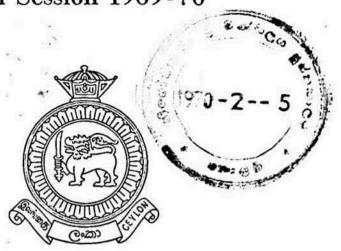
PARLIAMENT OF CEYLON

5th Session 1969-70



Fauna and Flora Protection (Amendment) Act, No. 1 of 1970

Date of Assent: January 21, 1970

Printed on the Orders of Government

Printed at the Department of Government Printing, Ceylon. To be purchased at the Government Publications Bureau, Colombo

Annual Subscription (including Bills) Rs. 30 (Local), Rs. 40 (Foreign), payable to the Superintendent, Government Publications Bureau, P. O. Box 500, Colombo 1, before 20th December each year in respect of the year following. Late subscriptions will be accepted on the condition that Bills issued before the date of payment will not be supplied.

Price:: 80 cents Postage: 20 cents

L. D.-0. 15/67.

An Act to amend the Fauna and Flora Protection Ordinance, and to provide for matters connected therewith or incidental thereto.

[Date of Assent: January 21, 1970]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Fauna and Flora Protection (Amendment) Act, No. 1 of 1970, and shall come into operation on such date as may be appointed by the Minister by Order published in the Gazette.

Short title and date of operation.

2. The Fauna and Flora Protection Ordinance, hereafter in this Act referred to as the "principal enactment", is hereby amended as follows:—

Certain general amendments to Chapter 469.

- (a) by the substitution, for any expression or word specified in Column I of Part I of the Schedule to this Act wherever that expression or word occurs in any section of the principal enactment, of the expression or word specified in the corresponding entry in Column II of that Part; and
- (b) by the substitution, for any expression or word specified in Column I of Part II of that Schedule wherever that expression or word occurs in any marginal note to any section of the principal enactment, of the expression or word specified in the corresponding entry in Column II of that Part.
- 3. Section 2 of the principal enactment is hereby amended as follows:—

Amendment of section 2 of the principal enactment.

- (1) in sub-section (4) of that section, by the substitution, in paragraph (a) of that sub-section—
 - (a) for the expression "any National Reserve, Strict", of the expression "any Strict", and
 - (b) for the expression "Intermediate Zone or Sanctuary", of the expression "or Intermediate Zone"; and

- (2) by the insertion, at the end of that section, of the following new sub-section: --
 - "(5) (a) The Minister may, by Order, declare that the limits of any National Reserve or Sanctuary shall be altered or varied.
 - (b) Any Order made by the Minister under this sub-section shall have no effect unless it has been approved by the Senate and the House of Representatives and notification of such approval is published in the Gazette.".

Amendment of section 3 of the principal enactment.

- Section 3 of the principal enactment is hereby amended as follows:-
 - (1) by the insertion, immediately after sub-section (1) of that section, of the following new subsection: -
 - " (1A) No person shall, on any Crown land or any part thereof within any Sanctuary, carry, or have in his possession or under his control, a gun, or a cartridge or other explosive of any description except under the authority, and in accordance with the terms or conditions, of a permit issued by the prescribed officer upon the payment of the prescribed fee. preceding provisions of this sub-section shall be in addition to, and not in derogation of, the provisions of the Firearms Ordinance.";
 - (2) by the insertion, at the end of that section, of the following new sub-sections: -
 - " (3) Nothing in the preceding provisions of this section shall be deemed or construed to prohibit or restrict the exercise by any person of any right acquired, by him, whether by law or custom or usage, in or over any land situated within the limits of any Nature Reserve, or Jungle Corridor, or in or over any Crown land in any Sanctuary, being a right which was so acquired by such person prior to the date of the establishment of such Reserve, Corridor or Sanctuary.

- (4) Any right referred to in sub-section (3) which has not been, or is not, exercised by the person entitled thereto for a continuous period of two years shall be deemed to have lapsed, or to lapse, and to have been, or to be, ceded to the Crown.".
- 5. Section 6 of the principal enactment is hereby amended in sub-section (1) of that section as follows:—

Amendment of section 6 of the principal enactment.

