

The Game Act

(This was amended in 1991 - see the The Game (amendment) Act, 1991)

Date of Commencement: 1st September, 1953.

An Act to amend the laws dealing with the preservation of game, and to provide for the preservation of other types of wild life in Swaziland.

Short title.

1. This Act may be cited as the Game Act.

Interpretation.

2. In this Act, unless the context otherwise requires

"bird" means any bird mentioned in the First and Third Schedules other than a domesticated bird;

"game" includes royal game, large game and small game and the carcass, skins, bones or horns of any head of game;

"game head" includes the heads, tusks, skulls or horns of any game mentioned in the First and Second Schedules;

"hunt" includes shooting at, pursuing, taking, killing or wilfully disturbing game, and the taking or destruction of the eggs of birds;

"large game" means any animal or bird, which is named in the Second Schedule other than a domestic animal or bird;

"manager" means a person actually present and resident upon a property and who is responsible to the owner for the administration thereof;

:"Minister" means the Minister for Agriculture;

"royal game" means any animal or bird, which is named in the First Schedule other than a domesticated animal or bird;

"small game" means any animal or bird, which is named in the Third Schedule other than a domesticated animal or bird;

"Swazi area" means -

(i) areas set apart under the Concessions Partition Act No. 28 of 1907 for the sole and exclusive use and occupation of Africans;

(ii) land registered in the name of the Ngwenyama and held in trust for the Swazi Nation;

"trophy" includes any animal, dead or alive, mentioned in the First, Second and Third Schedules or anything which is a part of or produced from any such animal when dead, or the eggs or meat of any bird so mentioned;

"wild skin" means the skin or a portion of the skin of any animal or bird other than a domesticated animal or bird.

Amendment of Schedules.

3. The Minister may amend the Schedules by notice in the Gazette.

Temporary protection of game.

4. The Minister may by notice in the Gazette define areas within which any large game or small game specified in such notice shall be protected for such period as may be prescribed therein.

Game reserves.

5. (1) The Minister may by notice in the Gazette declare any specified area to be a game reserve and may in like manner extend or restrict the limits of or abolish such game reserve.

(2) A person who hunts game in a game reserve, whether or not the game is included in the First, Second or Third Schedules or who is found within a game reserve under circumstances which show he is there for the purpose of hunting any game therein shall be guilty of an offence:

Provided that this sub-section shall not apply to the holder of a special permit under section 16(2).

(3) A person travelling through a game reserve shall not camp within its limits unless he has first obtained the written permission of a game ranger or of a District Commissioner authorised thereto by the Minister, which permission shall state the period for which he may camp.

(4) Any person who contravenes the provisions of sub-section (3) shall be guilty of an offence.

(5) It shall be an offence for any person other than a police officer or a game ranger in the course of duty to carry a firearm in a game reserve without the written permission of a District Commissioner who has been authorised by the Minister to grant such permission.

Sanctuaries.

6. (1) The Minister may by notice in the Gazette declare any specified area to be a sanctuary for the protection of any game or class of game specified in the notice, whether or not such game is included in the First, Second or Third Schedules; and may in like manner vary the animals or birds or the classes of animals or birds to which the protection of the sanctuary shall apply.

(2) Any person who in a sanctuary hunts an animal or bird or any class of animal or bird to which the protection of the sanctuary has been applied, or who takes any trophy of such animal or bird or class of animal or bird, shall be guilty of an offence:

Provided that this sub-section shall not apply to the holder of a special permit under section 16(2).

Close season.

7. (1) The period from the first day of September to the last day of April in the next succeeding year, both days included, shall be a close season within which it shall be unlawful to hunt game save as hereinafter provided.

(2) The Minister may by notice in the Gazette vary, extend or reduce the period of the close season, either in respect of any one or more areas, or in respect of any specified game, or in both respects, for such time as he may think fit.

Prohibition of hunting royal game.

8 (1) No person shall at any time hunt royal game unless he is in possession of a valid permit issued under the provisions of section 16 or otherwise than according to the conditions set out in such permit.

(2) A person who contravenes this section shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred rand or, in default of payment thereon, to imprisonment for a period not exceeding eighteen months.

Licences to hunt game during open season.

9 (1) The Minister may by notice in the Gazette fix the fees to be paid for licences to hunt small game or large game during the open season.

