i>Megapodius freycinet</i>
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PARTRIDGES AND PHEASANTS:

Long-Billed Partridge	Phasianidae <i>Rhizothera longirostris</i>
Ferruginous Wood Partridge	<i>Caloperdix oculea</i>
Red-Breasted Tree Partridge	<i>Arborophila hyperythra</i>
Chestnut-Breasted Tree Partridge	<i>Arborophila charltoni</i>
Black Wood Partridge	<i>Melanoperdix nigra</i>

PART II GAME ANIMALS

Elephant

Banteng

(Bos-sondiacus lowi)

Clouded leopard

Malay Bear

PART III DEER

Sambur Deer

Barking Deer/Mouse Deer

PART IV TURTLES

Green turtle

Hawksbill Turtle

PART V PROTECTED BIRDS

FRIGATE BIRDS:

Lesser Frigate Bird

Fregatidae

Fregata ariel

DARTERS:

Darter

Anhingidae

Anhinga anhinga

HERONS AND BITTERNs:

Dusky-Grey Heron

Ardeidae

Ardea sumatrana

Purple Heron

Ardea purpurea

Reef Egret

Egretta sacra

Chestnut Bittern

Ixobrychus cinnamomeus

STORKS:

Storm's Stork

Ciconiidae

Ciconia stormii

Lesser Adjutant Stork

Leptoptilos javanicus

EAGLES, HAWKS, KITES:

Honey Buzzard

Accipitridae

Pernis ptilorhynchus

Crested Goshawk

Accipiter trivirgatus

Grey-Headed Fishing Eagle

Ichthyophaga ichthyaetus

Lesser Fishing Eagle

Ichthyophaga nana

Crested Serpent Eagle

Spilornis cheela

OSPREYS:

Osprey

Pandionidae

Pandion haliaetus

FALCONS:

Common Falconet

Falconidae

Microhierax caerulescens

White-Fronted Falconet

Microhierax latifrons

Peregrine Falcon

Falco peregrinus

MEGAPODES:

Megapode

Megapodiidae

Megapodius freycinet

PARTRIDGES AND PHEASANTS:

Long-Billed Partridge

Phasianidae

Rhizothera longirostris

Ferruginous Wood Partridge

Caloperdix ocella

Red-Breasted Tree Partridge

Arborophila hyperythra

Chestnut-Breasted Tree Partridge

Arborophila charltoni

Black Wood Partridge

Melanoperdix nigra

PART II GAME ANIMALS

Elephant

Banteng

(Bos sondiacus lowi)

Clouded leopard

Malay Bear

PART III DEER

Sambur Deer

Barking Deer/Mouse Deer

PART IV TURTLES

Green turtle

Hawksbill Turtle

PART V PROTECTED BIRDS

FRIGATE BIRDS:

Lesser Frigate Bird

Fregatidae

Fregata ariel

DARTERS:

Darter

Anhingidae

Anhinga anhinga

HERONS AND BITTERNs:

Dusky-Grey Heron

Ardeidae

Ardea sumatrana

Purple Heron

Ardea purpurea

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STORKS:

Storm's Stork

Ciconiidae

Ciconia stormii

Lesser Adjutant Stork

Leptoptilos javanicus

EAGLES, HAWKS, KITES:

Honey Buzzard

Accipitridae

Pernis ptilorhynchus

Crested Goshawk

Accipiter trivirgatus

Grey-Headed Fishing Eagle

Ichthyophaga ichthyaetus

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OSPREYS:

Osprey

Pandionidae

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FALCONS:

Common Falconet

Falconidae

Microhierax caerulescens

White-Fronted Falconet

Microhierax latifrons

Peregrine Falcon

Falco peregrinus

MEGAPODES:

Megapode

Megapodiidae

Megapodius freycinet

PARTRIDGES AND PHEASANTS:

Long-Billed Partridge

Phasianidae

Rhizothera longirostris

Ferruginous Wood Partridge

Caloperdix ocellata

Red-Breasted Tree Partridge

Arborophila hyperythra

Chestnut-Breasted Tree Partridge

Arborophila charltoni

Black Wood Partridge

Melanoperdix nigra

FAUNA CONSERVATION

Crested Green Wood Partridge	<i>Rollulus roulroul</i>
Crimson-Headed Wood Partridge	<i>Haematortyx sanguiniceps</i>
Crestless Fireback Pheasant	<i>Lophura erythrophthalma</i>
Crested Fireback Pheasant	<i>Lophura ignita</i>
Bulwer's Pheasant	<i>Lophura bulweri</i>
Malaysian Peacock-Pheasant	<i>Polyplectron malacense</i>
Great Argus Pheasant	<i>Argusianus argus</i>
CRAKES AND RAILS:	Rallidae
White-Breasted Waterhen	<i>Amaurornis phoenicurus</i>
STONE PLOVERS:	Burhinidae
Reef Thick-Knee	<i>Esacus magnirostris</i>
GULLS:	Laridae
Black-Naped Tern	<i>Sterna sumatrana</i>
Bridled or Brown-Winged Tern	<i>Sterna anaetheta</i>
PIGEONS AND DOVES:	Columbidae
Black-Naped Fruit Pigeon	<i>Ptilinopus melanocephalus</i>
Pickering's Imperial Pigeon	<i>Ducula pickeringi</i>
Metallic Wood Pigeon	<i>Columba vitiensis</i>
Grey Wood Pigeon	<i>Columba argentina</i>
Spotted-Necked Dove	<i>Streptopelia chinensis</i>
Emerald Dove	<i>Chalcophaps indica</i>
Nicobar Pigeon	<i>Caloenas nicobarica</i>
HORNBILLS:	Bucerotidae
White-Crested Hornbill	<i>Berenicornis comatus</i>
Bushy-Crested Hornbill	<i>Anorrhinus galeritus</i>
Wrinkled Hornbill	<i>Aceros leucocephalus</i>
Wreathed Hornbill	<i>Aceros undulatus</i>
Black Hornbill	<i>Anthracoceros malayanus</i>
Pied Hornbill	<i>Anthracoceros coronatus</i>
Rhinoceros Hornbill	<i>Buceros rhinoceros</i>
Helmeted Hornbill	<i>Rhinoplax vigil</i>
HONEYGUIDES:	Indicatoridae
Malaysian Honeyguide	<i>Indicator archipelagicus</i>
THRUSHES AND CHATS:	Turdidae
Orange-Headed Ground Thrush	<i>Zoothera citrina</i>
Everett's Ground Thrush	<i>Zoothera everetti</i>
Chestnut-Headed Ground Thrush	<i>Zoothera interpres</i>
BABLERS:	Timaliidae
Black-Browed Jungle Babbler	<i>Trichastoma perspicillatum</i>
WOOD SHRIKES:	Prionopidae
Bald-Headed Wood Shrike	<i>Pityriasis gymnocephala</i>

FAUNA CONSERVATION

Crested Green Wood Partridge	<i>Rollulus roulroul</i>
Crimson-Headed Wood Partridge	<i>Haematortyx sanguiniceps</i>
Crestless Fireback Pheasant	<i>Lophura erythrophthalma</i>
Crested Fireback Pheasant	<i>Lophura ignita</i>
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Malaysian Peacock-Pheasant	<i>Polyplectron malacense</i>
Great Argus Pheasant	<i>Argusianus argus</i>
CRAKES AND RAILS:	Rallidae
White-Breasted Waterhen	<i>Amaurornis phoenicurus</i>
STONE PLOVERS:	Burhinidae
Reef Thick-Knee	<i>Esacus magnirostris</i>
GULLS:	Laridae
Black-Naped Tern	<i>Sterna sumatrana</i>
Bridled or Brown-Winged Tern	<i>Sterna anaetheta</i>
PIGEONS AND DOVES:	Columbidae
Black-Naped Fruit Pigeon	<i>Ptilinopus melanocephalus</i>
Pickering's Imperial Pigeon	<i>Ducula pickeringi</i>
Metallic Wood Pigeon	<i>Columba vitiensis</i>
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Black Hornbill	<i>Anthracoceros malayanus</i>
Pied Hornbill	<i>Anthracoceros coronatus</i>
Rhinoceros Hornbill	<i>Buceros rhinoceros</i>
Helmeted Hornbill	<i>Rhinoplax vigil</i>
HONEYGUIDES:	Indicatoridae
Malaysian Honeyguide	<i>Indicator archipelagicus</i>
THRUSHES AND CHATS:	Turdidae
Orange-Headed Ground Thrush	<i>Zoothera citrina</i>
Everett's Ground Thrush	<i>Zoothera everetti</i>
Chestnut-Headed Ground Thrush	<i>Zoothera interpres</i>
BABLERS:	Timaliidae
Black-Browed Jungle Babbler	<i>Trichastoma perspicillatum</i>
WOOD SHRIKES:	Prionopidae
Bald-Headed Wood Shrike	<i>Pityriasis gymnocephala</i>

SECOND SCHEDULE

(Section 31)

FEES

Section 8

1. Game licence and forest game licence—
 - (a) Per head of the following animals included in the licence

Elephant	\$100 per head
Banteng	50 per head
Clouded leopard	40 per head
Malay Bear	20 per head
 - (b) Other animals 5 per licence
2. Megapode egg licence 10
3. Turtle egg licence 10
4. Turtle licence 5 per head
of turtle
5. Special licence 100

Section 19

6. Certificate of ownership of trophy \$ 10
 Provided that if such trophy was obtained outside Sabah no fee shall be charged for such certificate.

