

# THE NATIVE TERRESTRIAL BIODIVERSITY AND NATIONAL PARKS BILL

**Bill No. 16 of 2015**

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The following Bill which is set out for introduction into the National Assembly is published for general information.

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## THE NATIVE TERRESTRIAL BIODIVERSITY AND NATIONAL PARKS BILL (No. XVI of 2015)

### Explanatory Memorandum

The main object of this Bill is to make further and better provision for –

- (a) the protection, conservation and management of native terrestrial biodiversity, and giving effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and any other biodiversity related Convention to which Mauritius is or may become a party; and
- (b) the identification, control and management of reserved lands and private reserves, and for related matters.

**M. K. SEERUTTUN**

*Minister of Agro-Industry and*

*Food Security*

09 October 2015

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**THE NATIVE TERRESTRIAL BIODIVERSITY AND NATIONAL PARKS BILL**  
**(No. XVI of 2015)**

ARRANGEMENT OF CLAUSES

*Clause*

**PART I – PRELIMINARY**

1. Short title
2. Interpretation
3. Application of Act

**PART II – NATIVE TERRESTRIAL BIODIVERSITY AND NATIONAL PARKS ADVISORY COUNCIL**

4. The Council
5. Composition of Council
6. Meetings of Council
7. Appointment of subcommittees

**PART III – NATIONAL PARKS AND CONSERVATION SERVICE**

8. National Parks and Conservation Service
9. Director of Service
10. Functions of Director

**PART IV – NATIONAL PARKS AND OTHER RESERVES**

11. National Parks and Special Reserves
12. Designation of private reserve

13. Ownership of private reserve
14. Maintenance of private reserve
15. Buffer zones
16. Management plans
17. Licences and leases on reserved land

#### **PART V – CITES AUTHORITIES**

18. Management Authority
19. Functions of Management Authority
20. Scientific Authority

#### **PART VI – PROTECTION OF FAUNA AND FLORA**

21. Protected wildlife
22. Protected flora
23. Protected fauna
24. Protected freshwater biodiversity
25. Trading in prescribed wildlife
26. Hunting of wildlife
27. Hunting of game
28. Authorisation to hunt game
29. Restriction on grant of authorisation to hunt game

#### **PART VII – CONTROL OF WILDLIFE**

30. Invasive Alien Species Committee
31. Functions of Invasive Alien Species Committee
32. Composition of Invasive Alien Species Committee
33. Meetings of Invasive Alien Species Committee
34. Appointment of subcommittees
35. Importation of exotic wildlife
36. Special Technical Committee
37. Strategic locations

**PART VIII – CITES PERMITS**

- 38. CITES export permit
- 39. CITES import permit
- 40. Re-export certificate
- 41. Certificate for introduction from sea
- 42. Validity of CITES permits

**PART IX – REGISTRATION AND MARKING**

- 43. Registration of traders and producers

**PART X – POWERS OF OFFICERS**

- 44. Powers of officers
- 45. Power of entry, search, seizure and arrest

**PART XI – FINANCIAL PROVISIONS AND ACCOUNTS**

- 46. National Parks and Conservation Fund

**PART XII – MISCELLANEOUS**

- 47. Offences
- 48. Jurisdiction
- 49. Regulations
- 50. Coordination with other laws
- 51. Repeal
- 52. Consequential amendments
- 53. Transitional provisions
- 54. Commencement

FIRST SCHEDULE

SECOND SCHEDULE

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## **A BILL**

### **To make further and better provision for the protection, conservation and management of native terrestrial biodiversity in Mauritius**

ENACTED by the Parliament of Mauritius, as follows –

#### **PART I – PRELIMINARY**

##### **1. Short title**

This Act may be cited as the Native Terrestrial Biodiversity and National Parks Act 2015.

##### **2. Interpretation**

In this Act –

“animal” includes an animal from any species, animal parts or derivatives, fauna, fish, aquatic animal, shellfish and egg;

“artificially propagated”, in relation to live plants, means grown in a controlled environment from seeds, cuttings, divisions, callus or other plant tissues, spores or other propagules;

“biodiversity” –

- (a) means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; and
- (b) includes diversity within species, between species and of ecosystems;

“bred in captivity” means an offspring born or otherwise produced or bred in a controlled environment, including an egg of living organisms that mated or otherwise transmitted their gametes in a controlled environment;

“buffer zone” means any land declared as such under section 15;

“CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora signed in Washington on 3 March 1973, as amended in Bonn on 22 June 1979, and acceded to by Mauritius on 27 July 1975;

“CITES Secretariat” means the Secretariat of CITES located in Geneva;

“Closed Reserve” means a protected area listed in Part I of the First Schedule;

“closed season”, in relation to any game, means a period during which hunting of that game is prohibited;

“conservation” –

- (a) means the use of any method or process necessary to maintain the natural functions, biodiversity, habitat and amenity of wildlife and reserved lands; and
- (b) includes any activity associated with scientific resources management, such as research, census, law enforcement, habitat restoration, acquisition and maintenance, propagation, live trapping, translocation and transplantation;

“controlled environment” means an environment that is manipulated for the purpose of producing animals of a particular species and has boundaries designed to prevent animals, eggs or gametes of that species from entering or leaving the environment;

“Council” means the Native Terrestrial Biodiversity and National Parks Advisory Council referred to in section 4;

“country of origin” means the country in which a species has been taken in the wild or was born or bred in captivity or artificially propagated, or introduced from the sea;

“derivative”, in relation to an animal, plant or other organism –

(a) means any part, tissue or extract of that animal, plant or other organism, whether fresh, preserved or processed; and

(b) includes any chemical compound derived from the part, tissue or extract;

“Director” means the Director of the Service;

“exotic wildlife” means any wildlife introduced in Mauritius;

“export” has the same meaning as in the Customs Act;

“fish” has the same meaning as in the Fisheries and Marines Resources Act;

“flora” –

(a) means all plants; and

(b) includes fungi and bacteria;

“freshwater” means naturally occurring water on the earth’s surface in bogs, ponds, lakes, reservoirs or canals;

“Fund” means the National Parks and Conservation Fund set up under section 46;

“game” means any wildlife listed in the Second Schedule;

“game licence” means a licence referred to in section 27;

