

CHAPTER 20:21

TRAPPING OF ANIMALS (CONTROL) ACT

*Acts 34/1973, 14/1975, 19/1978, 32/1979 (s. 6), 49/1981, 20/1982, 11/1984, 8/1988 (s. 164), 22/2001 (s. 4);
R.G.N 1135/1975; S.Is 675/1979, 919/1981.*

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AN ACT to provide for the control, restriction and regulation of the making, possession and use of certain traps for the purpose of trapping animals; to control the sale and disposal of certain animals; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 1st January, 1974.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Trapping of Animals (Control) Act [*Chapter 20:21*].

2 Interpretation

In this Act—

“alienated land” means—

- (a) private land; or
- (b) land vested in a local authority; or
- (c) State land held under an agreement of purchase or lease;

“animal” means any kind of vertebrate animal other than a fish;

“appropriate authority”, in relation to any land, means—

- (a) in the case of alienated land—
 - (i) the owner thereof; or
 - (ii) where the land is held under an agreement of purchase or lease, the purchaser or lessee unless the agreement otherwise provides;

and includes any person appointed to be an appropriate authority for the land by such owner, purchaser or lessee, as the case may be;

- (b) in the case of unalienated land which is—
 - (i) forest land, the Forestry Commission;
 - (ii) parks and wild life land or State land other than forest land, the Director;
 - (iii) an area of Communal Land for which the Minister has, in terms of section *twenty-four*, appointed a rural district council to be the appropriate authority, that rural district council;
 - (iv) an area of Communal Land not referred to in subparagraph (iii), the Minister;

“class I trap” means a trap specified in the First Schedule;

“class II trap” means a trap specified in the Second Schedule;

“class III trap” means a trap specified in the Third Schedule;

“conservation committee” means—

- (a) a conservation committee appointed for an intensive conservation area in terms of the Natural Resources Act [*Chapter 20:13*]; or
- (b) a rural district council declared to be a conservation committee for a council area in terms of the Rural District Councils Act [*Chapter 29:13*];

“Director” means the Director of National Parks and Wild Life Management;

“honorary officer” means a person appointed as an honorary officer in terms of section *twenty-six*;

“inspector” means a person designated as an inspector in terms of section *twenty-five*;

“local authority” means a municipal council, town council, local board or rural district council;

“Minister” means the Minister of Environment and Tourism or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“nylon” means any line of synthetic plastic material;

“occupier”, in relation to land, means the person in lawful occupation of the land who has the right to exercise general control over the land and resides thereon;

“private land” means land the ownership of which is vested in any person other than the President;

“scheduled offence” means an offence specified in the Fourth Schedule;

“State land” means land vested in the President other than Communal Land;

“unalienated land” means—

- (a) forest land; or
- (b) parks and wild life land; or
- (c) communal land; or
- (d) other land which is not referred to in paragraphs (a), (b) and (c) and which is not—
 - (i) private land; or
 - (ii) land vested in a local authority; or
 - (iii) State land held under an agreement of purchase or lease.

PART II

CLASSIFICATION OF TRAPS

3 Classification of traps

Each of the traps specified in—

- (a) the First Schedule is hereby declared to be a class I trap;
- (b) the Second Schedule is hereby declared to be a class II trap;
- (c) the Third Schedule is hereby declared to be a class III trap.

4 Minister may amend Schedules

The Minister may from time to time, by notice in a statutory instrument, add to or amend the First, Second or Third Schedule or may replace the whole or any part thereof.

PART III

MAKING, POSSESSION AND USE OF CLASS I TRAPS PROHIBITED

5 Making, possession and use of class I traps prohibited

Any person who makes, possesses or uses a class I trap for the purpose of trapping any animal shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

[Section as amended by Act No. 22 of 2001]

PART IV

MAKING, POSSESSION AND USE OF CLASS II TRAPS

6 Control of class II traps

Any person who—

- (a) makes, possesses or uses a class II trap for the purpose of trapping any animal, except in terms of a permit granted in terms of section *seven*; or
- (b) fails to comply with any condition of a permit granted to him in terms of section *seven*;

shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Section as amended by Act No. 22 of 2001]

7 Permit for class II traps

(1) Any person who wishes to obtain a permit to make, possess or use a class II trap for the purpose of trapping any animal may make application therefor in writing to the Minister.

