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SPECIAL BILL SUPPLEMENT

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THE WILDLIFE CONSERVATION (AMENDMENT) ACT, 2017

ARRANGEMENT OF SECTIONS

Section

Title

PART I

PRELIMINARY PROVISIONS

1. Short title.

PART II

AMENDMENT OF VARIOUS SECTIONS

2. Amendment of section 18.
3. Addition of sections 18A, 18B and 18C.
4. Repeal of section 21.
5. Amendment of section 38.
6. Amendment of section 39.
7. Repeal of section 102.
8. Amendment of section 111.

NOTICE

This Bill to be submitted to the National Assembly is published for general information to the general public together with a statement of its objects and reasons.

Dar es Salaam,
17th October, 2017

JOHN W. H. KIJAZI
Secretary to the Cabinet

A BILL
for

An Act to amend the Wildlife Conservation Act, Cap.283.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Wildlife Conservation (Amendment) Act, 2017 and shall be read as one with the Wildlife Conservation Act hereinafter referred to as the “principal Act”.

PART II
AMENDMENT OF VARIOUS SECTIONS

Amendment
of section 18

2. The principal Act is amended in section 18, by:

- (a) deleting subsections (2), (4) and (5);
- (b) renumbering subsection (3) as subsection (2);
- (c) deleting the words “five hundred thousand” appearing in the renumbered subsection (2) and substituting for them

the words “one hundred million”; and

(d) adding the following new subsection (3):

“(3) In considering sentence and upon conviction under subsection (2), the court shall have regard to the extent of the loss and damage occasioned by such person.

Addition of
sections 18A,
18B, 18C

3. The principal Act is amended by adding immediately after section 18 the following new sections:

“Restriction of
grazing in
national park,
game reserve,
wetland
reserve”

18A.-(1) A person shall not graze any livestock in a national park, game reserve or wetland reserve.

(2) Any person who contravenes the provision of subsection (1) commits an offence and upon conviction shall be liable to a fine of not less than one hundred thousand shillings per head of livestock or imprisonment for a term of not less than five years or to both.

(3) Notwithstanding the provisions of subsection (2), where the offence under this section involves foreign livestock, the owner or an apparent owner shall:

(a) upon conviction be liable to a fine of not less than the market value of the livestock involved or imprisonment for a term of not less than ten years but not exceeding fifteen years or to both;

(b) be ordered to repatriate the livestock within the period specified in the order.

(4) Where a person is convicted of offences provided for under this section, the court shall in addition to imposing the penalty order the person to pay all reasonable expenses which the Government may have incurred in the

seizure, storage, rearing or medication of the livestock in connection with the offence.

(5) Where a person is charged with an offence involving livestock under this Act, the court may upon application by the owner and during proceedings of the case, order that the livestock be under the custody of the owner, provided that the owner deposits as security a sum of money equivalent to one third of the total value of the livestock involved in the commission of an offence and where the offence involves foreign livestock, the sum of money should be not less than the market value of the livestock involved.

(6) The market value of the livestock shall be determined by the relevant authority.

(7) For the purpose of this section, the term “relevant authority” means an authority with mandate to determine livestock price within the area for the time being.

“straying
livestock in
national park,
game reserve
and wetland
reserve

18B.-(1) Any livestock which is found straying in any part of a national park, game reserve or wetland reserve shall be liable to seizure by an authorised officer and be detained at an appropriate place.

(2) A notice of seizure shall be issued and delivered to the owner or person in charge of such livestock, if available, and a copy of the notice shall be affixed or placed at nearest wildlife office and notification shall be made to the village government for purposes of identifying and tracing the owner of the livestock seized.

(3) The owner or apparent owner of any livestock detained pursuant to this section shall

defray the cost of seizure, storage, rearing or medication of such livestock for the whole period of detention until the livestock is released.

(4) The owner or apparent owner of any livestock found straying in the national park, game reserve or wetland reserve, on admission of the offence, an authorised officer shall:

(a) compound the offence and order such person to pay sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of the offence under section 18A(2); and

(b) where the livestock involved in the offence is foreign livestock, order the owner or apparent owner to repatriate the livestock within the period specified in the order.”

