

NATURE RESERVES AND CONSERVANCY BILL, 2021

(Bill No. 62 of 2021)

OBJECTS AND REASONS

Preserving the natural resources available is of prime importance to every country. Most of the countries have developed their own methods of preserving the resources gifted to them by Mother Nature. Statutory nature reserves and national parks are common efforts in this direction.

The present law in force in Seychelles for preserving areas of importance in respect of flora, fauna or features of geological or other special interest is the National Parks and Nature Conservancy Act (Cap 141). In order to make the optimal use of the limited land areas, preserving the sea and ecologically fragile and environmentally rich resources of the Republic, it is considered necessary to relook into the existing provisions of the law so as to cope with the present day needs and enabling private participation in preserving and managing nature reserves.

This Bill seeks to repeal the existing National Parks and Nature Conservancy Act (Cap 141) and replace it with a new law.

The Bill is divided into eleven parts.

Part I provides for preliminary matters such as short title, commencement and interpretation.

Part II provides for constitution and composition of the National Advisory Committee and functions of the Advisory Committee.

Part III provides for Protected Areas, that is, designation of protected areas, procedure for designation of protected areas, private submission of proposal to designate, and revocation of designation.

Part IV provides for Interim Protection by notice published in the Gazette.

Part V provides for designation of an area as seasonally protected area by the Minister by order published in the Gazette.

Part VI provides for management, development and regulation of activities in a protected area or category of protected areas such as Minister's power to assign or enter into agreement with the owner or other person responsible for protected areas, termination of management agreement, activity in a protected area including commercial activity and development of protected area.

Part VII provides for access and restrictions that is the guidelines and conditions for access, and entrance fee to enter a protected area.

Part VIII provides for enforcement and compliance provisions such as appointment of authorised officers, powers of authorised officers, power to seize articles and equipments etc., engaging private security services, removal of persons from a protected area, and surveillance and operations of a protected area.

Part IX provides for offences and penalties that is to say fixed penalties for contravention of certain provisions, offences and punishments and compounding of offences.

Part X provides for Appeals Board and Appeals.

Part XI provides for miscellaneous provisions such as maintaining of records, protection against legal proceedings for action taken in good faith, Minister's power to make regulations and repeal and savings.

Dated this day of NOVEMBER, 2021.

FLAVIEN JOUBERT
MINISTER FOR AGRICULTURE, CLIMATE CHANGE AND
ENVIRONMENT

NATURE RESERVES AND CONSERVANCY BILL, 2021

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NATURE RESERVES AND CONSERVANCY BILL, 2021

(Bill No. 62 of 2021)



A BILL FOR

AN ACT TO PROVIDE FOR THE CONSERVATION OF BIOLOGICAL DIVERSITY AND THE SUSTAINABLE USE OF ITS COMPONENTS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Nature Reserves and Conservancy Act, 2021 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —

“activity” means a process or operation whether commercial, industrial, domestic, agricultural or recreational carried out in a specific location or defined geographical space;

“Appeals Board” means the Appeals Board referred to in section 28 of this Act;

“authorised officer” means a person appointed under section 19, by the person managing the protected area with prior approval of the Minister,;

“biological diversity” means the variability among living organisms from all sources including, *inter alia* terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part and includes diversity within species, between species and of ecosystem;

“co-management” means an agreement between the person managing the protected area and another person or groups of persons interested in the preservation of that area and its resources, and the entities responsible for the conservation and sustainable use of the area and its resources;

“Committee” means the National Advisory committee constituted under section 3;

“conservation” means protection of biological diversity including associated ecosystem and cultural values;

“ecosystem” means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

“ecological diversity” means a variety of ecosystems on any geographic level;

“environment” means air, water and land and the inter-relationship which exists among and between air, water and land, and human beings, other living creatures, plants, micro-organisms and property;

“fixed penalty” means a fixed penalty under subsection (2) of section 25 and “fixed penalty notice” means a notice issued under subsection (3) of that section offering a person an opportunity to discharge his or her liability to conviction for an offence on payment of the fixed penalty;

“management plan” means a document which sets out the management approach, goals, and framework for decision making to be applied in a protected area over a given period of time;