- (1) in paragraph (a) of that sub-section, by the substitution, for the expression "kill or take any wild animal; or", of the expression "kill, wound or take any wild animal or have in his possession or under his control any wild animal, whether dead or alive, or any part of such animal; or ";
- (2) in paragraph (g) of that sub-section, by the substitution, for the expression "any animal or plant.", of the expression "any animal or plant; or "; and
- (3) by the insertion, immediately after paragraph (g) of that sub-section, of the following new paragraphs:—
 - " (h) make any fresh clearing; or
 - (i) except under the authority of a permit issued in that behalf by the prescribed officer, erect any building, whether permanent or temporary, or occupy any building so erected; or
 - (j) construct or use any road or path so constructed by him.".
- 6. Section 6A of the principal enactment is hereby amended as follows:—

Amendment of section 6A of the principal enactment.

- (a) in sub-section (2) of that section, by the substitution, for the expression "interest from", of the expression "interest, or any other object of mineral value, from "; and
- (b) by the insertion, at the end of that section, of the following new sub-section:—
 - "(4) Where the prescribed officer is satisfied that any application for the issue of a permit under sub-section (1) is for the purpose of enabling the applicant to catch

fish in any waters referred to in that subsection for the local consumption of the inhabitants of any village who have, by custom or usage, fished in such waters for that purpose, then, notwithstanding the provisions of that sub-section, such officer shall issue such permit free of charge. ".

Amendment of section 7 of the principal enactment.

- Section 7 of the principal enactment is hereby amended in sub-section (1) of that section as follows:—
 - (a) in paragraph (a) of that sub-section, by the substitution, for the expression "enter any", of the expression "enter, or remain in, any ";
 - (b) in paragraph (b) of that sub-section—
 - (i) by the substitution, in sub-paragraph (11) of that paragraph, for the expression "wild animal; or ", of the expression "wild animal, or have in his possession or under his control any wild animal, whether dead or alive, or any part of any such animal; or ", and
 - (ii) by the insertion, immediately after subparagraph (iii) of that paragraph, of the following new sub-paragraphs:—
 - " (iv) construct or use any hide or ambush on the ground or on any tree for hunting, shooting, injuring or wounding any wild animal, bird or reptile; or
 - (v) set, lay or spread any pitfall, trap, snare or other instrument for the purpose of killing or capturing any wild animal, bird or reptile; or "; and
 - (c) in paragraph (c) of that sub-section—
 - (i) by the substitution, for the expression "Intermediate Zone-", of expression "Intermediate Zone or on any within Crown land Sanctuary—";
 - (ii) in sub-paragraph (iv) of that paragraph, by the substitution, for the words "or plant.", of the words "or plant; or "; and

(iii) by the insertion, immediately after subparagraph (iv) of that paragraph, of the following new sub-paragraphs:—

" (v) make any fresh clearing; or

- (vi) erect any building whether permanent or temporary or occupy any building so erected unless such person is the holder of a permit issued in that behalf by the prescribed officer; or
- (vii) construct or use any road or path so constructed by him.".
- 8. Section 11 of the principal enactment is hereby amended in the definition of "animal", by the substitution, for the expression "vertebrate animal", of the expression "vertebrate or invertebrate animal".

Amendment of section 11 of the principal enactment.

9. Section 12 of the principal enactment is hereby amended by the repeal of sub-section (2) of that section.

Amendment of section 12 of the principal enactment.

10. Section 18 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 18 of the principal enactment.

"Director authorized to dispose of tusks and carcases of dead elephants.

- . 18. Subject to such restrictions or conditions as may be prescribed, the Director may, by sale or otherwise, dispose of the tusks or the carcase, or any part of the carcase, of any dead elephant which is the property of the Crown. ".
- 11. Section 20 of the principal enactment is hereby amended in paragraph (a) of that section, by the substitution, for the words "kills, takes,", of the words "kills, injures, takes,".

Amendment of section 20 of the principal enactment.

12. Section 21 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 21 of the principal enactment.

"Offences— Dead elephants. 21. (1) Subject to the provisions of sub-section (2), any person who takes, dismembers, removes, sells or purchases the carcase, or any part of the carcase, of any dead elephant which is the property of the Crown shall be guilty of an offence and shall on conviction be liable

to a fine not exceeding two hundred rupees or to imprisonment of either description for a term which may extend to one month or to both such fine and imprisonment.