“hunt” –

- (a) means capture, chase, drive, follow, search for, trap or attempt to trap, shoot at or lie in wait for, wildlife; but
- (b) does not include stalk, attract, search for or lie in wait for wildlife by an unarmed person solely for the purpose of watching or taking pictures of it;

“hunting equipment” means any gun, weapon, implement, apparatus or material which may be used to hunt wildlife or capture any product thereof;

“import” has the same meaning as in the Customs Act;

“international trade”, in relation to any species referred to in this Act –

- (a) means import, export or re-export; and
- (b) includes introduction from the sea;

“introduction from the sea” means the transportation or importation into Mauritius of any specimen taken, removed or harvested from a marine environment not under the jurisdiction of any other State, including the air space above the sea and the sea-bed and the subsoil beneath the sea;

“invasive alien species” means animals, micro-organisms and plants which may threaten ecosystems, habitats, species and human beings;

“land” includes –

- (a) land covered by the sea or other waters;
- (b) the part of the sea or of those waters covering the land; and



- (c) the atmosphere above the surface of the land and the soil which extends downwards to the centre of the earth;

“Management Authority” means the Management Authority referred to in section 18;

“management plan” means a plan referred to in section 16;

"member" means a member of the Council;

“Minister” means the Minister to whom responsibility for the subject of agriculture is assigned;

“National Park” means any land declared as such under section 11;

“native”, in relation to wildlife –

- (a) means living or naturally occurring in Mauritius; but
- (b) does not include exotic wildlife;

“naturally occurring” means any species that occurs in the wild and has grown without any human intervention;

“occupier” –

- (a) means a person who has possession of property; and
- (b) includes a lessee;

“officer” –

- (a) means an officer of the Service; and

(b) includes a police officer, forest officer, fisheries officer or customs officer or any other person designated by the supervising officer of the Ministry to enforce this Act;

“Open Reserve” means a protected area listed in Part II of the First Schedule;

“owner” means a person who has a legal interest in property;

“permit” –

(a) means a permit issued under Part VI, VII or VIII; and

(b) includes a similar authorisation or permit issued by a foreign State in relation to any species referred to in this Act;

“personal effects” and “household effects” include any dead specimen or part and derivative which belong to a private individual and form part or are intended to form part of that individual’s possessions;

“plant” includes any species of plant, bark, charcoal, creeper, fibre, firewood, fruit, grass, seed, spice or algae or anything that may be obtained or derived from a plant;

“Pre-Convention certificate” means a certificate issued by the relevant authority of a foreign State, stating that a species has been acquired before 27 July 1975;

“prescribed wildlife” means such species of wildlife listed in Appendices I, II and III of CITES as may be prescribed;

“private reserve” means any private land designated as such under section 12 ;

“protected wildlife” means such species of wildlife as may be prescribed;

“re-export” means the export of any species that has previously been imported;

“reserved land” –

- (a) means any land declared to be a National Park or Special Reserve under section 11; and
- (b) includes an Open Reserve or a Closed Reserve;

“rescue centre” means any premises, facility or place designated by the Management Authority for the purpose of looking after the welfare of living specimens;

“Scientific Authority” means the Scientific Authority referred to in section 20;

“Service” means the National Parks and Conservation Service referred to in section 8;

“social security officer” means an officer of the Ministry responsible for the subject of social security;

“Special Reserve” means any land declared as such under section 11;

“species” includes any species, subspecies or geographically separate population thereof;

“specimen” means any animal or plant, whether alive or dead;

“structure” includes any fence, road, building, bench, table, fireplace, path marker, boundary marker, sign or any other structure built or placed on reserved land;

“terrestrial biodiversity” –

- (a) means biodiversity occurring on any land surface; and
- (b) includes freshwater biodiversity;

“transshipment” has the same meaning as in the Customs Act;

“vehicle” includes any means of transportation by air, on land or in or on water;

“wildlife” includes –

- (a) any living creature other than –
  - (i) a human being;
  - (ii) a dog or cat;
  - (iii) domestic livestock; or
  - (iv) fish and other marine organisms; and
- (b) such naturally occurring plant species as may be prescribed.

### **3. Application of Act**

- (1) Subject to subsections (2) and (3), this Act shall not apply to –
  - (a) the transit through, or the transshipment in, Mauritius of any species while it is and remains under the control of the customs authorities;
  - (b) species which are accompanied by a pre-Convention certificate;
  - (c) species that are personal effects;
  - (d) species that are household effects acquired by the owner outside the State of his usual residence and being exported to that State;

- (e) the non-commercial loan, donation or exchange, between scientific institutions registered under section 19(h), of –
  - (i) herbarium species;
  - (ii) preserved, dried or embedded museum species; and
  - (iii) live plant material approved by the Management Authority;
- (f) species forming part of a travelling zoo, circus, plant exhibition or other travelling exhibition where –
  - (i) the Management Authority is given advance warning of its passage through Mauritius and is satisfied that the living species is properly cared for; and
  - (ii) the species is accompanied by a certificate from the relevant authority of a foreign State, stating –
    - (A) in the case of animal species, it was bred in captivity; and
    - (B) in the case of plant species, it was artificially propagated.

(2) This Act shall not apply to such species as may be prescribed that are household effects where –

- (a) in the case of effects removed from a State which requires them to be accompanied by an export permit, the permit was issued; and
- (b) the limits regarding the number, weight and types are not exceeded.

(3) Nothing in this section shall affect the lawful exercise by an officer of the power to inspect or seize any species.

**PART II – NATIVE TERRESTRIAL BIODIVERSITY AND NATIONAL  
PARKS ADVISORY COUNCIL**

**4. The Council**

(1) There shall for the purposes of this Act be a Native Terrestrial Biodiversity and National Parks Advisory Council.

(2) The Council shall –

(a) advise the Minister on –

(i) any matter related to native terrestrial biodiversity, reserved land, and conservation generally;

(ii) the assessment of the state of wildlife resources and the effect of land use and environmental activities on wildlife and wildlife habitat; and

(iii) any related matter referred to it by the Minister;

(b) make recommendations to the Minister with regard to the conservation of wildlife.

