

THE PROTECTION OF WILDLIFE AND CONSERVATION OF NATURAL AREAS LAW (1994)

The State Law and Order Restoration Council Law No. 6/94
The 15th Waning Day of Kason, 1356 M.

8th June, 1994

The State Law and Order Restoration Council hereby enacts the following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Protection of Wildlife and Conservation of Natural Areas Law.
2. The following expression contained in this Law shall have the meanings given hereunder:-
 - (a) "Wildlife" means the wild animals and wild plants in their natural habitats;
 - (b) "Wild Animal" means naturally bred animals, birds, insects, aquatic animals and their spawns, larvae, fry and seeds in their natural habitats;
 - (c) "Wild Plant" means trees, shrubs, climbers, bamboos, canes, orchids, fungus, aquatic plants and their seeds growing in their natural habitats;
 - (d) "Natural Area" means the area determined under this Law for the purpose of Protection and Conservation of wildlife, ecosystem or significant landscape for their sustainment;
 - (e) "Ecosystem" means the evolving ecosystem constituting the living and non-living organisms and plants living in symbiosis and the natural environment evolved from such system;
 - (f) "Habitat" means the area in which wildlife species naturally occurs;
 - (g) "Zoological Garden" means a garden where animals are kept in captivity for making research and where the public may visit for recreation, on payment of a fee;
 - (h) "Botanical Garden" means a garden where wild plants and cultivated plants are conserved for making research and where the public may visit for recreation on payment of a fee;
 - (i) "Forest Land" means reserved forest formed under the Forest Law and protected public forest notified under this Law;

- (j) “Committee” means the Committee for the protection of Wildlife and Conservation of Natural Areas formed under this Law;
- (k) “Supervisory Body” means the Body for the Supervision of the Zoological Garden or Botanical Garden formed under this Law;
- (l) “Minister” means the Minister for the Ministry of Forestry;
- (m) “Director General” means the Director General of the Forest Department;
- (n) “Forest Officer” means the officers at different levels from the Head of Township Forest Department to the Director of the Forest Department who have been assigned to carry out the functions and duties under this Law;
- (o) “Forest Staff” means the staff at different levels from a Forest Guard to the Director General of the Forest Department who has been assigned to carry out the functions and duties under this Law.

CHAPTER II OBJECTIVES

3. The objectives of this Law are as follows:-

- (a) to implement the Government policy for wildlife protection;
- (b) to implement the Government policy for natural areas conservation;
- (c) to carry out in accordance with the International Conventions acceded by the State in respect of the protection and conservation of wildlife, ecosystems and migratory birds;
- (d) to protect endangered species of wildlife and their natural habitats;
- (e) to contribute for the development of research on natural science;
- (f) to protect wildlife by the establishment of zoological gardens and botanical gardens.

CHAPTER III FORMATION OF THE COMMITTEE AND FUNCTIONS AND DUTIES THEREOF

4. The Government:-

- (a) shall form the Committee for Protection of Wildlife and of Natural Areas consisting of the following persons:

- (i) Chairman: Minister, Ministry of Forestry;
 - (ii) Members: Representatives from the relevant Government departments and Government organizations;
 - (iii) Members: Relevant luminaries and experts;
 - (iv) Secretary: A person assigned responsibility by the Chairman;
- (b) The Government may determine the Vice-Chairman and Joint Secretary when necessary.
5. A Committee member who is a non-Government servant is entitled to receive such remuneration as may be prescribed by the Minister.
6. The duties and functions of the Committee are as follows:-
- (a) giving guidance to enable implementation of the objectives of this Law;
 - (b) submitting suggestions to enable the Government to lay down policies relating to protection of wildlife;
 - (c) submitting suggestions to enable the Government to lay down policies relating to the conservation of natural areas;
 - (d) co-ordinating with the relevant Government departments and Government organizations for determination of natural areas and establishment of the Zoological garden and Botanical garden;
 - (e) supervising the performance of functions relating to protection of wildlife and conservation of natural areas;
 - (f) giving guidance for the protection of endangered species of both flora and fauna;
 - (g) giving guidance in respect of conducting research on natural science;
 - (h) communicating and co-operating with foreign countries, international organizations and regional organizations.

CHAPTER IV

DETERMINATION OF NATURAL AREAS AND ESTABLISHMENT OF ZOOLOGICAL GARDEN AND BOTANICAL GARDENS

7. The categories of natural areas are as follows:-
- (a) Scientific Reserve;

- (b) National Park;
- (c) Marine National Park;
- (d) Nature Reserve;
- (e) Wildlife Sanctuary;
- (f) Geo-physically Significant Reserve;
- (g) other Nature Reserve determined by the Minister.