(2) The Minister may, subject to such conditions as he may deem fit to impose, grant a permit to any person to make, possess or use a class II trap for the purpose of trapping any animal:

Provided that the Minister shall not grant such a permit unless he is satisfied that—

- (a) the purpose for which the class II trap is required cannot effectively be achieved by any other means; and
- (b) the trapping is necessary for—
 - (i) scientific purposes; or
 - (ii) educational purposes; or
 - (iii) providing specimens for a museum, zoological garden or similar institution; or
 - (iv) the taking of animals live for the purpose of export or restocking; or
 - (v) management and control of animal populations; or

- (vi) the protection of life or property; or
 - (vii) any other purpose not inconsistent with subparagraphs (i) to (vi) which, in the opinion of the Minister, is in the interests of the conservation of animals.
- (3) The Minister may, without assigning any reason therefor—
- (a) refuse to grant a permit in terms of this section;
 - (b) at any time cancel any permit granted in terms of this section or amend any existing condition or impose any new condition thereon.
- (4) The Minister shall forthwith give notice in writing to the holder of any permit granted in terms of this section of any action taken by him in terms of paragraph (b) of subsection (3).
- (5) The holder of a permit granted in terms of this section shall, upon receipt of any notice given to him in terms of subsection (4), return the permit concerned to the Minister for cancellation or amendment, as the case may be.
- (6) A holder of a permit granted in terms of this section who fails to comply with the provisions of subsection (5) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

PART V

MAKING, POSSESSION AND USE OF CLASS III TRAPS

8 Interpretation in Part V

In this Part—

“specially restricted trapping area” means an area of land within Communal Land which has been declared to be a specially restricted trapping area in terms of section *nine*.

9 Declaration of specially restricted trapping areas

(1) Subject to subsection (3), the Minister may, by notice in a statutory instrument, declare any area of Communal Land to be a specially restricted trapping area for the purpose of this Part.

(2) Subject to subsection (3), the Minister may, by notice in a statutory instrument, amend or revoke any notice made in terms of subsection (1).

(3) Before making a notice in terms of subsection (1) or (2) in respect of any area of Communal Land for which he is not the appropriate authority, the Minister shall consult the appropriate authority concerned.

10 Control of class III traps

(1) Any person who on any land—

- (a) makes, possesses or uses a class III trap for the purpose of trapping any animal except in terms of a permit granted in terms of section *eleven* by the appropriate authority for the land; or

- (b) fails to comply with any condition of a permit granted to him in terms of section *eleven*;

shall be guilty of an offence unless it is proved that the making, possession or use of the class III trap was intended for use or was used, as the case may be, for trapping household pests within a building.

(2) Any person who is guilty of an offence under subsection (1) shall be liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

11 Permission to make, possess or use class III traps

(1) Subject to this section, the appropriate authority for any land may—

- (a) make, possess or use a class III trap at any time on the land; or

- (b) grant a permit to any person subject to such conditions as it may deem fit to impose, allowing him or any other person or any class of persons to make, possess or use a class III trap on the land or any part of the land.

(2) The appropriate authority for any unalienated land shall not grant a permit in terms of this section—

- (a) in respect of land which is constituted a national park in terms of the Parks and Wild Life Act [*Chapter 20:14*] or in respect of a specially restricted trapping area unless it is satisfied that the purpose for which the class III trap is required cannot effectively be achieved by any other means and that the trapping is necessary for—

- (i) scientific purposes; or

- (ii) educational purposes; or

- (iii) providing specimens for a museum, zoological garden or similar institution; or