**5. Composition of Council**

(1) The Council shall consist of –

(a) a Chairperson with wide knowledge and experience in biodiversity conservation;

(b) the supervising officer of the Ministry or his representative;

- (c) the Director or his representative;
  - (d) the Conservator of Forests or his representative;
  - (e) a representative of the Ministry responsible for the subject of education;
  - (f) a representative of the Ministry responsible for the subject of environment;
  - (g) a representative of the Ministry responsible for the subject of tourism;
  - (h) a representative of the University of Mauritius;
  - (i) 2 persons specialised in the conservation of natural resources; and
  - (j) a person from the private sector or a non-governmental organisation involved in tourism or outdoor recreation.
- (2) The members referred to in subsection (1)(a), (i) and (j) shall –
- (a) be appointed by the Minister;
  - (b) hold office for one year; and
  - (c) be eligible for reappointment for one further year.

(3) The Council may co-opt any other person who may be of assistance in relation to any matter before it and the co-opted member shall not have the right to vote at a meeting of the Council.

## **6. Meetings of Council**

- (1) The Council shall meet –



(a) at least once every 3 months;

(b) at such time and place as the Chairperson of the Council may determine.

(2) At any meeting of the Council, 7 members shall constitute a quorum.

(3) No member shall take part in, or vote on, any matter before the Council in which the member or an immediate relative or business associate of the member has, directly or indirectly, a pecuniary interest.

(4) The Council shall otherwise regulate its meetings and proceedings in such manner as it may determine.

## **7. Appointment of subcommittees**

The Council may –

(a) appoint subcommittees consisting of 2 or more members;

(b) co-opt such other person,

as it considers appropriate to assist it.

## **PART III – NATIONAL PARKS AND CONSERVATION SERVICE**

### **8. National Parks and Conservation Service**

There shall be a National Parks and Conservation Service which shall consist of such scientific, technical, administrative and other public officers as may be appointed to carry out duties under this Act.

### **9. Director of Service**

- (1) There shall be a Director of the Service who shall be a public officer.
- (2) The Director shall have administrative control of the Service and perform such other functions as may be assigned to him under this Act or by the Minister.
- (3) The Director may, with the approval of the supervising officer of the Ministry, delegate any of his functions to such officer as he may designate.

## **10. Functions of Director**

The Director shall –

- (a) keep under review the need to reserve land and promote conservation in relation to the use or development of State and private land;
- (b) carry out management operations, research and other activities in connection with the administration of this Act and the obligations of Mauritius under any international Convention on conservation of native terrestrial biodiversity, including the management of reserved land and the conservation of wildlife within a National Park;
- (c) overview educational activities and provide and disseminate information on matters arising out of, and in connection with, the administration of this Act;
- (d) prepare and review management plans;
- (e) provide the Council with such information as it may require; and
- (f) submit to the supervising officer of the Ministry, for presentation to the Minister, before 30 June in every year, a report on the activities of the Service in respect of the preceding year.

## **PART IV – NATIONAL PARKS AND OTHER RESERVES**

### **11. National Parks and Special Reserves**

(1) The President may, by Proclamation, declare any State land to be a National Park or Special Reserve where –

- (a) the land is of natural, scenic, scientific, educational, recreational or other importance or value to the State; and
- (b) the preservation of that land is necessary to protect, permit access to, or allow public viewing or enjoyment of, the land.

(2) (a) Every area listed in Part I of the First Schedule shall be a Closed Reserve which shall be strictly used for the purpose of conservation and the protection of biodiversity.

(b) Every area listed in Part II of the First Schedule shall be an Open Reserve which may be used for conservation, educational and recreative activities.

(3) Notwithstanding any other enactment, no work or development shall take place on any reserved land unless –

- (a) it is approved by the Minister; or
- (b) it is permitted under a management plan.

### **12. Designation of private reserve**

(1) The Minister may, on the recommendation of the Director, designate such private land as may be prescribed to be a private reserve for –

- (a) the protection, enhancement or restoration of natural ecosystems, wildlife habitat or habitat of rare, threatened or endangered plant or animal species;

- (b) the retention of significant botanical, zoological, geological or morphological features of the land; or
- (c) the conservation of air, soil or water.

(2) Where the Minister designates any private land to be a private reserve, the Director shall forthwith give notice, in writing, to the owner and occupier of that property.

### **13. Ownership of private reserve**

(1) The ownership of a private reserve shall remain vested in its owner.

(2) Where the owner or occupier of a private reserve intends to alter the use or sell the land, he shall –

- (a) forthwith give notice, in writing, of his intention to do so to the Director; and
- (b) not commence the alteration or agree to the sale unless the alteration or sale has been approved by the Minister.

(3) Where the Director is of the opinion that a private reserve has to be compulsorily acquired for the public benefit, he may, with the approval of the Minister, make a recommendation to that effect to the Minister responsible for the subject of lands.

(4) Where the Minister responsible for the subject of lands is satisfied that the compulsory acquisition of the private reserve shall be for the public benefit, he may acquire the private reserve in accordance with the Land Acquisition Act.

### **14. Maintenance of private reserve**

(1) The Director may, by written notice, request the owner or occupier of a private reserve to maintain the private reserve in such manner, and within such time, as may be

specified in the notice.

(2) Where the Director is satisfied that the owner of a private reserve is unable to maintain the private reserve in the manner indicated in a request under subsection (1), he may consider providing assistance to the owner or occupier in such manner as he considers appropriate.

## **15. Buffer zones**

(1) The Minister may, by notice published in the Gazette, declare any land adjoining a private reserve or a reserved land within an area of one kilometre to be a buffer zone for that land.

(2) Notwithstanding any other enactment, a buffer zone shall not, except with the approval of the Minister, and subject to such conditions as the Minister may impose, be put to any use which may have a negative effect, whether direct or indirect, on the private reserve or on the reserved land, or on plants and animals within the private reserve or the reserved land.

## **16. Management plans**

(1) The Director shall prepare a draft management plan for every area of reserved land and every buffer zone.

(2) The draft –

(a) shall set out a statement of objectives and proposals for the management of the land or buffer zone; and

(b) may designate any area within the reserved land to which the public shall only have access after obtaining a written authorisation from the Director.

(3) The Director shall cause a notice to be published in at least 2 daily newspapers, stating where a copy of the draft management plan may be inspected or purchased.