Section 20

7. Permit to keep live animal or bird \$ 10

THIRD SCHEDULE

(Omitted.)

“Sambhur deer (cervus unicolor)	...	50 per head
Barking deer (Muntiacus muntjak)	...	50 per head
Larger Mousedeer (Tragulus napu)	...	10 per head
Lesser Mousedeer (Tragulus javanicus)	...	10 per head”.

Burung Cembale Pelanduk (Hooded Pitta atau Pitta sordida)

STARLINGS, MYNAS:

Burung Tiong (Talking Myna atau Gracula religiosa)"

Dibuat di Kota Kinabalu, pada 20 November 1982.

Dengan Perintah Tuan Yang Terutama

DATUK DR. JAMES P. ONGKILI,
Pemangku Ketua Menteri.

FAUNA CONSERVATION ORDINANCE, 1963

(Ordinance No. 11 of 1963)

FAUNA CONSERVATION

(AMENDMENT OF FIRST SCHEDULE) ORDER, 1982

In exercise of the powers conferred by section 32 of the Fauna Conservation Ordinance, 1963, the Yang di-Pertua Negeri makes the following order:

Ordinance
No. 11 of 1963.

1. This Order may be cited as the Fauna Conservation (Amendment of First Schedule) Order, 1982 and shall come into force on 1st November, 1982.

Citation and
commencement

2. The First Schedule to the Fauna Conservation Ordinance, 1963, (hereinafter referred to as the "Principal Ordinance") is amended—

Amendment of
First Schedule
Ordinance
No. 11 of 1963.

(a) in Part I thereof, by adding to the list of protected animals the following animals:—

"Harimau Dahan (Clouded Leopard atau Neofelis nebulosa)

Kucing Batu (Leopard Cat atau felis bengalensis)

Kucing Dahan (Marbled Cats atau felis marmorata)

Kong Kang (Slow Loris atau Nycticebus coucang)

Kubong (flying Lemur atau dynocephalus variegatus)

Monyet Merah (Maroon-Leaf Monkey atau Presbytis rubicunda)

Monyet Kikok (Grey-Leaf Monkey atau Presbytis Hosei)

Monyet Kelabu (Silvered Leaf Monkey atau Presbytis Cristata)

Musang Hitam Pudar (Hose's Civet atau Hemigalus hosei)

Babut (Giant Tufted Ground Squirrel atau Rheithrosciurus marcofis)

Kucing Merah (Borneo Bay Cat atau felis badia)

Tenggiling (Fangolin atau Manis Javanica)

Berok (Big-Tailed Macaque atau *Macaca memestrina*)
 Kera (Long-Tailed Macaque atau *Macaca fascicularis*)
 Musang Binturong (Binturong atau *Arctictis Binturong*)
 Memerang Kumis (Hairy Nosed Otter atau *Lutra sumatrana*)
 Memerang Kecil (Oriental Small-Clawed Otter atau *Aonyx cinerea*)
 Musang Memarang (Otter-Civet atau *Cynogale bennettii*)
 Flat-Headed Cat (*Felis planiceps*)
 Musang Linsang (Banded Lisang atau *Prionodon lisang*)
 Tembadau (Panteng atau *Bos javanicus*)
 Buaya Tembaga (Estuarine Crocodile atau *Crocodylus porosus*)
 Buaya Julung-julung (Charial atau *Tomistome schlegelii*)
 Ferret-Badger (*Melogale orientalis*)
 Penyu Hijau (Green Turtle atau *Chelonia mydas*)
 Penyu Sisik (Hawksbill Turtle atau *Eretmochelys imbricata*)”

(b) in Part II thereof—

- (i) by deleting the words “Banteng (*Bos sondaicus lowi*)” and “Clouded leopard”, and
- (ii) by adding the following:—
- “Rusa/Payau (Sambir Deer atau *Cervus unicolor*)
 Kijang (Barking deer atau *muntiacus muntjak*)
 Napoh (Larger Mousedeer atau *Tragulus napau*)
 Pelanduk (Lesser Mousedeer atau *Tragulus javanicus*)”;