- (iv) the taking of animals live for the purpose of export or re-stocking; or

- (v) in the case of a national park, the management of that park; or

- (vi) the protection of life or property; or

- (vii) any other purpose not inconsistent with subparagraphs (i) to (iv) which, in the opinion of the Minister, is in the interests of the conservation of animals;
- (b) in respect of forest land unless, before issuing such a permit, it has consulted the Minister.
- (3) The appropriate authority for any land may, without assigning any reason therefor—
 - (a) refuse to grant a permit in terms of this section;
 - (b) at any time cancel any permit granted by it in terms of this section or amend any existing condition or impose any new condition thereon.
- (4) The appropriate authority for any land shall forthwith give notice in writing to the holder of any permit granted by it in terms of this section of any action taken by it in terms of paragraph (b) of subsection (3).
- (5) The holder of a permit granted in terms of this section shall, upon being given notice in terms of subsection (4), return such permit to the appropriate authority for cancellation or amendment, as the case may be.
- (6) The holder of a permit granted in terms of this section who fails to comply with subsection (5) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

PART VI

RESTRICTION OF USE OF CLASS III TRAPS ON ALIENATED LAND

12 Declaration of specially restricted traps

(1) If a conservation committee considers that on the whole or any part of alienated land within its area the use of any class III trap or any particular type or size thereof for the purpose of trapping any animal should be specially restricted, it may recommend to the Natural Resources Board that such trap or such type or size thereof be declared a specially restricted trap in respect of the land concerned.

(2) Upon receipt of a recommendation in terms of subsection (1), the Natural Resources Board may, after consideration thereof—

- (a) remit the matter to the conservation committee concerned for further consideration; or
- (b) reject the recommendation and inform the conservation committee concerned of such rejection; or
- (c) approve the recommendation in whole or in part and submit the recommendation, as approved, to the Minister.

(3) After consideration of a recommendation submitted to him in terms of paragraph (c) of subsection (2), the Minister may—

- (a) remit the matter to the Natural Resources Board for further consideration; or
- (b) reject the recommendation and inform the Natural Resources Board accordingly; or
- (c) by notice in a statutory instrument, declare the trap or the type or size thereof concerned to be a specially restricted trap in respect of the land concerned and cause notice of the declaration to be given in a newspaper circulating in the area concerned.

(4) The Minister may, by notice in a statutory instrument, amend or revoke any notice made in terms of paragraph (c) of subsection (3) and shall cause notice thereof to be given in a newspaper circulating in the area concerned.

(5) Any person who, except in terms of a licence issued in terms of subsection (7), uses a specially restricted trap or permits another to do so for the purpose of trapping any animal on land in respect of which such trap has been declared to be a specially restricted trap shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(6) An owner or occupier of land who wishes to obtain a licence to use a specially restricted trap may make application therefor in writing to the conservation committee concerned specifying the land on which he wishes to use such trap, his reasons therefor and by whom the trapping will be done.

(7) Within thirty days of the receipt of an application made to it in terms of subsection (6), a conservation committee shall—

- (a) call upon the applicant to supply such further information in regard to the application as it may specify; or
- (b) refuse the application and state its reasons therefor to the applicant; or
- (c) grant the application and issue a licence subject to such conditions as it may deem fit to impose.

(8) Where a conservation committee does not issue a licence within thirty days of receipt of an application therefor, the application shall be deemed to have been refused on the expiry of such period unless the conservation committee has given earlier notice to the applicant that it has refused the application:

Provided that where the conservation committee has called for further information in terms of paragraph (a) of subsection (7), the application shall be deemed to have been refused upon the expiry of the period of thirty days

next following the receipt of such further information unless the conservation committee has, before the expiry of such period, either issued a licence or given notice to the applicant that it has refused the application.

(9) A conservation committee shall submit to the Natural Resources Board a copy of any application for a licence and any correspondence relating to such application, including a copy of any licence issued or any reason stated for its refusal to issue a licence.

(10) Any person who is aggrieved by the refusal of a conservation committee to issue a licence or by the inclusion of any condition in such licence may appeal to the Natural Resources Board.

(11) Upon an appeal being made to it in terms of subsection (10), the Natural Resources Board may—

- (a) require the conservation committee or the appellant to supply, within such time as it may specify, such further information relating to the appeal as it may specify; or
- (b) dismiss the appeal; or
- (c) uphold the appeal and direct the conservation committee to issue a licence upon such conditions as the Natural Resources Board may specify.

(12) The conservation committee shall forthwith comply with a direction given to it by the Natural Resources Board in terms of paragraph (c) of subsection (11).