“Minister” means the Minister responsible for environment and “Ministry” shall be construed accordingly;

“protected area” means a clearly defined geographical space, recognised, dedicated and managed to meet objectives for conservation or sustainable uses;

“person managing a protected area” means the Republic, an authority, a public body or a person, as the case may be, assigned with the management of a protected area by law or under a written agreement;

“sustainable use” means an activity that does not lead to the long term decline in the health and integrity of biological diversity;

“sustainable use area” means a protected area with the objective for conservation and sustainable uses;

PART II - NATIONAL ADVISORY COMMITTEE

Constitution and composition of the National Advisory Committee

3.(1) The Minister shall, appoint a National Advisory Committee to advise the Minister on matters related to protected areas and the Minister

shall cause the names of the persons appointed to be published in the *Gazette*.

(2) The Committee shall consist of five members appointed by the Minister, of which —

- (a) three members shall be representatives of persons managing protected areas; and
- (b) two members shall have expertise in the conservation or sustainable use of biological diversity.

(3) The members of the Committee shall elect one amongst themselves as Chairperson of the Committee and in the absence of the Chairperson one of the members elected by the members present shall chair the proceedings.

(4) In appointing members to the Committee, the Minister shall have regard to representatives from inner islands.

(5) A member of the Committee shall hold office for a period of 3 years and shall be eligible for re-appointment.

(6) A member shall hold office for a maximum period of two consecutive terms.

(7) The Committee shall meet at least two times a year, at such time and place as the Chairperson determines.

(8) At a meeting of the Committee, three members shall constitute the quorum of which one member shall be a qualified and experienced appointee under subsection (2) (b).

(9) The Committee shall regulate its own proceedings.

Functions of the Advisory Committee

4.(1) The functions of the Committee shall include —

- (a) advising the Minister on matters covered under this Act;

- (b) considering any matter that may be referred to it by the Minister;
- (c) consulting, such technical persons as it may consider appropriate to advise on any specific scientific and technical matter;
- (d) recommending to the Minister, the areas that need to be designated as a protected area under this Act; and
- (e) performing such other functions as may be prescribed by regulations.

(2) The Committee shall submit, from time to time, or when required, a report to the Minister on all of its activities.

PART III - PROTECTED AREAS

Designation of protected areas

5.(1) The Minister may, by order published in the *Gazette*, designate an area as a protected area and classify, as may be considered necessary, the area into one of the following categories and assign a name thereto —

- (a) a Strict Nature Reserve;
- (b) an Ecological Reserve;
- (c) a National Park;
- (d) a Protected Landscape or Protected Seascape;
- (e) a Sustainable Use Area; or
- (f) a Transboundary Protected Area.

(2) The Minister may, notwithstanding the criteria under subsection (3), prescribe by regulations, further criteria for the classification of a protected area under subsection (1).

- (3) A protected area may be classified as —
- (a) a Strict Nature Reserve, if there exists a free interaction of natural ecological factors without any outside interference except an interference deemed indispensable for the safeguard of the very existence of the reserve;
 - (b) an Ecological Reserve, if a particular habitat or species, requires protection, subject to regular active interventions to address the needs of these particular species and to maintain their habitat;
 - (c) a National Park, for the purpose of promoting the propagation, protection and preservation of wildlife or aesthetic objects, prehistoric, scientific or other interests or matters of geological, historical or archaeological values for the benefit, advantage and enjoyment of the general public and includes in the case of marine national parks, an area of shore, sea or seabed with coral reef and other marine features;
 - (d) a Protected Landscape or Protected Seascape, if whether or not it is with coast or sea, the natural elements in isolation or through the interaction of people and nature has over time produced an area of distinct character with significant aesthetic, ecological and cultural value, and often with high biological diversity;
 - (e) a Sustainable Use Area, if it is managed with the objectives for conservation and sustainable use; or
 - (f) a Transboundary Protected Area if it is an area of sea or seabed that straddles one or more boundaries between countries, autonomous areas, or areas beyond the boundaries of sovereign states whose constituent parts are dedicated to the protection and maintenance of biological diversity and of natural and associated cultural resources managed co-operatively through legal or other effective means.

