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**THE WILDLIFE CONSERVATION AND MANAGEMENT
(PROTECTION OF ENDANGERED AND THREATENED
ECOSYSTEMS, HABITATS AND SPECIES) REGULATIONS**

NO. 242 OF 2017

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Wildlife Conservation and Management Act

The Wildlife Conservation and Management (Protection of Endangered and Threatened Ecosystems, Habitats and Species) Regulations

Legal Notice 242 of 2017

Legislation as at 31 December 2022

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The Wildlife Conservation and Management (Protection of Endangered and Threatened Ecosystems,
Habitats and Species) Regulations (Legal Notice 242 of 2017)
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WILDLIFE CONSERVATION AND MANAGEMENT ACT

THE WILDLIFE CONSERVATION AND MANAGEMENT (PROTECTION OF ENDANGERED AND THREATENED ECOSYSTEMS, HABITATS AND SPECIES) REGULATIONS

LEGAL NOTICE 242 OF 2017

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Part I – PRELIMINARY

1. Citation

These Regulations may be cited as the Wildlife Conservation and Management (Protection of Endangered and Threatened Ecosystems, Habitats and Species) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Wildlife Conservation and Management Act (Cap. 376);

"darting" in relation to a live specimen of a listed threatened or protected animal species, means to shoot the specimen with a projectile loaded with a tranquilizing, narcotic, immobilizing, or similar agent;

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

"habitat" means a place or site where wildlife naturally occurs and which provides food, cover and water on which wildlife depend directly or indirectly;

"permit" means a permit issued under the Act or the regulations made under the Act;

"habitat destruction" means the alteration or modification of the habitat of a specimen of a listed species in any way, to the extent that specimen of such species are no longer capable of surviving in the altered or modified habitat;

"harassing" means behavior or conduct that threatens, disturbs or torments a listed species, marine species, and includes—

- (a) the insertion of a tag to a listed threatened or protected marine species for the purpose of tracking or monitoring;
- (b) in case of a whale, approaching a whale with a vessel or aircraft closer than three hundred meters;
- (c) in the case of turtles, photographing turtles at night or digging up nests or eggs;

"listed species" means species listed in Sixth Schedule of the Act;

"person" means a natural or juristic person;

"protected species" means any species which is of such high conservation value or national importance that it requires national protection;

"release" means to intentionally—

- (a) cease exercising physical control over;
- (b) cease having possession of; or
- (c) free from its controlled environment, a live specimen of a listed threatened or protected species;

"specimen" means a portion or quantity of wildlife material for use in testing, examination, education, study or research;

"threatening activity" means any activity which threatens, or may threaten—

- (a) the survival, abundance or evolutionary development of an indigenous species or ecological community; or
- (b) the ecological integrity of an ecosystem;

"translocation" means the process of capturing a specimen of a listed threatened or protected animal species at a particular location, the conveying or transporting of such specimen and the release of the specimen in another location; and

"vulnerable species" means any indigenous species facing an extremely high risk in the wild in the medium-term future, but not a critically endangered species.

3. Application

These Regulations shall apply to the protection of endangered and threatened ecosystems, habitats and species in Kenya.

4. Objectives

The objective of these Regulations is to—

- (a) implement the classification of ecosystems, habitats and species into the following categories—
 - (i) critically endangered;
 - (ii) endangered;
 - (iii) vulnerable;
 - (iv) protected; and
 - (v) threatened;
- (b) provide for protection of ecosystems that are threatened or endangered so as to maintain their ecological integrity;
- (c) provide for the protection of species that are threatened, endangered, vulnerable, or protected to ensure their survival in the wild;
- (d) implement Kenya's obligations under international agreements regulating international trade in endangered species; and
- (e) ensure sustainable management and utilisation of biodiversity.

Part II – LISTED ECOSYSTEMS

5. Protection of endangered and threatened ecosystem

- (1) This Part shall apply to endangered and threatened ecosystems and habitats within the meaning of [section 46](#) of the Act.

(2) The Service shall—

- (a) identify the agencies that the Service shall permit to deal with fragile ecosystems;
- (b) identify the officers and offices that shall regulate access to fragile ecosystems;
- (c) create corridors and buffer zones and take such measures, as it considers necessary for the protection of fragile ecosystems;
- (d) regulate the removal or introduction of any species or genetic material into the ecosystem; and
- (e) take measures to maintain the natural balance in the ecosystem.

6. Prohibited activities in listed ecosystems

(1) The following activities are prohibited in listed ecosystems—

- (a) mining, quarrying and extraction of oil and gas or exploration thereof;
- (b) introduction and movement of species out of the ecosystem;
- (c) introduction of invasive species;
- (d) research without the written authority of the Service; and
- (e) any threatening activity in a listed ecosystem including—
 - (i) any activity of a nature that may negatively impact on the ecosystem; and
 - (ii) any activity for which a permit is required under the Act.