13 Orders for restriction of use of class III traps

(1) If a conservation committee considers that on any alienated land within its area class III traps are being used by or with the permission of the appropriate authority for such land on a scale which is or is likely to be injurious to wild animal populations in the area, it may give notice in writing to such appropriate authority that it proposes to recommend to the Natural Resources Board that measures be taken in terms of this section to restrict the use of such traps to a scale to be specified by the committee in such notice on the land concerned.

(2) A notice referred to in subsection (1) shall invite the appropriate authority concerned to make such representations in writing in the matter as it may wish to the conservation committee concerned within such period, being not less than thirty days after the giving of the notice, as the conservation committee may specify in the notice.

(3) After the expiry of the period within which representations were invited to be made to it in terms of subsection (2), the conservation committee shall consider the proposal and any representations made to it and may submit a recommendation to the Natural Resources Board that steps be taken in terms of this section to restrict the use of class III traps on the land concerned to a scale to be specified in such recommendation.

(4) Where an appropriate authority for any land on which a notice has been served in terms of subsection (1) has undertaken in writing to restrict the use of class III traps on the land to such scale as the conservation committee considers satisfactory, the conservation committee may decide not to submit any recommendation to the Natural Resources Board in terms of subsection (3):

Provided that nothing in this subsection contained shall be construed as preventing the conservation committee from exercising its discretion to submit a recommendation in terms of subsection (3)—

- (a) notwithstanding that such a written undertaking has been given; or
- (b) where, in the opinion of the conservation committee, the written undertaking has not been complied with.

(5) On receipt of a recommendation in terms of subsection (3), the Natural Resources Board may, after consideration thereof—

- (a) remit the matter to the conservation committee concerned for further consideration; or
- (b) reject the recommendation and inform the conservation committee concerned of such rejection; or
- (c) approve, in whole or in part, any recommendation made in the report as to the restriction of the use of class III traps and submit such recommendation, as approved, to the Minister.

(6) After consideration of a recommendation submitted to him in terms of paragraph (c) of subsection (5), the Minister may—

- (a) remit the matter to the Natural Resources Board for further consideration; or
- (b) reject the recommendation and inform the Natural Resources Board accordingly; or
- (c) by order in a statutory instrument, declare that in respect of the whole or part of the land concerned, which shall be specified in that order, the use of class III traps shall be restricted to the extent specified in such order.

(7) The Minister shall cause a copy of any order made in terms of paragraph (c) of subsection (6) to be published in three consecutive issues of a newspaper circulating in the area where any land to which the order relates is situated and shall cause a copy of the order to be sent to the last known address of the appropriate authority for the land affected by such order.

(8) The Minister may, by notice in a statutory instrument, amend or revoke any order made in terms of paragraph (c) of subsection (6) and in such event the provisions of subsection (7) shall apply, *mutatis mutandis*, as if any reference therein to an order included a reference to such notice.

(9) Any person who uses a class III trap on any alienated land for the purpose of trapping an animal or permits another to do so contrary to the terms of any order made in terms of this section shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

14 Powers of entry of conservation committee and Natural Resources Board

(1) A conservation committee, any member thereof nominated by such committee for the purpose or any person appointed for the purpose by such committee may—

(a) on giving not less than forty-eight hours notice to the occupier of alienated land within the area of the conservation committee or, if there is no such occupier, to the owner thereof, enter upon such land for the purpose of investigating and reporting upon wild animals and the trapping of animals on that land:

Provided that the provisions of this paragraph shall not authorize the entry of any dwelling-house without the consent of the occupier thereof and of the occupier of the land or, if there is no such occupier, of the owner thereof;

(b) require the occupier of alienated land entered upon in terms of paragraph (a) or, if there is no such occupier, the owner thereof to answer any question relating to wild animals and the trapping of animals on his land:

Provided that no person shall be required to answer any question put to him in terms of this paragraph if he would be entitled to decline to answer that question were he a witness giving evidence in a court of law.

(2) The Natural Resources Board, any member thereof nominated by such Board for the purpose or any person appointed for the purpose by such Board may exercise the powers conferred upon a conservation committee in terms of subsection (1) in respect of any alienated land.