(2) Nothing in sub-section (1) shall apply to the carcase or any part of the carcase of any dead elephant which is the property of the Crown if such carcase or such part of the carcase has been disposed of by the Director under section 18. ".

Amendment of section 26 of the principal enactment.

- 13. Section 26 of the principal enactment is hereby amended—
 - (a) by the omission of the words "fresh" and "freshly taken" wherever they occur in that section; and
 - (b) by the omission of the word "fresh" occurring in the marginal note to that section.

Amendment of section 28 of the principal enactment.

- 14. Section 28 of the principal enactment is hereby amended as follows:—
 - (1) in the definition of the term "deer" by the substitution, for paragraph (d) of that definition, of the following new paragraph:—
 "(d) Mouse deer (Tragalus meminna);";
 - (2) by the substitution, for the definition of the term "elephant", of the following new

definition:

- "" elephant" means a wild elephant, and includes a tusker, and for the purposes of section 22A, includes a tame or domestic elephant or tusker; ; and
- (3) by the substitution, for the definition of "tusker", of the following new definition:—
 - "tusker" means a wild elephant with a pair of incisors (teeth) or a single incisor.

Amendment of section 31 of the principal enactment. 15. Section 31 of the principal enactment is hereby amended in sub-section (1) of that section by the omission in paragraph (a) of that sub-section of the word "knowingly".

16. Section 33 of the principal enactment is hereby repealed.

Repeal of section 33 of the principal enactment.

17. Section 35 of the principal enactment is hereby amended as follows:—

Amendment of section 35 of the principal enactment.

- (1) by the renumbering of that section as subsection (1) of section 35;
- (2) in renumbered sub-section (1) of that section, by the substitution, for the expression "the Director of Museums", of the expression "any competent authority"; and
- (3) by the insertion, immediately after renumbered sub-section (1) of that section, of the following new sub-section:—
 - '(2) For the purposes of sub-section (1), the expression "competent authority" means—
 - (a) the Director of Museums;
 - (b) the Director, Zoological Gardens. '.
- 18. Section 36 of the principal enactment is hereby amended by the omission of the expression "not exceeding three months reckoned from the date of the publication of the notification".

Amendment of section 36 of the principal enactment.

19. Section 42 of the principal enactment is hereby amended in sub-section (1) of that section as follows:—

Amendment of section 42 of the principal enactment.

- (1) by the substitution, for the expression "area specified for the time being in the second column of Schedule V—", of the word "area—"; and
- (2) by the omission of the expression "the first column of" wherever it occurs in that subsection.
- 20. Section 52A of the principal enactment is hereby amended by the substitution, for the expression "kill any animal,", of the expression "kill any prescribed animal,".

Amendment of section 52A of the principal enactment.

21. Section 53 of the principal enactment is hereby amended—

Amendment of section 53 of the principal enactment.

(a) by the substitution, for the expression "Crown land outside", of the expression "Crown land or any public thoroughfare outside" and

- 8
- (b) by the substitution, in the marginal note to that section, for the expression "Crown land outside", of the expression "Crown land or public thoroughfare outside".

Insertion of new section 58a in the principal enactment. 22. The following new section is hereby inserted immediately after section 58, and shall have effect as section 58A, of the principal enactment:—

"Special penalty for offences against elephants.

58A. Notwithstanding anything in any other provision of this Ordinance, where any person is convicted of the offence of killing, hunting, shooting, injuring or taking, or of having in his possession or under his control, any wild elephant within a Natural Reserve or Sanctuary, he shall be liable to be punished with a fine not exceeding three thousand rupees, or to imprisonment of either description for a term which may extend to three years, or to both such fine and imprisonment.".

Amendment of section 60 of the principal enactment.