(2) The Minister may in his discretion issue such licences, subject to the prepayment of the prescribed fees and to such conditions as he deems fit.

Conditions may be endorsed on licences.

10. The Minister may endorse a licence or permit issued under this Act so as to prohibit the hunting of any specified species of game, or to limit the number of any such species which may be hunted, or may endorse any other condition thereon which he deems expedient.

Cancellation of licences.

11. The Minister may cancel any licence or permit issued under this Act without assigning any reason for so doing, and the holder thereof shall not be entitled to any compensation for loss incurred by reason of such cancellation.

Offences, Confiscation of arms and ammunition etc.

12. (1) Any person who, save as herein provided, hunts any game, or is in possession of a trophy without being the holder of a valid licence or permit under this Act, or contrary to the conditions of such licence or permit, or during the close season, or contrary to the provisions of any notice issued by the Minister under section 4 shall be guilty of an offence.

(2) If there are reasonable grounds for believing that a person found within Swaziland in possession of

(a) the meat of any game; or

(b) any skin or portion of the skin of any game in raw or undressed or unmanufactured condition; or

(c) the horns or portions of the horns of any recently killed game,

has obtained possession of such parts unlawfully, it shall be competent for any police officer of the rank of sub-inspector or upwards to apprehend such person without warrant and to convey him in custody before a magistrate or any other official having jurisdiction, and if such person is unable to give a satisfactory explanation of such possession he shall be deemed to have hunted game in contravention of this section unless he proves the contrary.

(3) Any person who except with the written permission of the Minister hunts game during the period between half an hour after sunset and half an hour before sunrise shall be guilty of an offence.

(4) In the case of a conviction of any person of an offence under this section the court may, in addition to any penalty imposed, order the confiscation and forfeiture to the Government of any firearms,

ammunition, animal, vehicles or aeroplane, which were in the possession of the accused at the time of the commission of the offence of which he has been convicted and the Minister shall authorise the disposal as he may think fit of property so ordered to be confiscated.

Hunting by aeroplane or motor vehicle or with fire, etc.

13 (1) No person shall use a motor vehicle or aeroplane to hunt, drive or stampede game for any purpose, and no person shall shoot at game from a motor vehicle or aeroplane:

Provided that nothing in this Act shall be deemed to prohibit the -

- (a) use of a motor vehicle or aeroplane for the purpose of approaching game areas for locating game; or
- (b) driving of any game from any private land by the owner thereof or a person authorised by him; or
- (c) driving of game from a Government or licenced aerodrome.

(2) No person shall use fire for the purpose of hunting, killing or capturing any game.

(3) Any person present at the hunting, killing or capturing of game at a grass or bush fire shall for the purposes of subsection (2) be deemed to have taken part in such hunting, killing or capturing unless he can adduce proof to the contrary.

(4) No person shall without the written permission of the Minister use lights or flares for the purposes of hunting game.

Use of nets, etc., prohibited

14. Any person who captures or destroys game by means of nets, pits, enclosures, springes, gins, traps, snares, setgun, missiles containing explosives, poison or poisoned weapons, or who has in his possession or sets or uses any such net, pit enclosure, springe, gin, trap, snare, setguns, missile containing explosives, poison or poisoned weapons for the purpose of capturing or destroying game, shall be guilty of an offence.

Privileges of landowners, etc..

15. (1) Notwithstanding anything contained in section 12, any person who is the owner, lessee or manager of any land, or lawfully resident in a Swazi area, may, at any time, except in the close season referred to in section 7, hunt any small game, other than that protected under section 4, on such land without obtaining a licence for the purpose.

(2) In this section "person" shall be deemed to include his children, and the spouse with whom he is living. (Amended P.13/1964.)

Free Permits

16 (1) The Minister may without charge, issue a permit, authorising theholder thereof to hunt any large or small game -

- (a) to any person on such conditions and for such period or periods as the Minister may deem fit;

Provided that the occupier of that farm shall not be entitled to hunt such game without the permission in writing of the owner of the farm.