(4) Any person may, within 60 days from the publication of a notice under subsection (3), make written representations to the Director in relation to the draft management plan.

(5) Following representations made under subsection (4), the Director may make such amendments to the draft management plan as he considers appropriate.

(6) The Director shall thereafter submit the draft management plan to the Minister, for his approval.

(7) The management plan shall, after the approval of the Minister has been obtained –

- (a) be made available for inspection or purchase by any person;
- (b) come into operation on the publication, in the *Gazette*, of a notice confirming the approval; and
- (c) be binding in relation to the management and use of the reserved land and any adjoining buffer zone.

#### **17. Licences and leases on reserved land**

(1) Subject to the approval of the Minister, the Director may, subject to such terms and conditions as he considers appropriate, issue a licence authorising any person to –

- (a) sell goods;
- (b) provide services to visitors; or
- (c) carry out any other activity of a commercial nature,

on any reserved land.

(2) No person shall do, on any reserved land, any act referred to in subsection (1) unless he holds a licence.

(3) (a) Subject to the approval of the Minister, the Director may, on such terms and conditions as he considers appropriate, grant a lease to any person to use or occupy any reserved land for the purpose of undertaking such activity as he may determine.

(b) A lease granted under paragraph (a) shall be for a term not exceeding 7 years but may, with the approval of the Minister, be renewed for one further term of 7 years.

## **PART V – CITES AUTHORITIES**

### **18. Management Authority**

There shall be, for the purposes of CITES, a Management Authority which shall be the Director.

### **19. Functions of Management Authority**

The Management Authority shall –

- (a) communicate with the CITES Secretariat and other appropriate persons to implement and enforce legislation relating to species conservation;
- (b) subject to such conditions as it considers appropriate, grant permits and certificates in accordance with CITES;
- (c) maintain records of international trade and prepare an annual report on such trade, including the names and addresses of exporters and importers and the number and type of permits and certificates granted;
- (d) submit the report referred to in paragraph (c) to the CITES Secretariat by 31 October of the year following the year to which the report refers;

- (e) prepare a biennial report on legislative, regulatory and administrative measures taken to enforce CITES in Mauritius and submit the report to the CITES Secretariat by 31 October of the year following the 2-year period to which the report refers;
- (f) consult the Scientific Authority on the acceptance of CITES documents, the nature and level of trade in CITES-listed species, setting and management of quotas, registration of traders, establishment of rescue centres for confiscated specimens and preparation of proposals to amend the CITES list;
- (g) deal with any confiscated specimen by –
  - (i) returning the specimen to the State of export, after consultation with it, at the expense of that State; or
  - (ii) sending the specimen to a rescue centre or such other place as the Management Authority considers appropriate;
- (h) for the purpose of section 3(1)(e), register a scientific institution which makes a written application to that effect; and
- (i) advise the Minister on action to be taken for the implementation and enforcement of CITES.

## **20. Scientific Authority**

(1) There shall, for the purpose of CITES, be an independent body to be known as the Scientific Authority.

(2) The Scientific Authority shall consist of –

- (a) a Chairperson who shall be a person with experience and knowledge on conservation matters;



- (b) the Conservator of Forests or his representative;
  - (c) the Principal Veterinary Officer or his representative;
  - (d) the Chief Fisheries Officer or his representative;
  - (e) the Director or his representative;
  - (f) a representative of the Ministry responsible for the subject of environment;
  - (g) a representative of a non-governmental organisation with knowledge of conservation activities; and
  - (h) a private registered veterinary officer.
- (3) The persons referred to in subsection (2)(a), (g) and (h) shall –
- (a) be appointed by the Minister;
  - (b) hold office for a period of one year; and
  - (c) be eligible for reappointment for one further year.
- (4) The Scientific Authority shall –
- (a) advise the Management Authority on any matter relating to CITES, including whether –
    - (i) a proposed export of such specimen of a species as may be prescribed shall be detrimental to the survival of the species;

- (ii) a proposed import of such specimen of a species as may be prescribed shall be detrimental to the species and the proposed recipient of the specimen is suitably equipped to care for the specimen;
- (b) monitor the export permits granted for such specimens as may be prescribed and the actual export of the specimens;
- (c) advise the Management Authority on any measure to be taken to limit the granting of export permits where the situation so requires;
- (d) advise the Management Authority and the CITES Secretariat on the disposal of confiscated or forfeited specimens;
- (e) conduct research on any other species that is likely to be endangered, threatened or exploited in Mauritius;
- (f) collect and distribute information relating to the international trade in, or any other commercial use of, any endangered or protected species;
- (g) advise the Management Authority, the CITES Secretariat or any other relevant organisation on any matter relevant to the protection of species.

## **PART VI – PROTECTION OF FAUNA AND FLORA**

### **21. Protected wildlife**

- (1) Any person who wishes to –
  - (a) pick, pluck, gather, collect, cut, uproot, process, breed, hunt, rear, have in his possession or under his control, or otherwise obtain, plant, propagate,

purchase, sell, offer or display to the public, any protected wildlife or its derivative; or

(b) export or import any protected wildlife or its derivative,

shall make a written application to the Director for a permit.

(2) Where the Director receives an application under subsection (1), he may, subject to such terms and conditions as he considers appropriate, issue a permit.

(3) No person shall, except in accordance with a permit issued by the Director and subject to such conditions as may be imposed, do any act referred to in subsection (1).

## **22. Protected flora**

(1) Any person who wishes to collect or sell such protected species of flora as may be prescribed shall make a written application to the Director for a permit.

(2) Where the Director receives an application under subsection (1), he may, subject to such terms and conditions as he considers appropriate, issue a permit.

(3) No person shall purchase any protected species of flora referred to in subsection (1) other than from a person holding a permit issued under subsection (2).

(4) Any owner or occupier of land, where naturally occurring protected species of flora referred to in subsection (1) is found, shall register the premises with the Director.

## **23. Protected fauna**

(1) Any person may, except for the purpose of trade, capture for the purpose of rearing, or rear, a bird of such species as may be prescribed.

(2) No person shall, except with the written authorisation of the Director –

- (a) take or destroy the egg or nest of any protected fauna other than a bird of such species as may be prescribed;
- (b) sell or buy any bird of a species listed in the Second Schedule during a closed season;
- (c) kill or otherwise destroy any protected fauna of such species as may be prescribed.