- 23. Section 60 of the principal enactment is hereby amended by the addition immediately after sub-section (2) of that section of the following new-sub-sections:—
 - "(3) The following provisions shall apply in any case where any wild animal is killed or taken by any person in such circumstances that such killing or taking is not an offence by virtue of the operation of sub-section (1):—
 - (a) such person shall forthwith report such killing or taking to any police officer or Grama Sevaka entitled to officiate in the area within which such killing or taking took place, or to any prescribed officer;
 - (b) such police officer or Grama
 Sevaka or prescribed officer, as
 the case may be, shall, upon
 the receipt of such report,
 investigate the circumstances
 in which such killing or
 taking took place and report the
 result of the investigation to
 the Director;

- (c) such wild animal shall be the property of the Crown and accordingly such police officer or Grama Sevaka or prescribed officer, as the case may be—
 - (i) shall, if such wild animal was so taken, take over such wild animal for and on behalf of the Crown; or
 - (ii) shall, if such wild animal was so killed, take over the carcase of such wild animal for and on behalf of the Crown, and shall thereafter sell such carcase by public auction, issue a receipt in respect of such sale to the purchaser, and credit the proceeds of such sale to the Wild Life Preservation Fund.
- (4) Any person who fails to report the killing or taking of any wild animal to any police officer or Grama Sevaka or prescribed officer as required by paragraph (a) of sub-section (2) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees or to imprisonment of either description for a period which may extend to three months or to both such fine and imprisonment.".
- 24. Section 64 of the principal enactment is hereby amended in sub-section (1) of that section, by the substitution, for the expression "gun, boat,", of the expression "gun, vehicle, boat,".

Amendment of section 64 of the principal enactment.

• 25. Section 65 of the principal enactment is hereby amended by the substitution, for all the words from "It shall be lawful" to "awarded to", of the words "Where a prosecution under this Ordinance or any other written law is instituted by an officer of the Department of Wild Life Conservation, the court may direct that one-half of any fine recovered in the case shall be paid into".

Amendment of section 65 of the principal enactment.

Amendment of section 66 of the principal enactment.

- 26. Section 66 of the principal enactment is hereby amended as follows:—
 - (1) in sub-section (1) of that section—
 - (a) by the substitution for paragraph (b) of that sub-section, of the following new paragraph:—
 - "(b) stop and search any person or any boat, vessel or vehicle and open any package or container found on such person or carried in such boat, vessel, or vehicle; ";
 - (b) by the substitution, in paragraph (c) of that sub-section, for the expression "this Ordinance; and", of the expression "this Ordinance;";
 - (c) by the substitution, in paragraph (d) of that sub-section, for all the words from "in evidence of his offence:" to "the Magistrate.", of the words "in evidence of his offence;"; and
 - (d) by the insertion, immediately after paragraph (d) of that sub-section, of the following new paragraph:—
 - "(e) seize any boat, vessel, vehicle, gun, cartridge, knife, torch, battery, or any other article or equipment which appears to such officer to have been used in the commission of the offence, or which may be produced in evidence of the offence;"; and
 - (2) by the repeal of sub-section (3) of that section, and the substitution therefor of the following new sub-section:—
 - " (3) Any person who-
 - (a) fails or refuses to stop any boat, vessel or vehicle when called upon to do so by a police officer or prescribed officer, or
 - (b) does not allow the search of any boat, vessel or vehicle by a police officer or prescribed officer, or

(c) refuses to be searched by, or obstructs or resists, or escapes or attempts to escape from the custody of, a police officer or prescribed officer acting under the provisions of this Ordinance,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term which may extend to six months or to both such fine and imprisonment.".

27. The following new sections are hereby inserted immediately after section 66, and shall have effect as section 66A and section 66B, of the principal enactment:—

Insertion of new sections 66A and 66B in the principal enactment.

" Offences by officers.

- 66a. Any officer appointed for the purposes of this Ordinance under section 68—
 - (a) who is guilty of prevarication in any judicial trial for an offence under this Ordinance; or
 - (b) who wilfully fails in his duty to report any offence under this Ordinance,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term which may extend to one month or to both such fine and imprisonment.

Power to ascertain name and address of an offender. offending against any part of this Ordinance, it shall be lawful for any prescribed officer to require the person offending to state his name and place of abode, and in case a person so offending after being so required refuses to state his correct name or place of abode or states a name or place of abode which is incorrect, he shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty rupees."