15 Obstruction, etc., of conservation committee and Natural Resources Board

Any person who—

(a) hinders or obstructs a conservation committee, the Natural Resources Board or any member or appointee thereof in the exercise of the powers conferred upon that conservation committee, the Natural Resources Board or any member or appointee thereof in terms of this Act; or

(b) fails to answer or gives any answer which he knows to be false or which he does not reasonably believe to be true to any question which he may lawfully be required to answer in terms of section *fourteen*; or

(c) makes any false representation or any representation which he does not reasonably believe to be true to any conservation committee in terms of subsection (2) of section *thirteen*;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section as amended by section 4 of Act No. 22 of 2001]

PART VII

EVIDENCE, PREVENTION AND DETECTION OF OFFENCES AND FORFEITURES

16 Evidence and presumptions

(1) If a person is found making or in possession of a class I, class II or class III trap it shall be presumed, unless the contrary is proved, that he intended to make or possess such trap for the purpose of trapping an animal.

(2) If a person is found in possession of any animal or the whole or any part of any freshly killed animal and with a class I, class II or class III trap it shall be presumed, unless the contrary is proved, that he trapped such animal with such trap.

(3) The burden of proving any fact which would be a defence to a charge of committing any scheduled offence shall lie upon the person charged.

(4) Whenever in any prosecution in respect of a scheduled offence—

(a) the question whether any flesh, whether fresh, dried, unprocessed or partly processed, is or was the flesh of any particular species of animal is relevant to the issue, such flesh shall be presumed to be or to have been the flesh of the species of animal stated in the indictment or charge, unless the contrary is proved;

(b) the question whether any unprocessed or partly processed hide or skin, which has been rendered unidentifiable, is or was the hide or skin of any particular species of animal is relevant to the issue, such hide or skin shall be presumed to be or to have been the hide or skin of the species of animal stated in the indictment or charge, unless the contrary is proved.

(5) Whenever in any proceedings against any person upon a charge alleging that he committed upon any particular piece of land any scheduled offence, it is proved that any act constituting or forming an element of such offence was committed in or near the locality wherein such piece of land is situated, such act shall be presumed, unless the contrary is proved, to have been committed upon such piece of land.

(6) Whenever in any prosecution in respect of a scheduled offence it is alleged in any indictment or charge that the offence was committed in connection with or in respect of any species of animal stated in such indictment or charge, it shall be presumed, unless the contrary is proved, that the offence was committed in connexion with or in respect of such species of animal.

(7) In any prosecution in respect of a scheduled offence, any prescribed record, book or document kept by a prescribed officer or any person authorized thereto under this Act in the course of his duty shall be *prima facie* evidence of the facts recorded therein upon its production by the officer or person in whose custody it is.

17 Powers of police officers and inspectors

(1) A police officer, or an inspector authorized thereto by the Minister, may—

- (a) at all reasonable times enter upon and search any land, premises or place on or in which there is or is on reasonable grounds suspected to be any class I, class II or class III trap being made, kept or used in contravention of any provision to this Act:

Provided that this paragraph shall not authorize the entry of any premises unless the police officer or inspector concerned has reasonable grounds for believing that such entry is necessary for the prevention or detection of an offence in terms of this Act or for the lawful arrest of any person and conveys to any occupant of the premises his reason for entry;

[Paragraph as amended by section 4 of Act No.22 of 2001]

- (b) require any person found in possession of or using any class II or class III trap to produce to him any authority required in terms of this Act in respect of the possession or use of such trap;

- (c) subject to subsection (2), seize any trap or other thing which appears on reasonable grounds to afford evidence of the commission of an offence in terms of this Act:

Provided that the police officer or inspector shall issue a receipt for any trap or other thing seized in terms of this paragraph to the person from whom such thing was seized;

- (d) undertake any other inspection which he may deem necessary to determine whether this Act are being complied with;

- (e) subject to subsection (2), arrest and detain any person who is suspected on reasonable grounds of having committed any offence in terms of this Act, unless he is satisfied that such person will appear and answer any charge which may be preferred against him.

(2) Every person who is detained and any trap or other thing which is seized in terms of subsection (1) shall be taken as soon as possible before a court of competent jurisdiction to be dealt with according to law.