(4) The Minister shall, before making an order under subsection (1), ensure that the criteria referred to under subsections (2) and (3) have been adhered to and that the designation of the area will achieve the purpose specified under subsection (5).

(5) An order designating an area as a protected area under subsection (1) may be issued —

- (a) to protect and conserve ecosystems and areas of high biological diversity;
- (b) to protect specific species;
- (c) to promote the propagation and protection of wildlife, environment, aesthetic objects, scientific, cultural or other interests or matters of geological, pre-historical or archaeological values to ensure the long term conservation and sustainable use of ecosystems and bio diversities; and
- (d) to conserve areas that straddles between two sovereign states for the conservation of biological diversity and natural resources under joint management agreements.

(6) The Minister may, by order published in the *Gazette*, revise and alter the boundaries of an area designated under subsection (1).

(7) An order issued under subsection (6) shall be issued only after consultation with the person managing the protected area if that protected area is owned by a private person.

(8) The Minister, before revising and altering the boundaries of a protected area under subsection(6), shall cause a notice, of his or her intention to revise and alter the boundaries, to be published in the *Gazette* and in a local newspaper.

Procedure for designation of protected areas

6.(1) The Minister, before designating an area as protected under section 5, shall give public notice of his or her intention to designate the area as a protected area.

(2) A notice of intention to designate a protected area under subsection (1) shall —

- (a) state the classification of the area in any category under section 5(1);
- (b) describe the area to be designated;
- (c) state the justifications as to why the area requires protection status;
- (d) state that a person may lodge an objection to a designation or make suggestions to the Minister within such period as may be specified in the notice; and
- (e) state the place or places and the time during which the map specified in subsection (4) relating to the area may, without payment of a fee, be inspected.

(3) An objection or a suggestion in pursuance of the notice under subsection (1) shall be in writing accompanied by reasons for the objection or suggestion.

(4) The map referred to in subsection (2) (e) shall contain a brief description and location of the area and the boundaries thereof.

(5) The notice and map shall be published in the *Gazette* and in a local newspaper at least twice a week for three consecutive weeks.

(6) The Minister shall, if he or she thinks fit, cause to be served on a person who has an interest in the area, a copy of the notice and map.

(7) The Minister shall have a public consultation within twenty eight days from the date of the first publication of the notice under subsection (1), giving the public an opportunity to make objections or suggestions to the proposed designation.

(8) A notice for a public consultation under subsection (7) shall be published in a local newspaper on three consecutive days and the 3rd

consecutive day shall be at least seven days prior to the date fixed for the public consultation.

(9) The Minister shall appoint an independent person to attend the public consultations and he or she shall submit a report to the Minister containing objections and suggestions duly made at the public consultations.

(10) The Minister shall, in consultation with the Committee, consider the objections and suggestions received under subsection (9).

(11) The Minister, may designate an area as a protected area under section 5 if no objection or suggestion has been received under subsection 7 or the objections or suggestions received are vexatious or merit no consideration.

Private submission of proposal to designate

7.(1) A person may submit a proposal to the Minister to designate an area as a protected area under section 5(1).

(2) The proposal under subsection (1) shall contain justifications as to why the area needs to be designated as a protected area.

(3) Upon receipt of a proposal under subsection (1), the Minister may, in consultation with the Committee, —

- (a) issue a notice under section 6 declaring his or her intention to designate the area as a protected area; or
- (b) reject the proposal if he or she is not satisfied with the proposal and a reply shall be given to the applicant stating the grounds for rejection of his or her application.

(4) The provisions of section 6 shall apply to a notice issued under this section.

Revocation of designation

8.(1) Where a protected area or part thereof no longer needs to be protected or no longer falls within a category under section 5(1), the

Minister shall review the category and the purpose or criteria for designation of that protected area and revoke the designation.

(2) The Minister shall, before revoking the designation of a protected area, publish a preliminary notice in the *Gazette* at least once in a week for three consecutive weeks, declaring his or her intention to revoke the designation.