(c) in Part V thereof—

- (i) under the heading “HERONS AND BITTERNs” by adding the following:—
- “Burung Seriap (Grey Heron atau *Ardea cinerea*)
 Burung Bangau Kecil (Little Egret atau *Egretta garzetta*)
 Plumed Egret (*Egretta intermedia*)
 Burung Bangau China (Chinese Egret atau *Egretta eulophates*)
 Pucong Keladi (Little Heron atau *Butorides striatus*)
 Burung Kuak (Black-Crowned Heron atau *Nycticorax nycticorax*)
 Rufous Night Heron (*Nycticorax caledonicus*)
 Malayan Night Heron (*Gorsachius melanolophus*)

- Pucong Merah (Yellow Bittern atau *Ixobrychus sinensis*)
 Pucong Hitam (Black Bittern atau *dupetor flavicollis*”);
- (ii) under the heading “EAGLES, HAWKS, KITES”, by adding the following:—
- “Helang Merah (Brahminy Kite atau *Haliastur indus*)
 Black Kite (*Milvus migrans*)
 Helang Malam (Bat Hawk atau *Machaerhampus alcinus*)
 Helang Hitam (Black-Eagle atau *Ictinaetus Malayensis*)
 Helang Siput (White-Bellied Sea Eagle atau *Haliaetus leucogaster*)
 Jerdon’s Baza (*Aviceda jerdoni*)
 Helang Hindik (Changeable Hawk-Eagle atau *spizaetus cirrhatus*)
 Blythis Hawk-Eagle (*Spizaetus alboniger*)
 Wallace’s Hawk-Eagle (*Spizaetus nanus*)
 Rufous-Bellied Eagle (*Hieraetus kienerli*)”;
- (iii) Under the heading “FALCONS”, by adding the following:—
- “Oriental Hobby (*falco severus*)
 Eurasian Kestrel (*falco tinnunculus*)”
- (iv) Under the heading “PIGEONS AND DOVES” by adding the following:—
- “Peragam Hijau (Green Imperial Pigeon atau *Ducula aenea*)
 Peragam Bumit (Mountain Imperial Pigeon atau *Ducula padia*)”;
- (v) Under the heading “THRUSHES AND CHATS” by adding the following:—
- “White-Crowned shama (*Copsychus stricklandi*)
 Burung Murai (Magpie Robin atau *Copsychus saularis*)
 Murai Batu (White-pumped Shama atau *Copsychus malabaricus*)
 White-Crowned Forktail (*Enicurus leschenaulti*)”;

3. The First Schedule to the Principal Ordinance is amended by adding immediately after Part V thereof the following new list of protected birds:—

OWLS:

Burung Pungguk Api (Bay Owl atau *Phodilus badius*)

Reddish Scops-Owl (*Otus rufescens*)
 Mountain Scope-Owl (*Otus spilacephalus*)
 Burung Hantu (Common Scope-Owl atau otus scops)
 Burung Hantu Jampuk (Collared Scops-Owl atau Otus
 bakkamoena)
 Barred Eagle-Owl (*Bubo sumatranus*)
 Buffy Fish-Owl (Ketupa ketupu)
 Burung Pungguk Kecil (Collared Owlet atau *Glaucidium*
 brodiei)
 Burung Betemak (Brown Hawk-Owl atau *Ninox scutulata*)
 Brown Wood-Owl (*Strix leptogrammica*);

CORMORANIS :

Great Cormorant (*Phalacrocorax carbo*)

PARROTS :

Blue-Napek Parrot (*Tanygnathus lucinensis*)

Long-Tailed Parakeet (*psittacula longicauda*)

Burung Turipas (Malay Lorkeet atau *Loriculus galculus*)

FLYCATCHERS :

Murai Ekor Gading (Paradise Flycatcher atau *Terpsiphone*
 paradisi)

PITTAS :

Blue-Banded Pitta (*Pitta arcuata*)

Blue-header Pitta (*Pitta baudi*)

Burung Pacat Kepala Merah (Garnet Pitta atau *granatina*)

Burung Pacat Ekor Biru (Banded Pitta atau *Pitta guajana*)

Burung Pacat Sayap Biru (Blue-Winged Pitta atau *Pitta*
brachyura)

Burung Cembale Pelanduk (Hooded Pitta atau *Pitta sordida*)

STARLINGS, MYNAS :

Burung Tiong (Talking Myna atau *Gracula religiosa*)"

Made at Kota Kinabalu, this 20th day of November, 1982.

By His Excellency's Command,

DATUK DR. JAMES P. ONGKILI,
Pemangku Ketua Menteri.