8. The Minister:-

(a) may in any region, with the approval of the Government and for purpose of the objective of this Law, by notification if necessary:-

- (i) determine the natural areas according to the categories;
- (ii) establish the zoological gardens and botanical gardens;
- (b) if desirous of determining and establishing under sub-section (a) in any land under the administration of a Government department or Government organization with the exception of forest land shall do so after prior co-ordination with the relevant Government department or Government organization;
- (c) if desirous of determining and establishing under sub-section (a) in any land in which an individual or a private organization has the right of cultivation, right of possession, right of use and occupancy, beneficial enjoyment, heritable right or transferable right shall do so after prior co-ordination with the relevant Ministry for acquiring land in accordance with the existing land acquisition laws;
- (d) shall notify in advance in the manner prescribed the land on which and the boundary within which it is proposed to determine and establish under sub-section (a);
- (e) shall form and assign duties to a Preliminary Scrutiny Body to inquire into and determine in the manner prescribed the affected rights of the public in the relevant area within which it is proposed to determine and establish under sub-section (a) and to carry out the work of demarcation.

9. The Minister may, with the approval of the Government:-

- (a) revise, alter the category or cancel the whole or a portion of the area of a natural area determined under section 8;

(b) revise or cancel the whole or a portion of the area of the zoological garden or botanical garden established under section 8.

10. The Minister:-

(a) shall form a Supervisory Body to supervise each zoological garden or botanical garden established under section 8 and determine the functions and duties thereof;

(b) may alter the formation of or abolish the Supervisory Body, as may be necessary.

11. The Director General shall, with the approval of the Minister make provisions for reasonable rights and privileges in respect of the affected rights of the people in the region in which it is proposed to establish under section 8.

12. The Director General may, with the approval of the Minister:-

(a) allow, after stipulating conditions scientific research, environmental study and recreation in the natural area, with the exception of the totally prohibited area;

(b) provide and carry out necessary measures to prevent external environmental dangers and disturbances within the natural areas;

(c) exchange wildlife species with foreign countries.

13. The Director General:-

(a) may carry out culling measures for sustainment of wild animal in the natural areas;

(b) shall determine condition and notify it for public information to be abided by people visiting the zoological garden and botanical garden established under section 8 for recreation.

14. The Forest Department shall carry out the following functions and duties according to the category of natural area in conformity with the guidance laid down by the Committee or the Minister:-

(a) preservation to enable conducting research on natural evolutionary system within the Scientific Reserve;

(b) preservation of varied ecosystems and permitting research to be conducted and the public to visit for recreation within the National Park without causing damage to Its natural state;

(c) preservation of naturally bred creatures, their habitats of coral reefs, planktons, moss and algae and wildlife breeding and inhabiting along the coast, in deltaic areas and their habitats within the Marine National park, in order that they may exist in their natural state;

(d) preservation of species of significant and rare wild plants and the natural evolution of ecosystem for their sustainment within the Nature Reserve;

(e) communicating and co-operating with international organizations for the preservation of wild animal within the sanctuary and for conserving wetland where migratory birds dwell;

(f) conservation of regions which are distinguished for their picturesque landscape and traditional customs within the geo-physically significant Re sense.

CHAPTER V PROTECTED WILDLIFE

15. The Director General shall, with the approval of the Minister:

(a) determine and declare endangered species of wild animal which are to be protected according to the following categories:

(i) completely protected species of wild animals;

(ii) normally protected species of wild animals;

(iii) seasonally protected species of wild animals;

(b) determine and declare the endangered species of wild plants and their nature habitats thereof;

(c) lay down and carry out measures for the preservation of protected wildlife species;

(d) co-ordinate with the relevant department or organization if the wildlife which are to be determined for protection are under the administration of another Government department or Government organization.

16. The Director General may, with the approval of the Minister:-

(a) permit for capture and possession of completely protected wild animal by stipulating conditions to Government departments. Government organizations or non-governmental organizations which have been permitted to conduct research on them to enable scientific research;

(b) permit for extraction, transportation and possession of protected wild plants from the protected natural area to enable experiment and reproduction to a person who has been permitted to conduct research on them to enable scientific research.

17. The Director General may:-

- (a) declare the species of wild animal which can be raised on commercial basis from among the normally protected wild animal and seasonally protected wild animal;
- (b) permit for capture, farming or transfer by stipulating conditions of wild animal which can be raised on commercial basis and, have been declared under sub-section (a);
- (c) allow by stipulating conditions raising normally protected wild animal and seasonally protected wild animal as a hobby and as a traditional custom;
- (d) lay down appropriate measures or issue directives to prevent contagious diseases and cross-breeding within the natural area to persons raising any kind of animal, if necessary within the vicinity of the natural area.