(3) The preliminary notice under subsection (2) shall —

(a) describe the area;

(b) state the reasons why the designation is being revoked and state that any person who wishes to make representations in favour or against the intended revocation, may do so, in writing to the Minister within such period as may be specified in the notice; and

(c) state a place or places at which and times during which the map relating to the area may, without payment of a fee, be inspected.

(4) The objections or suggestions in pursuance of the notice under subsection (3) shall be in writing specifying the reasons therefor.

(5) The Minister, in consultation with the Committee, shall consider the objections, hear an objector who wishes to be heard and consider other evidence that may be presented.

(6) The Minister, upon being satisfied that no objection has been received or after considering the objections and suggestions may by order published in the *Gazette*, revoke the designation.

PART IV - INTERIM PROTECTION

Interim protection

9.(1) The Minister may, by notice published in the *Gazette* and in a local newspaper, assign an interim protection status to a specified area with immediate effect to —

- (a) safeguard the natural features and wildlife of the area; and
- (b) assess a threat of harm to the area, wildlife or to the anthropogenic development in that area.

(2) A notice issued under subsection (1) shall clearly state the reason for assigning such interim protection status and call for any objections from persons who have an interest in that area.

(3) A person who has an interest in the area which is proposed for assigning an interim protection status may make an objection in writing to the Minister within seven days of publication of the notice giving reasons for the objection.

(4) The Minister shall, within fourteen days of receipt of the objections, if any, consider the objections and hear an objector who wishes to be heard.

(5) If the Minister is satisfied that the area specified under subsection (1) requires an interim protection status, he or she shall assign an interim protection status to the area for a period not exceeding ninety days with effect from the date of the notice.

(6) The Minister may, by notice published in the *Gazette* and a local newspaper, on or before the expiry of ninety days —

- (a) revoke the interim protection status where the protection is no longer required; or
- (b) initiate procedure for designation of the area as a protected area under section 6.

PART V - SEASONAL PROTECTION STATUS

Seasonal protection status order

10.(1) The Minister may, by order in the *Gazette*, designate an area as a seasonally protected area.

(2) The Minister, before designating an area as a seasonally protected area, shall cause to be published in the *Gazette* and in a local newspaper a notice of his or her intention to designate an area as a seasonally protected area.

(3) A notice of intention under subsection (2) shall —

- (a) state the intention to designate the area as seasonally protected;
- (b) describe the area to be designated;
- (c) state the reasons as to why the area requires seasonal protection status;
- (d) state that a person may make an objection or suggestion to the Minister on or before a date specified therein, which shall not be earlier than twenty eight days from the date the notice was first published; and
- (e) name the place or places at which and the time during which a copy of the map stated in subsection (5) relating to the area may, without payment of a fee, be inspected.

(4) An objection or a suggestion in pursuance of the notice under subsection (1) shall state in writing the reasons for the objection or suggestion.

(5) The map referred to in subsection (3) (e) shall contain a brief description and location of the area and the boundaries thereof.

(6) The notice and map shall be published in the *Gazette* and in a local newspaper at least twice in a week for three consecutive weeks.

(7) The Minister may, on information available to him or her, cause to be served on a person who has an interest in the area, a copy of the notice.

(8) The Minister shall have a public consultation, not earlier than twenty eight days from the date of first publication of the notice of intention

to designate, giving the public an opportunity to make objections or suggestions to the proposed designation.

(9) A notice for a public consultation under subsection (8) shall be published in a local newspaper on three consecutive days and the 3rd consecutive day shall be at least seven days prior to the date fixed for the public consultation.

(10) The Minister shall appoint an independent person who is not an employee of the Government to attend the public consultations and he or she shall submit a report to the Minister, within such time as the Minister may direct, on the objections and suggestions duly made at the public consultation.

(11) The Minister, in consultation with the Committee, shall consider the objections and suggestions received under subsection (10);

(12) The Minister, where no objection or suggestion has been made or on being satisfied that the objections or suggestions are vexatious or merit no consideration, may designate the area as a seasonally protected area.

PART VI - MANAGEMENT, DEVELOPMENT AND ACTIVITIES

Management

11.(1) The Minister may by order declare an existing authority or establish such authorities as may be considered necessary to manage a protected area or category of protected areas designated under sections 5, 9 or 10.