#### **24. Protected freshwater biodiversity**

No person shall, without the written authorisation of the Director, fish, take, remove, destroy or sell any naturally occurring freshwater species as may be prescribed.

#### **25. Trading in prescribed wildlife**

No person shall, unless he holds a permit to do so, and subject to such terms and conditions as may be imposed, including the payment of such fee as may be prescribed –

- (a)
  - (i) breed, hunt, obtain by any means, have in his possession, any prescribed wildlife; or
  - (ii) obtain or have in his possession any product or derivative of prescribed wildlife;
- (b) buy, sell or otherwise trade in any prescribed wildlife or any product or derivative of prescribed wildlife;
- (c) export, re-export, import or introduce from the sea any prescribed wildlife or any product or derivative of prescribed wildlife;

- (d) assist in or facilitate the export or import of any prescribed wildlife or any product or derivative of prescribed wildlife.

## 26. Hunting of wildlife

- (1) No person shall hunt –
  - (a) any wildlife or carry any hunting equipment on land owned or occupied by another person, except –
    - (i) with the occupier's consent; or
    - (ii) where the land is not occupied, with the owner's consent;
  - (b) any wildlife by night;
  - (c) any wildlife by means of –
    - (i) a drug, poison or a poisoned weapon or bait;
    - (ii) an explosive;
    - (iii) fire;
    - (iv) a firearm capable of firing more than one round at a time;
    - (v) a missile containing a detonator;
    - (vi) a snare or gin trap;
    - (vii) a pit; or
  - (d) any prescribed wildlife, except during the prescribed period.

(2) No person shall purchase, sell, or have in his possession, any wildlife which has been hunted in any manner specified in subsection (1).

(3) Notwithstanding subsections (1) and (2), the Director may in writing, subject to such terms and conditions as he considers appropriate, authorise the hunting of wildlife.

## **27. Hunting of game**

(1) Subject to subsections (2), (3) and (5) and to sections 25 and 26, no person shall hunt –

(a) any game –

(i) unless he is the holder of a valid game licence issued by the Commissioner of Police under the Firearms Act and has obtained an authorisation from the Director under section 28;

(ii) from a vehicle; or

(iii) with the aid of artificial light;

(b) any deer –

(i) with a firearm of 0.22 or smaller calibre;

(ii) with a shotgun loaded with lead shot; or

(iii) with a bow and arrow.

(2) The Director may, subject to such terms and conditions as he considers appropriate, authorise a person to hunt game for scientific or game management purposes by any method which he may approve.

(3) (a) Subject to paragraph (b), a person or anyone authorised by him may hunt any game found straying on any cultivated portion of that person's land or damaging that person's crop.

(b) (i) Where a person, acting under paragraph (a), kills any game, that person shall forthwith send the carcass to the nearest police station.

(ii) The police officer in charge of the station shall forward the carcass to a social security officer for disposal.

(4) (a) An officer authorised by the Director may require the carcass of any game to be marked for identification purpose.

(b) No person shall deface or remove any mark placed on a carcass under paragraph (a).

(5) The Director may authorise a person to hunt game for trophy in the closed season where –

(a) the animal is over 3 years old and is hunted by stalking without the use of a dog or beater; and

(b) the carcass is tagged at the time of hunting with a special tag provided by the Director on payment of such fee as may be prescribed.

## **28. Authorisation to hunt game**

(1) Where a person has been issued by the Commissioner of Police with a game licence or temporary game licence under the Firearms Act, he shall apply to the Director for an authorisation to hunt such game as may be prescribed.

(2) A person who wishes to hunt game for trophy under section 27(5) shall make an application to the Director for such trophy licence as may be prescribed.

(3) The Director may, on receipt of an application under subsection (1) or (2), grant an authorisation to hunt game on payment of such fee as may be prescribed and subject to such terms and conditions as he considers appropriate.

#### **29. Restriction on grant of authorisation to hunt game**

No authorisation shall be granted under section 27 or 28 to –

- (a) a person who has, within a period of 5 years preceding the date of the application, been convicted of an offence under this Act; or
- (b) a gamekeeper, except with the written consent of the gamekeeper's employer.

### **PART VII – CONTROL OF WILDLIFE**

#### **30. Invasive Alien Species Committee**

There shall be for the purpose of controlling the introduction of exotic wildlife in Mauritius an Invasive Alien Species Committee.

#### **31. Functions of Invasive Alien Species Committee**

The Invasive Alien Species Committee shall advise the Minister on –

- (a) any matter related to the introduction of exotic wildlife in Mauritius;
- (b) a request for the importation of invasive alien species;
- (c) the policy to be adopted for the control of invasive alien species; and
- (d) the preparation of a prohibited list of wildlife species which shall not be allowed to enter Mauritius.



### **32. Composition of Invasive Alien Species Committee**

The Invasive Alien Species Committee shall consist of –

- (a) the Director or his representative as Chairperson;
- (b) the Conservator of Forests or his representative;
- (c) a representative of the National Plant Protection Office;
- (d) a representative of the Ministry responsible for the subject of the environment;
- (e) a representative of the Ministry responsible for the subject of commerce;
- (f) a representative of the Ministry responsible for the subject of fisheries;
- (g) a representative of the Ministry responsible for the subject of health;
- (h) a representative of the Ministry responsible for the subject of tourism;
- (i) a representative of the Mauritius Revenue Authority;
- (j) the Principal Veterinary Officer or his representative;
- (k) a representative of a non-governmental organisation involved in conservation issues, to be appointed by the Minister; and
- (l) a representative from among pet traders, importers and breeders, to be appointed by the Minister.

### **33. Meetings of Invasive Alien Species Committee**

- (1) The Invasive Alien Species Committee shall meet –
  - (a) at least once every 2 months;
  - (b) at such time and place as its Chairperson may determine.
- (2) At any meeting of the Invasive Alien Species Committee, 7 members shall constitute a quorum.
- (3) The Committee shall otherwise regulate its meetings and proceedings in such manner as it may determine.

#### **34. Appointment of subcommittees**

The Invasive Alien Species Committee may –

- (a) appoint subcommittees consisting of 2 or more members; or
- (b) co-opt such other person,

as it may consider appropriate to assist it.