(3) Every police officer or inspector shall exercise his powers in terms of this section in such manner as is likely to cause as little interference with the rights of the public and to cause as little inconvenience to the public as is reasonably possible in the circumstances.

(4) Any search undertaken in terms of this section shall be conducted with strict regard to decency and order and, where a woman's person is searched, shall be conducted by a medical practitioner or by a woman.

[Subsection as amended by section 4 of Act No.22 of 2001]

18 Special jurisdiction of magistrates courts

Notwithstanding anything to the contrary contained in any law relating to magistrates courts, a magistrates court shall have special jurisdiction to impose, in respect of a scheduled offence, the maximum penalty which may be imposed for that offence in terms of this Act or any other law.

19 Court shall order payment for trapping of wild animal

(1) Where a person is convicted of an offence specified in section *five, six or ten* and—

- (a) the person convicted has appropriated or disposed of any wild animal which forms the subject of the charge and which has not been restored to the land on which it was trapped; or

- (b) the commission of the offence has caused the death of a wild animal or has made it necessary or expedient for a wild animal to be killed;

the court shall, in addition to any penalty which it may impose on the person convicted, order him to pay to the appropriate authority for the land on which the wild animal was trapped such amount as may be specified in terms of subsection (2) in respect of the wild animal concerned.

(2) The Minister may, by notice in a statutory instrument, specify in respect of different species of wild animals the amount to be imposed in terms of an order made in terms of subsection (1) and may, in like manner, amend or revoke any such notice.

(3) Sections 348 and 349 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply, *mutatis mutandis*, in relation to the amount specified in an order made in terms of subsection (1) as if such amount were a fine referred to in those sections and any amount so recovered shall be paid to the appropriate authority for the land on which the wild animal was trapped:

Provided that, except where the appropriate authority is in the full-time employment of the State, the appropriate authority shall give security *de restituendo* in case the judgment of the court which made the order is reversed on appeal or review.

(4) Where an order is made in terms of this section on two or more persons, the liability thereunder shall be joint and several unless the court, in its order, apportions the amount which each such person shall be required to pay.

(5) An amount specified in an order made in terms of this section which is received by an appropriate authority for land who in such capacity is in the full-time employment of the State shall be paid into the Consolidated Revenue Fund or such other fund as the Minister responsible for finance may direct.

20 Court shall order payment of compensation for trapping of domestic animal

(1) Where a person is convicted of an offence specified in section *five, six or ten* and—

- (a) the person convicted has appropriated or disposed of any domestic animal which forms the subject matter of the charge; or
- (b) the commission of the offence has caused the death of a domestic animal or has made it necessary or expedient for a domestic animal to be killed or has caused injury to or deterioration in the condition of a domestic animal;

the court shall, in addition to any penalty which it may impose on the person convicted, order him to pay as compensation to the owner of the animal concerned such amount as may, subject to subsection (2), be specified by the court if—

- (i) the court is satisfied that the animal concerned is the property of some other person; and
- (ii) the owner of the animal concerned has suffered loss as a result of such appropriation, disposal, death or deterioration in condition of or injury to the animal concerned; and
- (iii) application has not been made in terms of the Criminal Procedure and Evidence Act [*Chapter 9:07*] for compensation in respect of the offence.

(2) The amount specified in an order made in terms of subsection (1) shall not exceed—

- (a) in the case where the animal has not been restored to or recovered by its owner, an amount equal to the market value of the animal at the time of the offence;
- (b) in the case where the animal has been injured or has suffered a deterioration in condition, an amount equal to the difference between the market value of the animal at the time of the offence and the value of such injured or deteriorated animal;

less in each case the amount of any compensation which may have been paid to the owner by or on behalf of the person convicted.

(3) Sections 348 and 349 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply, *mutatis mutandis*, in relation to the amount specified in an order made in terms of subsection (1) as if such amount were a fine referred to in those sections and any amount so recovered shall be paid to the owner of the animal concerned:

Provided that the owner shall give security *de restituendo* in case the judgment of the court which made the order is reversed on appeal or review.