(2) An order under subsection (1) may declare an existing authority or newly established authority as a body corporate capable of suing and being sued, or purchasing, holding and alienating land, or receiving, holding or disposing of moneys paid to them by grant or otherwise for the purpose of defraying expenses incurred in carrying out the objects and provisions of this Act, and generally of doing and performing all such acts and things as a body corporate may do and perform, subject to the provisions of this Act or any written law for the time being in force.

(3) An order establishing an authority under subsection (1) shall provide for the manner of appointment of a Board, its members, a Chief Executive Officer, a deputy Chief Executive Officer and all matters necessary for the proper and efficient functioning of the authority.

(4) The Minister may, without prejudice to subsection (1), for the purpose of this Act —

- (a) assign to a person the management of an area designated as a protected area; or
- (b) enter into agreements with an owner of, or other person responsible for, the protected area.

Management agreement

12.(1) A person managing a protected area may with the prior approval of the Minister enter into a management agreement with another person for the management of that protected area.

(2) The management agreement under subsection (1) may provide for —

- (a) duties that may be discharged by a person;
- (b) the use of biological resources in the protected area;
- (c) access to the protected area;
- (d) terms and conditions of the management including the co-management of the protected area or part thereof;
- (e) development of economic opportunities in the protected area;
- (f) development of local management capacity and knowledge exchange;
- (g) support to ensure effective administration and management of the protected area;

- (h) scientific and administrative data and financial details linked to the management of the protected area; and
- (i) any other relevant matter.

(3) A copy of the management agreement shall be submitted to the Minister.

(4) Where a protected area designated under this Act is owned by a person other than the Republic, a public body or a public authority, he or she shall —

- (a) enter into a management agreement with the Minister for the management of the protected area; or
- (b) enter into a co-management agreement with the Minister and another person or organisation where the management of the protected area is proposed to be assigned to another person other than the private person.

(5) A person entering into a management agreement shall submit copies of the following documents to the Minister for approval —

- (a) the management plan of the protected area;
- (b) an annual report of the management plan; and
- (c) an annual audit report of the management plan.

Termination of management agreement

13.(1) Where a person managing a protected area does not adhere to the management plan of the protected area, the Minister may —

- (a) notify the person in writing of the non-adherence; and
- (b) direct the person to take such corrective steps set out in the notice within the period specified therein.

(2) Where a person fails to take the corrective steps referred to in subsection (1) (b), the Minister may, in consultation with the National Advisory Council, constituted under section 3, for ensuring the preservation and conservation of the protected area —

- (a) terminate the person's management agreement; and
- (b) assign another person to manage the protected area.

Activity in a Protected Area

14. A person managing a protected area may allow an activity in the protected area if —

- (a) the activity is in accordance with the management plan;
- (b) the activity is done according to the category that a protected area has been designated;
- (c) an agreement has been entered into between the person managing the protected area and the person responsible for the activity;
- (d) the activity aligns with the decisions taken for the objectives of the area.

Commercial activity

15. A person may conduct commercial activities in a protected area based on the category under which that area has been designated and in accordance with the management plan.

Development of protected area

16. The owner of an area which has been wholly or partly designated as a protected area shall develop the area based on the category under which that area has been designated provided that the provisions and requirements of the laws regulating environment protection, development and planning and any other relevant written laws are complied with.

PART VII - ACCESS AND RESTRICTIONS

Guidelines and conditions for access

17.(1) A person shall not —

- (a) enter into a protected area unless he or she follows the prescribed guidelines and conditions applicable to that protected area; or
- (b) perform any activity in a protected area which is outside the management plan of the protected area.

(2) The person managing the protected area may allow the entry of the following persons into a protected area —

- (a) a scientist to perform approved scientific research or any other research work;
- (b) a person to perform an activity related to conservation of the protected area or nature in general;
- (c) a person recording a media item which has been approved by the person managing the protected area;
- (d) a person who requires access for educational purposes or who is involved in a scientific programme;
- (e) a person who is a tourist or who wishes to enjoy the beauty of nature;
- (f) an emergency respondent or a person whose presence is necessary in the case of an emergency; or
- (g) any person who follows entry procedures regulating entry into such area.