Amendment of section 67 of the principal enactment. 28. Section 67 of the principal enactment is hereby amended in sub-section (1) of that section, by the substitution, for the expression "Intermediate Zone—", of the expression "Intermediate Zone, Nature Reserve, Jungle Corridor or Sanctuary—".

Insertion of new sections 67A, 67B, 67C, 67D, 67E and 67F in the principal enactment. 29. The following new sections are hereby inserted in Part VI immediately after section 67, and shall have effect as sections 67A, 67B, 67C, 67D, 67E and 67F, of the principal enactment:—

"Jurisdiction over offences committed at sea.

- 67A. Where any offence under this Ordinance is committed by any person in any part of the territorial waters of Ceylon, the Magistrate's Court having jurisdiction—
 - (a) over the part of the coast nearest to which the offence was committed; or
 - (b) over the place at which the person came ashore after the commission of the offence,

shall have jurisdiction to try the offence.

Offences under the Ordinance to be cognizable and bailable.

- 67B. (1) Notwithstanding anything to the contrary in the First Schedule to the Criminal Procedure Code, every offence under this Ordinance shall be a cognizable offence and a bailable offence within the meaning of that Code.
- (2) The Director and every prescribed officer shall have the power to release any person arrested under this Ordinance on bail or on such person executing a bond with or without sureties.

The Director and prescribed officers to be peace officers. 67c. The Director and every prescribed officer shall be deemed to be a peace officer within the meaning of the Criminal Procedure Code for exercising, for the purposes of this Ordinance, any power conferred on peace officers by that Code.

Power of Director and prescribed officers to hold inquiries. 67D. (1) The Director and, subject to the provisions of sub-section (2), every prescribed officer shall exercise the powers that may be exercised in respect of cognizable offences by an inquirer, or

by an officer in charge of a police station, under the provisions of Chapter XII of the Criminal Procedure Code.

- (2) The powers referred to in subsection (1) shall not be exercised by a prescribed officer in any place which is outside the limits of the area to which he is appointed.
- (3) An inquiry under this section shall be held at or in the neighbourhood of the place in which the offence is alleged to have been committed.

Arrests, searches, &c., how to be made. 67E. The provisions of the Criminal Procedure Code relating to arrests, searches, search warrants, the release of persons arrested on bail or on the execution of bonds, the production of persons arrested, and the investigation of offences shall be held to be applicable to all action taken in these respects under this Ordinance.

Ejectment from Crown land.

- 67r. Where any person convicted of any offence under section 6 or section 7 in respect of any Crown land continues to be in unlawful or unauthorized possession or occupation of such Crown land or any portion thereof, the district director of the district or area in which such Crown land is situated may issue a notice on such person forthwith to vacate the land of which he is in unlawful or unauthorized possession occupation and if he fails to do so he may be ejected from the land under the procedure prescribed by sections 120 to 127 (both inclusive) of the Land Development Ordinance as if—
 - (a) that land were a holding under that Ordinance,
 - (b) the notice issued under this section were a notice under section 119 of that Ordinance,
 - (c) the reference in section 124 of that Ordinance to the person whose grant has been cancelled were a

reference to the person to whom a notice under this section has been issued, and

district director of the (d) the district or area in which that land is situate were the Government Agent exercising, discharging or performing in respect of a holding any power, duty or function imposed upon or assigned to the Government Agent under that Ordinance.".

Amendment of section 68 of the principal enactment.

- Section 68 of the principal enactment is hereby amended in sub-section (1) of that section, by the substitution,—
 - (1) for the expression "Warden or as Deputy Warden, ", of the expression "Director, or as Deputy Director, Wild Life Conservation, ";
 - (2) for the expression "as district warden", of the expression "as district director, Wild Life Conservation,"; and
 - (3) for the expression "honorary district warden", of the expression "honorary district director, Wild Life Conservation, ".

Amendment of section 72 of the principal enactment.