#### **35. Importation of exotic wildlife**

- (1) Any person who wishes to import any species of wildlife shall make a written application to the Director for a permit in such form as the Director may determine.
- (2) No person shall import any species of wildlife –
  - (a) where the species has been prohibited by the Minister on the advice of the Invasive Alien Species Committee; and

(b) unless he has been issued with a permit by the Director.

(3) A permit issued under subsection (2) shall be issued on payment of such fee as may be prescribed and subject to such terms and conditions as the Director may consider appropriate.

(4) No person shall, except with the written authorisation of the Director, introduce into Mauritius any species of wildlife, including game, or any other mammal, bird or insect which is not found in Mauritius.

### **36. Special Technical Committee**

(1) There shall, for the purpose of controlling wildlife in Mauritius, be a Special Technical Committee.

(2) Where any species of wildlife has attained pest status and the Special Technical Committee advises that control is necessary, such species may, in the national interest, be controlled for such period and in such manner as the Special Technical Committee may determine.

(3) The Special Technical Committee shall consist of –

- (a) the Director or his representative, as Chairperson;
- (b) the Director, General Health Services or his representative;
- (c) the Conservator of Forests or his representative;
- (d) the Principal Veterinary Officer or his representative;
- (e) a representative of the University of Mauritius;

- (f) a representative of a non-governmental organisation involved in terrestrial biodiversity conservation; and
  - (g) a member of the public with wide knowledge in biodiversity conservation.
- (4) The members referred to in subsections 3(f) and (g) shall –
- (a) be appointed by the Minister;
  - (b) hold office for a period of 2 years;
  - (c) be eligible for reappointment.
- (5) At any meeting of the Special Technical Committee, 5 members shall constitute a quorum.
- (6) The Special Technical Committee shall otherwise regulate its meetings and proceedings in such manner as it considers appropriate.
- (7) For the purpose of subsection (1), a species shall be considered to have attained pest status where –
- (a) the population of the said species has attained high numbers; and
  - (b) the Special Technical Committee advises that control is necessary in the national interest.
- (8) Control of species under subsection (1) or (2) –
- (a) may only be effected with the written authorisation of the Minister; and
  - (b) shall be carried out under the authority of the Director.

### **37. Strategic locations**

A written authorisation to control such species of wildlife as may be prescribed may be exceptionally granted by the Minister to any person, even where such species exists in small numbers but constitutes a threat, at such strategic location as he may determine in the national interest.

## **PART VIII – CITES PERMITS**

### **38. CITES export permit**

(1) No person shall export such species and derivatives thereof as may be prescribed unless he holds an export permit issued by the Management Authority.

(2) Any person who wishes to export any such species and derivatives thereof shall apply to the Management Authority for a permit to do so.

(3) The Management Authority may, on payment of such fee as may be prescribed and subject to such terms and conditions as it considers appropriate, grant the application and issue an export permit where –

- (a) it is satisfied that the species and derivatives thereof concerned have been legally acquired;
- (b) it is satisfied that any living species and derivatives thereof have been prepared and shipped in such manner as to minimise the risk of injury, damage to health or cruel treatment;
- (c) in the case of such species and derivatives thereof as may be prescribed, the Scientific Authority has given its consent to the proposed export; and
- (d) in the case of such species and derivatives thereof as may be prescribed, an import permit has been granted by the competent authority of the country of destination.

### **39. CITES import permit**

(1) No person shall import such species and derivatives thereof as may be prescribed unless he holds an import permit issued by the Management Authority.

(2) Any person who wishes to import any species and derivatives thereof referred to in subsection (1) shall apply to the Management Authority for a permit to do so.

(3) The Management Authority may, on payment of such fee as may be prescribed and subject to such terms and conditions as it considers appropriate, grant the application and issue an import permit where –

(a) the Scientific Authority has advised that the import is for purposes which are not detrimental to the survival of the species and derivatives thereof and is satisfied that the proposed recipient of the living species and derivatives thereof is suitably equipped to house and care for it; and

(b) the Management Authority is satisfied that the species and derivatives thereof concerned are not destined primarily for commercial purposes.

#### **40. Re-export certificate**

(1) No person shall re-export any prescribed species and derivatives thereof unless he holds a re-export certificate issued by the Management Authority with respect to those species.

(2) Any person who wishes to re-export any species and derivatives thereof referred to in subsection (1) shall apply to the Management Authority for a certificate to re-export the species and derivatives thereof in such manner as may be prescribed.

(3) The Management Authority shall, on payment of such fee as may be prescribed and subject to such terms and conditions as it considers appropriate, grant the application and issue a re-export certificate where –

(a) it is satisfied that the species and derivatives thereof have been imported in accordance with this Act;

- (b) it is satisfied that any living species has been prepared and shipped in such a manner as to minimise the risk of injury, damage to health or cruel treatment; and
- (c) in the case of such living species as may be prescribed, it is satisfied that an import permit has been granted by the competent authority of the country of destination.

#### **41. Certificate for introduction from sea**

(1) No person shall introduce from the sea any specimen of such species as may be prescribed unless he holds a certificate issued by the Management Authority.

(2) Any person who wishes to introduce from the sea any specimen of a species as may be prescribed shall apply to the Management Authority for a certificate.

(3) The Management Authority may, on payment of such fee as may be prescribed and subject to such terms and conditions as it considers appropriate, grant the application and issue a certificate where –

- (a) the Scientific Authority has advised that the introduction from the sea shall not be detrimental to the survival of the species; and
- (b) the Management Authority is satisfied that –
  - (i) the species shall not be used primarily for commercial purposes and that the proposed recipient of any living species is suitably equipped to house and care for it; and
  - (iii) any living species shall be handled in such manner as to minimise the risk of injury, damage to health or cruel treatment.



## **42. Validity of CITES permits**

(1) An export permit issued under section 38 shall be valid for a period of 6 months from the date of issue.

(2) (a) An import permit issued under section 39 for such species listed in Appendix I of CITES as may prescribed shall be valid for a period of 12 months from the date of issue.

(b) An import permit issued under section 39 for such species listed in Appendix II of CITES as may be prescribed shall be valid for a period of 6 months from the date of issue of the corresponding export or re-export permit or similar authority issued by the country of export or re-export.