Entrance Fee

18.(1) The person managing a protected area may charge a person such

fee for entering into or for being or remaining in a protected area or a part thereof as may be determined in consultation with the Minister.

(2) A fee under subsection (1) pertaining to each protected area shall be conspicuously displayed in a public notice at the entrance of a protected area.

PART VIII -ENFORCEMENT AND COMPLIANCE

Appointment of authorised officers

19. (1) The person managing a protected area may, in consultation with the Minister, by written instrument appoint authorised officers to carry out specific provisions of this Act.

(2) An appointment under subsection (1) shall cause to be published in the *Gazette* by the person managing the protected area.

(3) An authorised office appointed under subsection (1) shall have the powers of a police officer, as provided under the Criminal Procedure Code (Cap 54), in matters of arrest, search and detention of a person, conveyance, vessel, motor vehicle or a container under this Act.

(4) The person managing a protected area shall cause to be issued to every authorised officer appointed under subsection (1) an identification badge and the authorised officer shall upon request produce his or her badge before exercising power under this Act.

Powers of authorised officers

20.(1) An authorised officer or a police officer may —

- (a) search a person, conveyance, vessel, motor vehicle or a container in a protected area;
- (b) with an intention to search a vessel, pursue and board a vessel found in or leaving, or seeking to enter or leave, or reasonably suspected of having left, a protected area;

(c) detain a person who is found committing an offence under this Act.

(2) An authorised officer who detains a person under subsection (1) (c) shall hand over the person to the nearest police station.

Power to seize

21.(1) An authorised officer may, without a warrant seize a boat, fishing equipment, motor vehicle, vessel or other article or instrument where there is reasonable grounds to believe that the boat, fishing equipment, motor vehicle, vessel or other article or instrument has been used for committing or has been used in connection with the commission of, an offence under this Act.

(2) The authorised officer shall immediately report the seizure made under subsection (1) to the officer in charge of the nearest police station who shall thereupon take such action as may be deemed necessary.

(3) Notwithstanding subsection (2), the Court may order the release of a boat, fishing equipment, motor vehicle, vessel or other article or instrument where a satisfactory bond or other form of security for the value of such boat, fishing equipment, motor vehicle or other vessel or article or instrument is given.

Private security services

22.(1) The person managing a protected area may engage a private security service provider for the surveillance of the protected area.

(2) The person managing a protected area may appoint the personnel of a private security service provider as authorised officers for the surveillance of the protected area.

Removal of persons from a protected area

23. An authorised officer may prevent a person from entering, or remove a person from, a protected area if the person has failed or fails to comply with a notice, warning or direction given by the authorised officer.

Surveillance and operations

24. The Minister may, if it is considered necessary, assign authorised officers for the surveillance and operations of a protected area.

PART IX - OFFENCES AND PENALTIES

Offences subject to Fixed Penalty and Fixed Penalty Notice

25.(1) A person who —

- (a) interferes with the duties of an authorised officer or a person managing a protected area or hinders his or her performance under this Act;
- (b) impersonates a person managing a protected area or an authorised officer or staff of the person managing a protected area or the private security service provider or personnel of the private security service provider;
- (c) performs an activity in a protected area without the authorisation of the person managing the protected area;
- (d) fails to comply with a direction given by a person managing a protected area, an authorised officer, personnel of the private security provider or staff of a person managing a protected area;
- (e) commits an act of vandalism in a protected area;
- (f) removes, destroys, damages, alters or defaces a notice or warning which has been fixed by the person managing the protected area at or near the site of a protected area;
- (g) fails to comply with a notice, warning or direction given by a person managing the protected area under this Act;
- (h) enters a protected area without authorisation of the person managing the protected area; or

- (i) is found within a strict nature reserve or ecological reserve having in his or her possession an equipment or an instrument used or likely to be used or capable of being used for extracting biodiversity or used or likely to be used to do anything which will or is likely to cause harm to the protected area unless he or she proves that such equipment or instrument was intended to be used for a lawful purpose,

commits an offence and shall be liable on conviction to a fine of level 2 on the standard scale or to imprisonment for a term not exceeding 2 years.