- Section 72 of the principal enactment is hereby amended, in sub-section (1) of that section, as follows:—
 - (1) by the insertion, immediately before the definition of the term "close season", of the following new definition: -
 - " "Ceylon" includes the territorial waters of Ceylon; ';
 - (2) by the insertion, immediately after the definition of the term "cultivated land", of the following new definitions:
 - " Director " means the person appointed to be or to act as the Director, Wild Life Conservation, for the purposes of this Ordinance, and includes the Deputy Director, Wild Life Conservation, appointed for such purposes;

"district director" means a district director, Wild Life Conservation, appointed for the purposes of this Ordinance;

"honorary district director" means an honorary district director, Wild Life Conservation, appointed for the purposes of this Ordinance; '; and

- (3) by the substitution, for the definition of the term "Warden", of the following new definition: -
 - "" territorial waters" means the part of the sea within a distance of three nautical miles from any point of the coast of Ceylon measured from the low-water mark of ordinary spring tides. '.
- Schedule I to the principal enactment is hereby amended by the omission from the list of birds in that Schedule of the items relating to the Ceylon Lorikeet and the Grey or Spotted-Billed Pelican.

Amendment of Schedule I to the principal enactment.

33. Schedule II to the principal enactment is hereby amended by the omission from the list of birds in that Schedule of the items relating to the Green Imperial Pigeon, the Black-Tailed Godwit and the Shovellor.

Amendment of Schedule II to the principal enactment.

34. Schedule III to the principal enactment is hereby amended by the insertion in the list of wild animals in that Schedule, immediately after the item relating to the Water-Lizard or Water Monitor, of the following new items: -

Amendment of Schedule III to the principal enactment.

"Dugong ... Dugong dugon ... Mudu Ura ... Kadal Pandi

Fishing Cat ... Felis vivierrina ... Koladiviya or Handundiviya ... Koddipuli

. Rusty Spotted Cat ... Felis Rubiginosa Wal Balala or Koladiviya ... Kaddupoonai

Delft Island Pony ... Equus cabellus

Indian Pangolin ... Manis crassicaudata ... Kebellaya ... Alangu.

Leathery Turtle ... Demochelys Coricea ... Dhara Kesbewa ... Dhoni Amai.

Slender Loris ... Loris Tardigradus ... Una Hapuluwa ... Thevangu.''.

Replacement of Schedule V to the principal enactment. 35. Schedule V to the principal enactment is hereby repealed and the following new Schedule substituted therefor:—

"SCHEDULE V

[Section 42]

Protected Plants

English Name		Botanical Name		Sinhalese Name		Tamil Name	
Wesak Orchid or May Orchid		Dendrobium Ma	carthiae	Wesak	mala	-	
Baobab Tree or Judas bag, or Monkeybread-Tree		Adansonia digitata	L	-	• •	Papparappuli Perukka or puli	or Anaip-
Fox-tail Orchid or Batticaloa Orchid		Rhynchostyles retusa Bl		-	• •	-	
Spagnum moss Bogmoss		Sphagnum zeylanicam Mitt.		-		-	74
Primrose Orchid	• •	Dendrobium Hetero	ocarpum		*(*)	· —	
Daffodil Orchid	• •	Ipsea Speciosa		_	• •		
Anuradhapura Orchid	• •	Vanda Tessellata (Roxburghii)		Rat-tha Rassa			
. -		Vanda Spathulata		-	• •	-	
		Cleistanthus colling	18	Madara	••	Wudacha-ma	ram ".

Amendment of Schedule VI to the principal enactment. 36. Schedule VI to the principal enactment is hereby amended by the omission from the list of Protected Trees in that Schedule of item 2.

General amendment of the provisions of the principal enactment. 37. Wherever, in any provision of the principal enactment, the word "Warden" occurs, there shall be substituted the word "Director", or the words "district warden" occur, there shall be substituted the words "district director".

Amendment of other written law, &c.

38. Wherever, in any provision of any written law (other than the principal enactment) or of any notice, licence, permit, communication, form or other document issued, made, required or otherwise by or under such written law, the word "Warden" is used to denote the Warden appointed under the principal enactment prior to the appointed date, there shall be substituted therefor the word "Director".

39. Every contract, agreement or other document or instrument whatsoever made, issued or executed prior to the appointed date by or in favour of the Warden appointed under the principal enactment in his capacity as such shall be deemed, on and after that date, to be and to have been made, issued or executed by or in favour of the Director, Wild Life Conservation.

Savings for contracts, &c.

SCHEDULE

[Section 2]

PART I.

n			
Expression or Word			
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PART II.

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Expression or Word
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