(3) A permit or certificate issued under this Part shall be issued in such form as may be prescribed.

(4) Any copy of a permit or certificate issued by the Management Authority shall be clearly marked as a copy, and no such copy may be used instead of the original, except to the extent endorsed thereon.

(5) A separate permit or certificate shall be required for each consignment of species.

(6) A permit or a certificate shall not be transferable.

## **PART IX – REGISTRATION AND MARKING**

### **43. Registration of traders and producers**

(1) No person shall trade in such species as may be prescribed unless he is registered with the Management Authority.

(2) No person shall produce captive bred animals and artificially propagated plants of such species as may be prescribed for commercial or trade purposes unless he is registered with the Management Authority.

(3) The Management Authority may, after considering an application under subsection(1) or (2) and such other information as it may require, register a person under this section on such terms and conditions as it considers appropriate.

(4) Any person registered with the Management Authority under subsection (1) or (2) shall keep records of his stock and of his transactions.

(5) Where a person does not comply with any term and condition of registration, the registration may be withdrawn by the Management Authority unless good cause is shown as to why the condition could not be complied with.

## **PART X – POWERS OF OFFICERS**

### **44. Powers of officers**

(1) Where an officer has reasonable ground to suspect that a person has committed or is about to commit an offence under this Act, the officer may require that person to state his full name and address.

(2) Where a person is found committing an offence within any reserved land, an officer may require that person to leave the reserved land forthwith.

(3) An officer may –

(a) seize anything which he reasonably suspects is the object or evidence of an offence under this Act;

(b) enter premises or a vehicle which he reasonably suspects to contain a species in violation of this Act and detain the species;

(c) examine any species which he reasonably suspects to be a species transported, acquired or traded in violation of this Act;

(d) examine any record held in relation to species referred to in paragraph (a) or (b);

(e) confiscate any species being held or traded in breach of this Act.

(4) Any prescribed wildlife confiscated under this Act shall remain in the custody of the Management Authority which, after consultation with the Scientific Authority, shall –

(a) send the species to a rescue centre;

(b) return the species to the country of export; or

(c) decide on the final disposal of the species.

(5) Any expenses incurred as a result of any seizure, including custody costs, the costs of transporting and disposing of species, or of maintaining live animals and plants during the time of seizure, shall be recoverable from the offender.

#### **45. Power of entry, search, seizure and arrest**

(1) Where a Magistrate is satisfied by information on oath that there are reasonable grounds to believe that an offence under this Act in relation to wildlife has been, is being, or is about to be committed, the Magistrate may issue a warrant authorising any officer to enter any land or premises and to search for any wildlife which is the subject matter of the offence.

(2) Where a person is found hunting or carrying hunting equipment in breach of this Act on any land, any officer may enter the land without a warrant.

(3) Where a police officer not below the rank of Inspector, or any officer designated by the supervising officer of the Ministry, has reasonable ground to suspect that an offence is

being committed or is about to be committed, and is satisfied that it is impracticable, for reasons of urgency, to seek a warrant from a Magistrate, he may, without a warrant –

- (a) enter and search any premises;
- (b) stop and search any vehicle;
- (c) seize any hunting equipment or other device used in contravention of this Act, together with any vehicle used to assist in or facilitate such contravention; or
- (d) seize any wildlife or species obtained or possessed in breach of this Act.

(4) For the purposes of this Act, an officer may, at any time, enter –

- (a) any buffer zone; or
- (b) any land which it is convenient or expedient to cross in order to reach any reserved land.

(5) Any person who is reasonably suspected of having committed an offence under this Act may be arrested without a warrant –

- (a) by the owner or occupier of the land on which the offence is suspected of having been committed;
- (b) by a person authorised by the owner or occupier; or
- (c) by an officer.

(6) (a) Any hunting equipment, device or product of wildlife found in the possession of a person arrested under this section may be seized by the owner or occupier of the land on which the offence has been committed, by a person authorised by the owner or occupier or by an officer.

(b) In the case of a seizure effected under paragraph (a) by the owner or occupier of the land on which the offence has been committed or by a person authorised by the owner or occupier, the seized hunting equipment, device or product of wildlife caught shall be remitted forthwith to an officer.

(7) The officer referred to in subsection (6) may dispose of any product of a perishable nature.

(8) Any expense incurred as a result of a seizure, including custody costs, the costs of transporting and disposing of species or of maintaining wildlife during the time of seizure shall be recoverable from the offender.

(9) Any other species of wildlife confiscated under this Act shall remain the property of the Management Authority which, in consultation with the supervising officer of the Ministry, shall decide on their disposal.

(10) Where a person commits an offence under this Part, any cage, container, boat, aeroplane, vehicle or other article or equipment in respect of which or by means of which the offence was committed, shall be forfeited.

## **PART XI – FINANCIAL PROVISIONS AND ACCOUNTS**

### **46. National Parks and Conservation Fund**

(1) There shall be for the purposes of this Act a National Parks and Conservation Fund.

(2) There shall be paid into the Fund –

(a) such sums as may be appropriated by the National Assembly for the purposes of this Act;

(b) any grant or donation made to the Fund;

- (c) the proceeds from the sale of any produce of reserved land except timber;
- (d) any licence, permit, certificate, authorisation or other fee paid under this Act;
- (e) any money that is payable under this Act, including all fees, rent and other charges arising from the authorised use of reserved land; and
- (f) the levies payable by monkey export companies for the export of live monkeys' parts and derivatives of monkeys.

(3) The Fund shall be administered by a Committee consisting of –

- (a) the supervising officer of the Ministry, as Chairperson;
- (b) the Director;
- (c) the Conservator of Forests; and
- (d) 2 other persons appointed by the Minister.

(4) (a) The assets of the Fund shall be applied only to the payment of any expenses which may be incurred by the Director in performing his functions and in activities entrusted to his management.

- (b) No disbursement shall be made from the Fund except –
  - (i) for the purposes of this Act; and
  - (ii) with the authorisation of the Committee.

(5) The Committee shall, not later than 3 months after the end of each financial year, prepare and submit to the Director of Audit –

- (a) an annual statement of the receipts and payments of the Fund for that financial year; and
- (b) a balance sheet as at the end of that financial year showing the assets and liabilities of the Fund.