(2) An authorised officer may issue a fixed penalty notice, in such form as may be prescribed, to any person who the authorised person has reason to believe is committing or has committed an offence under subsection (1) offering that person an opportunity to discharge his or her liability to conviction for that offence on payment of the fixed penalty specified in that subsection.

(3) If the fixed penalty is paid within the period specified in the fixed penalty notice the person to whom the fixed penalty notice is issued shall not be liable to be convicted of the offence in respect of which the notice was issued.

(4) Where a person has been given a notice under subsection (2) no proceedings shall be taken against any person for the offence in respect of which the notice was issued until the expiry of the period specified in the notice.

(5) Payment of a fixed penalty shall be made to the Registrar of Supreme Court or to such other person as may be prescribed, and a sum paid by way of fixed penalty shall be treated as if it were a fine imposed on conviction for the offence in respect of which the fixed penalty notice was issued.

(6) In any proceedings a certificate, signed by or under the authority of the Registrar of Supreme Court or by such other person as may be prescribed under subsection (5), that payment of a fixed penalty was or was not made by a date specified in the certificate shall be sufficient evidence as to the facts stated, unless the contrary is proved.

(7) In this section “proceedings” means criminal proceedings in respect of an offence specified in subsection (1), and “conviction” shall be construed in like manner.

Offences

26.(1) A person who —

- (a) hunts, fishes, does or takes part in any activity involving the alteration of the configuration of the soil or the alteration of the configuration of the character of the vegetation, causes pollution of water, introduces exotic animals or plant species into the protected area or performs an act likely to harm or disturb the flora and fauna in the protected area;
- (b) lights, causes or authorises fire or charcoal to be lit in a place which could burn or cause danger to a tree, plant or species in a protected area;
- (c) destroys, removes, causes to be destroyed or causes to be removed, or attempts to destroy or to remove wood, trees, forests, corals, mangroves, seagrass and associated species or other habitats found in, produced on or stemming from a protected area;
- (d) releases a species that may cause danger to a protected area or anything therein,

commits an offence and shall on conviction be liable to a fine of level 7 on the standard scale or to imprisonment for a term not exceeding five years or to both such fine and imprisonment and shall also be liable to pay the cost of restoration of the soil, environment, flora and fauna.

(2) Where a person is convicted of an offence under section 25(1) or subsection(1), the court may, having regard to the circumstances including the nature of the offence and the character of the offender, instead of sentencing the person make a probation order requiring that person to perform community service in accordance with the Probation of Offenders Act (Cap 184).

Compounding of offences

27.(1) In this section “article” includes a boat, fishing equipment, motor vehicle, vessel or other article or instrument that has been used for committing or has been used in connection with the commission of, an offence under this Act.

(2) Where the Minister is satisfied that an offence under section 26 has been committed by any person and the person admits to committing the offence, accepts liability for the commission of the offence and agrees in writing to the matter being dealt with under this section, the Minister in consultation with the Attorney General, may —

- (a) compound the offence *in lieu* of instituting legal proceedings by accepting a sum of not less than the minimum and not more than the maximum fine specified for the offence together with the forfeiture of any article;
- (b) order the release of any article seized on payment of a sum of money not exceeding the estimated value of the vessel or other article;

(3) A sum of money received under this section shall be dealt with as though it were a fine imposed by a Court.

(4) The Minister shall determine the sum of money to be paid by the offender and the articles to be forfeited under subsection (1) (a), having due regard to the provisions of this Act, the nature, the circumstances, extent and gravity of the offence, the past behaviour of the offender, the extent of the damage caused by the offence on ecosystem or environment of the protected area, and the financial benefit accrued from the violation to the offender.

(5) An ad-hoc compounding committee may be established to advise the Minister in the determination of the sum of money to be paid by the offender and of the nature and extent of any article to be forfeited in accordance with subsection (1).