18. (a) The Director General may, with the approval of the Minister, makes recommendations for the export of wild animal permitted to be raised on commercial basis or any part thereof;

(b) The Forest Officer assigned by the Director General may permit removal or transportation from one township to another of wild animal which is permitted to be hunted or to be raised on commercial basis or any part thereof.

CHAPTER VI HUNTING

19. The Director General may grant a hunting licence, by stipulating terms and conditions to a hunter to hunt wild animals other than wild animals inhabiting within a natural area and protected wild animals.

20. A person who has been granted a hunting licence shall:-

- (a) pay the hunting licence fees as prescribed;
- (b) abide by the terms and conditions of the hunting licence;
- (c) accept the inspection of the Forest Department.

CHAPTER VII RIGHT TO ESTABLISH ZOOLOGICAL GARDEN AND BOTANICAL GARDEN

21. The Minister may, with the approval of the Government:-

- (a) permit by stipulating terms and conditions the application in the manner prescribed to operate the zoological garden or botanical garden established under section 8 in joint

venture between the Government and any individual or any economic organization, or by any individual or any economic organization in the interest of the State;

(b) permit by stipulating terms and conditions the application in the manner prescribed to establish a private zoological garden or botanical garden.

22. The Minister:-

(a) shall form a Supervisory Body and prescribe the functions thereof to supervise each of the zoological garden or botanical garden permitted to be established under section 21 subsection (a), if necessary;

(b) may re-constitute or abolish the Supervisory Body as may be necessary.

23. A person who has obtained permission to establish a zoological garden or botanical garden under section 21 shall apply to the Director General in the prescribed manner for a licence to operate.

24. The Director General:-

(a) may, in respect of the application for a licence to operate a zoological garden or botanical garden scrutinize as to whether it is in conformity with the prescribed requirement of work and grant or refuse the licence;

(b) shall determine the conditions of the licence to operate the zoological garden or botanical garden;

(c) may with the approval of the Minister, revoke the licence, subject to a time limit or cancel the licence in case of violation of the conditions to be abided by person who has obtained a licence to operate.

25. A person who has obtained a licence to operate a zoological garden or botanical garden:-

(a) shall abide by the conditions of the licence to operate, prescribed by the Director General;

(b) shall pay in Myanmar kyats or in foreign currency taxes relating to the licence to operate, in the prescribed manner;

(c) shall, if he dies before the expiry of the tenure of the licence to operate be represented by his legal representative, who shall apply to the Director General in the manner prescribed.

CHAPTER VIII
REGISTRATION

26. (a) A person who possesses as a souvenir or wearing as a traditional custom any part of a completely protected animal, before this Law comes into force shall register at the relevant Township Forest Department in the manner prescribed by the Ministry of Forestry;

(b) With the exception of a person who has inherited under a traditional custom from a person registered under sub-section (a), a person who has received in any other manner shall register at the relevant Township Forest Department in the manner prescribed by the Ministry of Forestry;

(c) For the purpose of research of a completely protected animal after this Law comes into force, a Government department, a Government organization or a non-governmental organization which has been permitted to capture or possess such animal under section 16 sub-section (a) and which is desirous of possessing any part thereof to conduct research or as a souvenir shall register in the manner prescribed by the Ministry of Forestry.

27. A Forest Officer who has been assigned to perform the functions of registration by the Director General:-

(a) may scrutinize the application for registration under section 26 in the manner prescribed and register or refuse registration;

(b) if registration is effected under sub-section (a) shall issue a certificate of registration to the applicant.

CHAPTER IX
TAKING ADMINISTRATIVE ACTION

28. In order to take administrative action, the Forest Staff shall, in respect of search, seizure and disposal of exhibits carry out in the manner prescribed.

29. A Forest Officer may pass an administrative order causing a fine which may extend to kyats 1000 to be paid, on a person who commits any of the following acts within a natural area or within the zoological garden or botanical garden which is administered by the Government or towards which the Government has subscribed share capital:-

(a) entering a place where the public is permitted to visit for recreation, without conforming to the conditions stipulated;

(b) trespassing a prohibited place other than a place where the public is permitted to visit for recreation, without permission;

(c) grazing or free grazing or causing domestic animals to trespass;

(d) frightening or willfully disturbing protected wild animals;

(e) plucking or breaking without permission any kind of wild plants and cultivated plants.

30. A Forest Officer may pass an administrative order causing a fine which may extend to kyats 5,000 to be paid, on a person who commits any of the following acts within a natural area or within the zoological garden or botanical garden which is administered by the Government or towards which the Government has subscribed share capital:-

(a) entering a totally prohibited area without permission;

(b) filming or video recording without permission;

(c) digging on the land, cultivating or carrying out any work;

(d) extracting collecting or injuring in any manner any kind of cultivated plants.

31. A Forest Officer may pass an administrative order causing a fine which may extend to kyats 10,000 to be paid, on a person who kills, hunts, wounds or raises a seasonally protected wild animal without permission during the close season.