(4) Where an order is made in terms of this section upon two or more persons, the liability thereunder shall be joint and several unless the court, in its order, apportions the amount which each such person shall be required to pay.

21 Forfeiture

Where any person is convicted of a scheduled offence, the court shall, unless it considers there are special circumstances which justify not making such order, order that any article or thing used for the purpose of or in connection with the commission of the offence shall be forfeited to the State.

PART VIII

GENERAL

22 Control of sale, etc., of animals trapped

(1) Notwithstanding the trapping, in terms of this Act or in terms of a permit or licence granted in terms of this Act, of any animal as defined in section 2 of the Parks and Wildlife Act [*Chapter 20:14*], the sale or disposal of such animal or the whole or any part of the carcass thereof shall be subject to the Parks and Wildlife Act [*Chapter 20:14*].

(2) No person shall sell or dispose of any animal or the whole or any part of the carcass thereof which he has trapped in contravention of any of the provisions of this Act.

(3) Any person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No.22 of 2001]

23 Appointment of appropriate authority

(1) The Minister may, by notice in a statutory instrument, appoint a rural district council to be the appropriate authority for such area of Communal Land as may be specified in such notice and may in like manner amend or revoke such appointment.

(2) Where, by virtue of a notice made in terms of subsection (1), the appropriate authority for any area of Communal Land is changed, any permit granted by the previous appropriate authority which was of force and effect immediately before the date of commencement of the notice shall remain of force and effect and be subject to amendment or cancellation as if it had been granted by the new appropriate authority.

24 Appointment of inspectors

(1) The Minister may designate the persons or classes of persons employed in the Public Service who shall be inspectors for the purpose of exercising the powers and performing the duties conferred and imposed upon inspectors in terms of this Act:

Provided that the Minister shall not designate persons employed in any Ministry the administration of which has not been assigned to him without the consent of the Minister to whom the administration of that Ministry has been assigned.

(2) An inspector shall be furnished with a certificate signed by or on behalf of the Minister which shall state that the holder has been designated as an inspector for the purposes of this Act.

(3) An inspector exercising any power or performing any duty conferred or imposed upon him by this Act or about to do so shall, on demand by any person concerned, produce the certificate issued to him in terms of subsection (2).

25 Delegation of powers

(1) The Minister may delegate to the Director such of the powers conferred upon him in terms of this Act as he thinks fit.

(2) All powers delegated to the Director by the Minister in terms of subsection (1) shall be exercised subject to the directions of the Minister.

(3) The Director may, with the consent of the Minister, delegate to inspectors and other persons employed in any Ministry, the administration of which has been assigned to the Minister, such of the powers delegated to him as he thinks fit.

(4) All powers delegated to an inspector or employee by the Director in terms of subsection (3) shall be exercised subject to the directions of the Director.

26 Honorary officers

(1) The Minister may appoint fit and proper persons to be honorary officers to assist him in the carrying out of this Act.

(2) An honorary officer shall have such powers as may be prescribed:

Provided that such powers shall not be greater than the powers conferred upon an inspector in terms of this Act.

(3) An honorary officer shall hold office at the pleasure of the Minister.

(4) An honorary officer shall be furnished with a certificate signed by or on behalf of the Minister which shall state that the holder has been appointed as an honorary officer for the purpose of this Act.

(5) An honorary officer exercising any power or performing any duty conferred or imposed upon him by this Act or about to do so shall, on demand by any person concerned, produce the certificate issued to him in terms of subsection (4).

27 Appeal against decision of appropriate authority for unalienated land

(1) Any person who is aggrieved by any decision of an appropriate authority, other than the Minister, for unalienated land in refusing to grant or cancelling or imposing any condition in respect of a permit referred to in section *eleven* may appeal against that decision to the Minister.

(2) Upon an appeal being made to him in terms of subsection (1), the Minister may uphold the decision of the appropriate authority or make an order directing the appropriate authority to grant a permit in terms of section *eleven* or to delete or amend all or any of the conditions imposed in respect of such permit.