(5) An authorised officer may, by public auction, dispose of any livestock detained pursuant to subsection (1), unless the owner or claimant shows up within seven days from date of seizure and pays the prescribed fees, fine and meets the costs provided for in subsection (3).

Compounding of offences involving livestock in national park, game reserve, wetland reserve or game controlled areas

18C.-(1) Notwithstanding the provision of compounding offence under this Act relating to penalties on grazing in the national park, game reserve, wetland reserve or game controlled area, where a person admits in writing that he has committed such offence, an authorized officer may, at any time prior to the commencement of the hearing by a court of competent jurisdiction, compound such offence

and order such person to pay sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where an offence is compounded in accordance with subsection (1) and proceedings are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under subsection (1).

(3) Where the person fails to comply with the order issued under this section within the prescribed period, the authorized officer:

- (a) shall, in addition to the sum ordered, require the person to pay an interest at the commercial rate; and
- (b) may enforce the order in the same manner as a decree of a court for the payment of the amount stated in the order.

(4) The authorized officer shall give a receipt to the person from whom he receives the amount compounded.

(5) In addition to the penalty under subsection (1), where the livestock involved in the offence is foreign livestock, order the owner or apparent owner to repatriate the livestock within the period specified in the order.

(6) Where a person is aggrieved by an order made under subsection (1), he may, within thirty days of the order being made, appeal against such order to the High Court.”

Repeal of
section 21

4. The principal Act is amended by repealing section 21 and replacing with it the following new section:

“Restriction
on grazing
livestock in
a game
controlled
area

21.-(1) A person shall not, save with the written permission of the Director previously sought and obtained, graze any livestock in any game controlled area.

(2) Any person who contravenes the provision of this section commits an offence and shall upon conviction be liable to a fine of seventy thousand shillings per head of livestock or to imprisonment for a term of not less than three years or to both.

(3) Notwithstanding the provisions of subsection (2), where the offence under this section involves foreign livestock, the owner or the care taker shall, upon conviction be:

(a) liable to a fine of not less than the market value of the livestock involved or imprisonment for a term not less than ten years but not

exceeding fifteen
years or to both;
and

(b) be ordered to
repatriate the
livestock within
the period
specified in the
order.

(4) Where a person
is convicted of offences
provided for under this
section, the court shall in
addition to imposing the
penalties, order the person
to pay all reasonable
expenses which the
Government may have
incurred in the seizure,
storage, rearing, or
medication of the livestock
in connection with the
offence.

(5) Where a person
is charged with an offence
involving livestock under
this Act, the court may upon
application by the owner
and during proceedings of
the case, order that the
livestock be under the
custody of the owner,
provided that the owner
deposits as security a sum of
money equivalent to one
third of the total value of the

livestock involved in the commission of an offence and where the offence involves foreign livestock, the sum of money should be not less than the market value of the livestock involved.

(6) The market value of the livestock shall be determined by the relevant authority.

Amendment
of section 38

5. The principal Act is amended in section 38-

(a) in subsection (3), by deleting paragraphs (e) and (f) and substituting for them the following:

- “(e) the Director General of Environment;
- (f) the Conservator General of the Ngorongoro Conservation Area Authority;
- (g) the Director of Wildlife;
- (h) any other two persons appointed by the Minister; and
- (i) the Director General of Tanzania Wildlife Authority who shall be Secretary.”

(b) deleting subsection (4) and substituting for it the following:

“(4) In appointing persons referred to in paragraph (h) of subsection (3), the Minister shall have regards to the need for gender, knowledge and experience in business administration and matters relating to economic empowerment.”

(c) deleting subsection (6) and substituting for it the following:

“(6) The Minister shall, upon advise of the Committee, approve the application for participation

in the auction.