32. A Forest Officer shall:-

(a) when passing an administrative order, confiscate the products of a natural area or of the zoological garden or botanical garden which is administered by the Government or towards which the Government has subscribed share capital;

(b) dispose the confiscated products in the manner prescribed.

CHAPTER X APPEAL

33. A person dissatisfied with an administrative order passed by a Forest Officer may file an appeal to the Director General within 30 days from the date of such order.

34. The decision of the Director General shall be final and conclusive.

CHAPTER XI OFFENCES ARID PENALTIES

35. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 3 years or with fine which may extend to kyats 10,000 or with both:-

(a) hunting without a licence;

- (b) violation of any condition of the hunting licence;
- (c) raising without permission, for commercial purpose normally protected wild animals and seasonally protected wild animals;
- (d) causing water and air pollution, causing damage to a water-course or putting poison in the water in a natural area;
- (e) possessing or disposing of pollutants or mineral pollutants in a natural area;
- (f) establishing and operating a zoological garden or a botanical garden without a licence.

36. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 5 years or with fine which may extend to kyats 30,000 or with both:-

- (a) killing, hunting or wounding a normally protected wild animal or seasonally protected wild animal without permission, possessing, selling, transporting or transferring such wild animal or any part thereof without permission;
- (b) extracting, collecting or destroying in any manner any kind of protected wild plants within the prescribed area without permission;
- (c) destroying ecosystem or any natural state in the natural area;
- (d) altering, removing, destroying or obliterating without permission. any boundary mark of a natural area or any boundary mark of a zoological garden or botanical garden administered by the Government or in which the Government has subscribed share capital.

37. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 7 years or with fine which may extend to kyats 50,000 or with both:-

- (a) killing, hunting or wounding a completely protected wild animal without permission, possessing, selling, transporting or transferring such wild animal or any part thereof without permission;
- (b) exporting without the recommendation of the Director General a completely protected wild animal or a protected wild plant or any part thereof.

38. The provisions of section 36 sub-section (a) or section 37 sub-section (a) shall not apply to:-

- (a) the possessing as a souvenir or wearing as a traditional custom of any part of normally protected wild animal or a seasonally protected wild animal;

(b) the possessing or wearing with a certificate of registration issued under section 27 subsection (b) of any pad of a completely protected wild animal;

(c) the possessing, use, sale, transport or transfer of a drug prepared from a part of a protected wild animal.

39. The Convicting Court shall, in respect of any legal proceeding instituted under this Law award punishment for the relevant offence and in addition:-

(a) may pass order for the value of the loss and damage to the Forest Department caused by the offender, to be paid by way of compensation to the Forest Department;

(b) shall confiscate the wild animal, wild plants and parts thereof involved in the commission of the offence and hand over the same to the Forest Department;

(c) may pass an order for confiscation of vehicles/vessels, animals and other machinery and implements involved in the commission of the offence.

CHAPTER XII MISCELLANEOUS

40. Wildlife sanctuaries which have been declared under the Wild Life Protection Act, 1936 shall be deemed to be wildlife sanctuaries determined as a natural area under this Law.

41. If an exhibit relating to any legal proceeding instituted under this Law is not easily produceable before the Court, such exhibit need not be produced before the Court. However, a report or other relevant documentary evidence as to the manner of custody of the same may be submitted. Such submission shall be deemed as if it were a submission of the exhibit before the Court and the relevant Court may dispose of the same in accordance with law.

42. In instituting legal proceedings under this Law prior sanction of the Ministry of Forestry shall be obtained.

43. In a case where administrative action is taken or where a legal proceeding is instituted under this Law, the burden of proving lawful ownership or lawful right of possession in respect of the exhibit seized shall lie on the person against whom action is taken.

44. When a request is made by the Forest Staff for assistance in the performance of their duties, the Myanmar Police Force shall render necessary assistance.

45. All money payable to the Forest Department under this Law shall be recovered as if it were an arrear of land revenue. A Forest Officer who has been assigned responsibility by the Ministry of Forestry for this purpose shall exercise the powers of a Collector under the existing laws.

46. Before the issuance of rules, procedures, notifications, orders and directives under this Law, rules, notifications, orders, directives and circulars issued under the Wild Life Protection Act, 1936 may continue to be applicable in so far as they are not inconsistent with this Law.

47. For the purpose of carrying out the provisions of this Law:-

(a) the Ministry of Forestry may issue such rules and procedures as may be necessary, with the approval of the Government;

(b) the Ministry of Forestry or the Forest Department may issue such notifications, orders and directives as may be necessary.

48. The Wild Life Protection Act, 1936 is hereby repealed.

Sd./ Than Shwe
Senior General
Chairman
The State Law and Order Restoration Council