(2) Notwithstanding the provisions of sub regulation (1), any activity to be carried out in a listed ecosystem may only be carried out pursuant to a permit issued in accordance with the Act and regulations made thereunder.

Part III – LISTED SPECIES

7. Protection of listed species

Endangered, critically endangered, and vulnerable species as specified in the Act shall be protected in accordance with—

- (a) the Convention on Biological Diversity and Convention on International Trade in Endangered Species of Wild Flora and Fauna and any other law regulating listed species;
- (b) the Act; and
- (c) these Regulations.

8. Conservation of listed species

- (1) The Service may, in consultation with the relevant lead agencies, impose bans, restrictions or similar measures on the access and use of any listed species in order to ensure maximum conservation and sustainability.
- (2) The Service shall determine and take full recovery and rehabilitation measures required to ensure restoration of any listed species into its natural habitat.
- (3) The Service may issue licenses for the establishment and maintenance of facilities for the recovery and rehabilitation of listed species.

9. Restricted activities with regard to listed species

- (1) Restricted activities involving listed species in regulation 8 include—
 - (a) any activity of a nature that may negatively impact on the survival of a listed species; and
 - (b) any of the following activities carried out without a permit issued under the Act or regulations—
 - (i) catching, capturing or intentionally killing any living specimen of a listed species by any means, method or device whatsoever, including searching, pursuing, driving, lying in wait, luring, alluring, discharging a missile or injuring with intent to hurt, catch, or kill any such specimen;
 - (ii) gathering, collecting or plucking any specimen of a listed species;
 - (iii) picking parts of, or cutting, chopping off, uprooting, damaging or destroying, any specimen of a listed species;
 - (iv) importing into Kenya, any specimen of a listed species;
 - (v) exporting from Kenya, including re-exporting from Kenya, any specimen of a listed species;
 - (vi) having in possession or exercising physical control over any specimen of a listed species;
 - (vii) growing, breeding or in any other way propagating any specimen of a listed species or causing it to multiply;
 - (viii) conveying, moving or otherwise translocating any specimen of a listed species;
 - (ix) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen of a listed species;
 - (x) darting of a specimen of a listed threatened or protected animal species;
 - (xi) release of a specimen of a listed threatened or protected animal species;
 - (xii) harassing a specimen of a listed marine species;
 - (xiii) attracting a live specimen of a listed marine species;
 - (xiv) attracting of a live specimen of a listed species or protected marine species; and
 - (xv) any other prescribed activity which involves a specimen of a listed species.
- (2) Notwithstanding the provisions of subregulation (1), any activity to be carried out with regard to listed species may only be carried out pursuant to a permit issued in accordance with the Act and the regulations made thereunder.

10. Management of listed species

- (1) The import, export or transit of any of the listed species is prohibited and allowed only in line with international conventions, and particularly the Convention on International Trade in Endangered Species of Wild Flora and Fauna.
- (2) All dealings in the listed species shall be in compliance with the conservation and management plan of the species in question.
- (3) A person dealing in listed species shall provide proof of adequate accommodation and safety for the animal.

- (4) The Service shall register and regulate any institutions of learning that shall keep listed species for research purposes.
- (5) No trade or commercial exhibition shall be made of the listed species except those expressly permitted by the permit and the conservation plan approved by the service.
- (6) Permits and certificates issued by other jurisdictions shall be subject to these Regulations and the provisions of the Act.
- (7) The Service shall have the authority to alter the terms of a permit, licence, or other authorization issued by any other jurisdiction for movement of species into or through the territory of Kenya.

Part IV – LISTED SPECIES AND ECOSYSTEMS

11. Inventory of species

- (1) The Service shall, within twelve months of the commencement of these Regulations identify and prepare an inventory of the listed ecosystems, habitats and species in Kenya.
- (2) The inventory shall be maintained and updated annually by the Service.
- (3) The inventory shall be public record of the Service and shall be accessible to any person upon application to the Service:

Provided that the Service shall retain the authority to keep any data on the listed species as classified confidential data in the interest of safeguarding the listed species.

12. Monitoring

The service shall—

- (a) monitor the status and components of the listed species and ecosystems in Kenya and take necessary measures to prevent and control their depletion; and
- (b) review the efficacy of the protective measures herein and take stock of any emerging scientific knowledge in the protection of listed species and ecosystems.

Part V – MISCELLANEOUS PROVISIONS

13. Overlapping laws

- (1) These Regulations do not preclude any other measures which may be taken by the Service to protect any species in compliance with international treaties and conventions that Kenya is a signatory to.
- (2) These Regulations shall not prejudice any steps the Service may take in line with new or emerging scientific knowledge in respect of the protection of any species.
- (3) The Service shall, without prejudice to these Regulations, regulate the introduction and removal of any species from the ecosystem.
- (4) These Regulations shall be complementary to the provisions made under the Environment Management and Co-ordination Act (Cap. 387).

14. Offences

A person who carries out a prohibited activity under these Regulations commits an offence and shall be liable on conviction to such penalty as provided for under the Act.