(6) Upon determination of the sum of money to be paid by the offender by way of fine and upon determination of the nature and extent of

any article to be forfeited, or the sum to be paid by the offender in lieu of forfeiture if the Minister so agrees, in accordance with subsection (3), the Minister shall sign the compounding agreement and serve it on the offender who shall pay the sum of money, and hand over all articles determined to be forfeited (to the extent that they are not already in the control of the court), within 14 days from the date of service of compounding agreement.

(7) In the event the offender fails to pay the sum of money within the period set out in subsection (6), the compounding agreement shall be null and void and the judicial proceedings shall be instituted or continued as the case may be.

(8) On payment of the sums mentioned in this section and on the effective forfeiture of articles determined to be forfeited, or on payment of the sum of money to be accepted in lieu of forfeiture, the compounding of any offence under subsection (1) shall be filed in court and thereupon the proceedings in connection with the commission of the offence which is pending shall be noted as compounded and the offender absolutely discharged.

(9) The compounding of an offence under this section shall be conclusive and final and no court proceedings shall be instituted for that offence.

(10) In any proceedings brought against any person for an offence under this Act, it shall be a defence if the person proves that the offence has been compounded under this section.

PART X - APPEALS

Appeals Board

28. The Appeals Board established under section 73 of the Environment Protection Act, 2016 (Act 18 of 2016) shall be the Appeals Board for the purpose of the Act.

Appeals

29.(1) A person aggrieved by a decision of the Minister may appeal to the Appeals Board.

(2) The Appeals Board may, in considering an appeal —

- (a) confirm the decision of the Minister;
- (b) vary the decision of the Minister;
- (c) quash the decision of the Minister; or
- (d) direct the Minister to reconsider the decision.

(3) The Minister may make regulations providing for the procedures and the fee payable for an appeal.

PART XI - MISCELLANEOUS

Maintaining of records

30.(1) The Minister shall cause to be maintained a record of all documents relating to the designation of protected areas and it shall be made available to the public for inspection free of cost.

(2) The Minister shall cause to be maintained a register of the protected areas in the Ministry which shall be made available for inspection by the public.

Protection against legal proceedings

31. A suit or other legal proceeding shall not lie against the Minister, a person managing the protected area, an authority established under this Act, a staff of the person managing the protected area, an authorised officer or any other person acting under the direction of the Minister in respect of anything done or purported to be done in good faith in pursuance of this Act.

Regulations

32.(1) The Minister may make regulations generally for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may *inter alia* provide for —

- (a) management plans;
- (b) the protection of a protected area including the species in the habitat of the protected area;
- (c) the conservation of biological diversity, including but not limited to the conservation of habitats and wildlife outside a protected area;
- (d) access to a protected area;
- (e) a list of further activities prohibited in a protected area;
- (f) the establishment of funds for specific purposes under this Act;
- (g) the development of each protected area or category of protected area;
- (h) guidelines and conditions concerning the maintenance of each protected area or category of protected area;
- (i) the types of activities that each protected area or category of protected area may perform;
- (j) an amendment or repeal of an order, direction or appointment or regulations made or issued under the repealed Act specified under section 33;
- (k) anything required to be prescribed under this Act.

(3) Regulations made under this section may provide that any person who contravenes any regulation commits an offence and shall on conviction be liable to a fine of level 5 on the standard scale or imprisonment for a term not exceeding 5 years.

Repeal and savings

33.(1) The National Parks and Nature Conservancy Act (Cap 141) is hereby repealed.

- (2) Notwithstanding the repeal under subsection (1) —
- (a) an area declared as protected area under the repealed Act, an order, direction, appointment or regulations made thereunder shall remain in force until amended or repealed under this Act;
 - (b) subject to any amendments, regulations made under the repealed Act shall remain in force until repealed under this Act;
 - (c) anything done under the repealed Act, shall be deemed to have been done under this Act;
 - (d) a prosecution instituted under the repealed Act shall be deemed to have been instituted under this Act;
 - (e) an area designated as a protected area before the commencement of this Act shall be deemed to be a protected area under this Act and the Minister may by notice published in the *Gazette* classify such protected area in any of the categories specified in Section 5(1) and revise and alter its boundaries in accordance with subsections (6), (7) and (8) of section 5.