(d) deleting subsections (7), (8) and (9) and substituting for them the following:

“(7) The Minister shall award every successful bidder with a certificate of ownership, bearing:

- (a) the name of the company;
- (b) the title of the hunting block;
- (c) the size of the hunting block;
- (d) the tenure of ownership;
- (e) conditions of ownership: and
- (f) any other information as he may deem appropriate.

(8) The tenure of ownership of any hunting block shall be:

- (a) in the case of category I blocks, eight years;
- (b) in the case of category II blocks, ten years; and
- (c) in the case of category III blocks, fifteen years.

(9) At the end of the tenure of ownership, all hunting blocks shall be returned to the Minister for purposes of allocation or reallocation.

(10) The Minister shall make regulations prescribing for transparent procedure for auctioning and utilization of hunting blocks.

(11) The minimum score, for the purpose of assessment of performance of the company allocated hunting blocks or for purposes of reallocation of hunting blocks, shall contain an annual performance assessment and the evaluation of the utilization and performance of the hunting blocks to be made two years before the end of the period of possession of the hunting block.”; and

(e) renumbering subsection (10) to (18) as subsection (12) to

(20).

Amendment
of section 39

6. The principal Act is amended in section 39-

(a) in subsection (3), by deleting paragraph (b) and substituting for it the following:

“(b) the percentage of hunting blocks set aside specifically for application by Tanzanian owned companies shall, at any particular time, be up to thirty percent of the total number of hunting blocks.”

(b) by adding immediately after subsection (3), a new subsection (4) as follows:

“(4) Notwithstanding the provisions of subsection (3), a Tanzanian owned company may apply for any hunting block set aside for application by foreign owned companies.”

(c) by renumbering subsections (4), (5) and (6) as subsections (5), (6) and (7) respectively; and

(d) in subsection (7) as renumbered, by deleting the reference to subsection (5) and substituting for it the reference to subsection (6).

Repeal of
section 102

7. The principal Act is amended by repealing section 102.

Amendment
of section
111

8. The principal Act is amended in section 111(1) by deleting the word “, livestock” appearing in paragraph (a).

OBJECTS AND REASONS

This Bill proposes to amend the Wildlife Conservation Act, Cap.283 of providing for new arrangement of with the aim allocation and categories of hunting

blocks. It further aims at enhancing and updating certain penalties provided for under the Act.

The Bill is divided into Two Parts. Part I deals with Preliminary Provisions which includes the title of the Bill and the manner in which various provisions of the Act are proposed to be amended in their respective sections.

Section 18 of the Act is proposed to be amended by adding new sections 18A, 18B and 18C. The amendment intends to prohibit grazing of livestock in the National Parks, game reserve and wetlands reserve, to set a penalty of grazing livestock according to the number of animals grazed, to put livestock caught under the custody of the owner or apparent owner, to deal with livestock found in the National Parks without an owner or a caretaker and to provide for compounding of offence for livestock entered or grazed in the parks. Further, the amendments provides for repatriation of any foreign livestock involved in the commission of the offence.

Section 21 is proposed to be repealed and be replaced with a new provision prohibiting grazing of livestock in a game controlled area. Further, the section provide for penalty for contravention of the section whereby the offender may be fined or imprisoned, or in the case of foreign livestock, the fine will be charged in accordance to the market value of each livestock entered or grazed.

Section 38 of the Act is proposed to be amended by deleting subsection (7), (8) and (9) so as to provide for new tenure of ownership of hunting blocks. The new tenure of ownership shall be eight, ten and fifteen years for category I, II and III, respectively. The aim of the amendment is to give more time to the companies to sustainably utilize hunting blocks and manage the environment, create certainty in the industry and improve the infrastructure. Further, the Bill provides for new provisions requiring the companies allocated various categories of hunting blocks to return the blocks at the end of the terms to the Minister for allocation or reallocation.

Section 39(3) of the Act is proposed to be amended in order provide for maximum percent of the total hunting blocks to be allocated to Tanzanian owned

companies. Further, the section provides arrangement for Tanzanian owned companies to apply and participate in allocation of blocks set out for foreign owned companies. The aim is to provide more opportunities for Tanzanian owned companies to widen their scope of ownership, if necessary.