28 Personation

Any person who—

(a) falsely represents himself to be an inspector or honorary officer; or

(b) without lawful excuse displays any certificate or other document of appointment authorized or required in terms of this Act or so nearly resembling such certificate or document as to be likely to deceive;

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No.22 of 2001]

29 Obstruction

Any person who—

(a) hinders or obstructs an inspector or honorary officer in the exercise or performance of his powers or duties in terms of this Act; or

(b) fails or refuses without sufficient cause to answer or to answer fully and satisfactorily to the best of his knowledge and belief any question put to him by an inspector or honorary officer in the exercise of his powers or the performance of his duties;
shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section as amended by section 4 of Act No.22 of 2001]

30...

[Section repealed by section 4 of Act No.22 of 2001]

31 Regulations

(1) The Minister may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) forms of applications, permits and returns and other forms that may be required for the purposes of this Act;
- (b) the officers to whom applications for permits may be made;
- (c) regulating, controlling, restricting or prohibiting the sale of any net, gin, trap, snare or similar contrivance which may be used in the trapping of animals;
- (d) the fees, if any, to be paid for a permit granted in terms of this Act;
- (e) the powers and duties of inspectors and of honorary officers.

(3) Any regulations made in terms of subsection (1) may provide penalties for any breach thereof, but no such penalty shall exceed level five or imprisonment for a period of six months or both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No.22 of 2001]

FIRST SCHEDULE (Section 3)

CLASS I TRAPS

1. A snare, the noose of which is in any part made from wire.
2. A snare, the noose of which is in any part made from nylon of a diameter of three millimetres or less.
Provided that a snare incorporating nylon of a diameter of three millimetres or less, may be used if its use is authorized in the Second Schedule.
3. A poisoned weapon.
4. A pitfall.
5. A baited hook.
6. A whiptrap the noose of which is in any part made from wire or nylon of a diameter of three millimetres or less.
7. A wooden stake or group of wooden stakes fixed in the ground with the sharpened ends exposed close to a gap in a fence.
8. Two lengths of expanding rubber attached to one or more objects that are fixed in the ground with the opposite ends of the rubber attached to a bar or a pole which is drawn back and released like a catapult.
9. A powdered irritant spread on the ground.
10. A wooden board pierced by metal spikes which is laid with the spikes pointing outwards on a pathway used by animals.
11. A wire strung between fixed supports into which animals are driven by human beings or dogs.

SECOND SCHEDULE (Section 3)

CLASS II TRAPS

1. A snare, other than a snare described in Items 1 and 2 of the First Schedule and in Item 1 of the Third Schedule.
2. A net, used as a trap, other than a net described in Item 2 of the Third Schedule.
3. A syringe containing a tranquillizing or lethal drug projected by any method.
4. A spring-jaw trap.
5. Sheets or sheeting, used as a trap, made from any material which in the aggregate exceeds ten square metres.
6. A break-back or rodent trap other than a break-back or rodent trap described in Item 4 of the Third Schedule.
7. A whiptrap other than a whiptrap described in Item 6 of the First Schedule and Item 9 of the Third Schedule.
8. A balchatri trap incorporating nylon of a diameter of three millimetres or less.

9. An enclosure of brushwood, poles or wire encircling water and having a door operated by a trigger-mechanism.
10. A cartridge containing a lethal substance used in conjunction with a bait.
11. A poisoned bait.

THIRD SCHEDULE (Section 3)

CLASS III TRAPS

1. A snare, the noose of which is made from any animal or vegetable fibre which has not been machine-manufactured.
2. A net, used as a trap, made from any animal or vegetable fibre which has not been machine manufactured.
3. Sheets or sheeting, used as a trap, made from any material which in the aggregate does not exceed ten square metres.
4. A break-back or rodent trap the base plate of which is twenty-five centimetres or less in length.
5. A set gun.
6. A deadfall.
7. Anything to which birdlime has been applied.
8. A whiptrap, the noose of which is made from any animal or vegetable fibre which has not been machine-manufactured.
9. A cage trap.
10. A moletrap designed for use below ground level for trapping moles and rodent-moles.

FOURTH SCHEDULE (Section 2)

SCHEDULED OFFENCES

1. An offence specified in this Act.
2. An attempt, incitement or conspiracy to commit an offence referred to in paragraph 1.
3. Being an accessory after the fact to an offence referred to in paragraph 1.

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