(6) The Committee shall, not later than 6 months after the end of each financial year, furnish to the Minister –

- (a) a report dealing with the activities and financial position of the Fund during that financial year; and
- (b) a copy of the audited accounts of the Fund for that financial year, together with the auditor's report on those activities.

## **PART XII – MISCELLANEOUS**

### **47. Offences**

- (1) Any person who contravenes this Act shall commit an offence.
- (2) Any person who commits an offence shall, on conviction –
  - (a) where the offence relates to importing, exporting, re-exporting or introducing from the sea any prescribed wildlife without a valid permit or certificate or a species of wildlife as may be prescribed, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years;
  - (b) where the offence relates to having in one's possession, or offering or exposing for sale or displaying to the public, without reasonable excuse,

any prescribed species, be liable to a fine not exceeding 50,000 rupees and imprisonment for a term not exceeding 3 years;

- (c) in any other case, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) The Court shall, in addition to the penalty provided for in subsection (2), order that any wildlife in respect of which the offence was committed and any animal used in the commission of an offence be forfeited.

#### **48. Jurisdiction**

Notwithstanding –

- (a) section 114 of the Courts Act;
- (b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a District Court shall have the power to hear, try and determine any charge under this Act and may impose any penalty provided under this Act.

#### **49. Regulations**

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide for –

- (a) amendment of the Schedules;
- (b) prohibiting the hunting of any wildlife or the carrying or use of any hunting equipment;
- (c) the issue of permits and certificates referred to in this Act; or



- (c) the levying of fees.

## **50. Coordination with other laws**

(1) Notwithstanding this Act, the Forests and Reserves Act or the Fisheries and Marine Resources Act –

- (a) an officer acting in the course of his duties may hunt, drive, capture, impound, shoot or otherwise dispose of any animal and may cut, trim, dig, remove or burn any plant, seed, egg, nest, soil, mineral, sand, coral, structure or other item or any part thereof on reserved land;
- (b) an officer may introduce plants and animals into reserved land where it is necessary or expedient in the opinion of the Director, to do so to enable him to perform his functions under this Act;
- (c) the Director may, with the approval of the supervising officer of the Ministry, authorise any other person to do any act described in paragraph (a) or (b), subject to such conditions as the Director may determine.

(2) The declaration of reserved land under section 11 and the preparation of management plans under section 16 shall not be subject to Part IV of the Environment Protection Act.

## **51. Repeal**

- (1) The Wildlife and National Parks Act is repealed.
- (3) The National Parks and Reserves Regulations 1996 and the Wildlife Regulations 1998 are revoked.

## **52. Consequential amendments**

(1) The Firearms Act is amended, in section 16(1), by deleting the words “section 19 of the Wildlife and National Parks Act” and replacing them by the words “section 27(1)(a) of the Native Terrestrial Biodiversity and National Parks Act 2015”.

(2) The Forests and Reserves Act is amended, in section 2, by deleting the definition of “game” and replacing it by the following definition –

“game” has the same meaning as in the Native Terrestrial Biodiversity and National Parks Act 2015;

(3) The Meat Act is amended, in section 2, by deleting the definition of “game licence” and replacing it by the following definition –

“game licence” has the same meaning as in the Native Terrestrial Biodiversity and National Parks Act 2015;

## **53. Transitional provisions**

(1) Any game licence or permit issued under the repealed Act and valid at the commencement of this Act shall be deemed to have been issued under this Act and shall remain valid for the period for which it was issued.

(2) Any other licence, permit or authorisation issued under the repealed Act and valid at the commencement of this Act shall be deemed to have been issued under this Act and shall remain valid for any period for which it was issued.

(3) (a) Subject to paragraph (c), any person holding or possessing wildlife, the holding or possession of which requires a licence under this Act, shall, within one year from the commencement of this Act, apply for a licence in accordance with this Act.

(b) Applications for permits and licences required in respect of activities under this Act shall be made within one year from the commencement of this Act.

(c) Paragraph (a) shall not apply to trading in, importing or exporting any form of protected wildlife or its derivatives.

(4) Notwithstanding section 51, any fee, charge or sum paid or unpaid under the repealed Act or the revoked regulations before the commencement of this Act, as the case may be, shall in respect of the corresponding period, be deemed to have been paid or unpaid, as the case may be, under this Act.

(5) Any person appointed under the repealed Act and holding office at the commencement of this Act, shall remain in office as if he had been appointed under this Act.

(6) Any fund instituted under the repealed Act or the revoked regulations shall be part of the Fund.

(7) Any management plan prepared under the repealed Act and in force at the commencement of this Act shall be considered to have been prepared under this Act.

(8) The Minister may, by regulations, provide for any matters in force before the commencement of this Act to be dealt with in such manner as may be required to bring them into conformity with this Act.

(9) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary to effect the transition.

(10) In this section –

“repealed Act” means the Wildlife and National Parks Act;

“revoked regulations” means the regulations specified in section 49(2).

#### **54. Commencement**

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

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## **FIRST SCHEDULE**

[Section 2]

### **PART I – CLOSED RESERVES**

Ile aux Fous

Ilot Vacoas

Pigeon Rock

Rocher des Oiseaux

### **PART II – OPEN RESERVES**

Ile d'Ambre

Ile aux Flammants

Ile aux Fouquets

Ile aux Oiseaux

Ile de la Passe

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## SECOND SCHEDULE

[Sections 2 and 20]

### GAME

#### PART I – GAME BIRDS

Scientific name	Common name	Hunting period
<i>Coturnix japonica</i>	Quail ( <i>caille</i> )	2 April to 1 August
<i>Francolinus spp.</i>	Partridge ( <i>perdrix</i> )	2 April to 1 August
<i>Numida spp.</i>	Wild guinea fowl ( <i>pintade sauvage</i> )	16 April to 14 September

#### PART II – MAMMALS

Scientific name	Common name	Hunting period
<i>Cervus timorensis</i>	Deer ( <i>cerfs</i> ) other than fawns	1 June to 30 September
<i>Lepus nigricollis</i>	Hare ( <i>lièvre</i> )	Open
<i>Sus spp.</i>	Wild pig ( <i>cochon marron</i> )	Open

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