Sections 102 is amended in order to create harmony with section 100, and section 111(1) is amended in order to update and harmonise it with the provisions of section 18A, 18B and 18C.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kurekebisha Sheria ya Hifadhi ya Wanyamapori, Sura ya 283 kwa kuweka utaratibu mpya wa ugawaji na upangaji madaraja ya vitalu vya uwindaji. Aidha, Muswada unakusudia kuongeza na kuimarisha baadhi ya adhabu zilizoainishwa katika Sheria.

Muswada huu umegawanyika katika Sehemu Mbili. Sehemu ya Kwanza inahusu masharti ya utangulizi ambayo yanajumuisha jina la Muswada na namna ambavyo masharti mbalimbali ya Sheria yanavyopendekezwa kurekebishwa.

Kifungu cha 18 kinakusudiwa kurekebishwa kwa kuongeza vifungu vya 18A, 18B na 18C. Mapendekezo haya yanakusudia kuzuia uingizaji na uchungaji wa mifugo katika Hifadhi za Taifa, hifadhi za mapori tengefu na ardhi oevu, kuainisha adhabu kali kwa mifugo inayoingizwa au kuchungwa katika Hifadhi, kuruhusu mifugo kuwekwa chini ya mmiliki au mtu aliyekutwa na mifugo baada ya kuwekwa amana ya gharama ya moja ya tatu ya thamani ya wanyama, kushughulikia mifugo ikayokutwa katika Hifadhi bila ya mmiliki au muangalizi na kuruhusu utozaji faini za papo kwa papo (ufililishaji wa kosa). Aidha, marekebisho haya yanaweka masharti ya kuondoa nchini mifugo yote iliyotoka nje ya nchi katika kipindi kilichoelekezwa kwenye amri husika.

Kifungu cha 21 kinapendekezwa kufutwa na kuwekwa masharti mapya kwa dhamira ya kuzuia au kuchunga mifugo kwenye mapori tengefu. Aidha,

kifungu kinaainisha adhabu kwa kukiuka masharti ya kifungu kinachopendekezwa ambapo mkosaji atapaswa kulipa faini au kutumikia kifungo na endapo mifugo inatoka nje ya nchi, adhabu ya faini itakuwa sawa na gharama ya mfugo katika soko.

Kifungu cha 38 kinarekebishwa katika vifungu vidogo vya (7), (8) and (9) ili kuweka kipindi kipya cha umiliki vitalu . Muhula mpya wa kumiliki kitalu cha uwindaji utakuwa ni miaka nane kwa vitalu vya daraja la kwanza, miaka kumi kwa vitalu vya daraja la pili na miaka kumi na tano kwa vitalu vya daraja la tatu. Dhamira ya marekebisho haya ni kutoa kipindi kirefu kwa Kampuni husika kutumia vitalu, kuwa na uhakika wa biashara ,kuendeleza miundombinu pamoja na mazingira katika maeneo husika. Aidha, Muswada unatamka kuwa mwishoni mwa muhula vitalu vyote vitarudishwa kwa Waziri kwa ajili ya kuvigawa upya.

Kifungu cha 39(3) kinarekebishwa ili kuruhusu asilimia thelathini ya vitalu vyote kumilikiwa na Kampuni za Kitanzania. Aidha, Kampuni za Kitanzania zinawekewa masharti nafuu ili ziweze kushiriki katika mnada wa vitalu vilivyotengwa kwa ajili ya Kampuni za Kigeni. Dhamira ni kutoa fursa zaidi kwa Watanzania kumiliki vitalu, endapo hali itahitaji hivyo.

Kifungu cha 102 kinafutwa ili kuondoa mkinzano na kifungu cha 100. Aidha, kifungu cha 111(1) kinapendekezwa kufanyiwa marekebisho kwa dhamira ya kutenganisha masharti ya kifungu hicho na vifungu vya 18A, 18B na 18C.

Dodoma,
16 Oktoba, 2017

HAMIS A. KIGWANGALLA
Waziri wa Maliasili na Utalii