(2) The Minister may subject to such conditions as he thinks fit, grant to any person a special permit to hunt, kill or capture game at any time for the following purposes:

- (a) for scientific or administrative or complimentary reasons to hunt, kill or capture any game;
- (b) to hunt, kill or capture any animal or bird in a game reserve or sanctuary -
 - (i) for scientific or administrative reasons; or
 - (ii) when the presence of that animal or bird is detrimental to the purposes of the game reserve or sanctuary;
- (c) to hunt, kill or capture any species of game on any land where he is satisfied that such game is causing damage to property or losses in farming activities;

Provided that the owner or occupier of any land may without such permit kill any small game which is causing damage to crops and is within any cultivated land of such owner or occupier.

- (3) A permit granted under subsection (2) shall specify the maximum number of each species of game allowed to be destroyed under the permit, and the manner in which destruction shall be permitted.

Sale, etc., or export of game meat.

17. (1) No person shall sell, barter, or offer or expose for sale or barter or export from Swaziland any game meat, whether fresh or dried, without being in possession of a licence authorising to do so.

(2) Such licence shall only be issued with the approval of the District Commissioner, who may do so on such conditions as he deems expedient.

(3) There shall be payable in respect of such licence in the case of the -

(a) sale of meat, whether fresh or dried, the sum of twenty-five cents per month or part of a month, but such fee shall be payable in addition to any other licence fee provided for in the Trading Licences Act No. 27 of 1939;

(b) export of fresh meat in excess of eighty pounds weight in any month, the sum of ten cents per pound weight;

Provided that the Minister may exempt any person to whom a permit has been issued under section 16(2)(c) from the payment of any fee or fix a lesser fee to be paid by him.

(c) export of dried meat in excess of twenty pounds weight in any month the sum of twenty-five cents per pound weight;

Provided that the Minister may exempt any person to whom a permit has been issued under section 16(2)(c) from the payment of any fee or fix a lesser fee to be paid by him.

(4) The issue or renewal of a licence under this section may be refused by the Minister without any reason for such refusal being given.

Penalty for unlawful sale or export of game meat.

18. A person who in contravention of section 17 or of any condition endorsed on his licence under that section, sells or barter or offers, exposes for sale or barter, or exports from Swaziland any game shall be guilty of an offence liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Export of wild skins, etc.

19. (1) No person shall export or attempt to export from Swaziland any hippopotamus tusks or teeth, wild skins or game heads without the special written permission of the Principal Veterinary Officer.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months and the court convicting him may order the confiscation of any hippopotamus tusks or teeth, wild skins or game head dealt with in contravention of subsection (1).

Taking, etc., of eggs of birds and young of game.

20 (1) No person shall remove, disturb or destroy the nest of any bird unless such nest be upon cultivated land or land which is being prepared for cultivation.

(2) No person shall remove, disturb or destroy any eggs or the young of any game unless he shall have first secured permission in writing of a District Commissioner.

(3) No person shall sell any eggs or the young of any game unless he shall have first secured permission in writing from a District Commissioner.

(4) The District Commissioner shall not grant the permission referred to in the subsection (3) unless he is satisfied that such eggs or young of game are required for the purpose of rearing or breeding or scientific investigations.

(5) No person shall purchase the eggs or the young of any game from any person who is not in possession of written permission required by subsection (3).

(6) Any person who contravenes subsection (1), (2), (3) or (5) shall be guilty of an offence.

Prohibition of trespass in pursuit of game.

21. (1) No person whether he is the holder of a licence under this Act or not shall be upon any land in pursuit of or in search of game unless he is the occupier thereof or has the written permission of the occupier, or if the land be unoccupied of the owner or, if the shooting rights have been leased to some person other than the occupier, the lessee of such rights.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a penalty not exceeding one hundred rand or to imprisonment not exceeding six months in the case of enclosed land or fifty rand or imprisonment not exceeding three months in the case of unenclosed land, or to both such fine and imprisonment.

(3) If any person be found on land in pursuit of or in search of game he may be required by the occupier of such land, or by any servant or other person authorised by such occupier, or if such land be Government land by a District Commissioner, Justice of Peace or a police officer to state his true name and place of abode and forthwith to quit such land and if he fails to comply immediately with any such requirement he shall be guilty of an offence.

(4) Any dog unaccompanied by its owner or other person having control over such dog which is found in pursuit of game upon any land may be destroyed forthwith by or on the order of the owner or occupier of such land who shall not be liable to pay any compensation in respect of such destruction.

(Original section 22 repealed P.13/1964.)

Right of search.

22. (1) Any Justice of the Peace, or police officer of the rank of sub-inspector or above, or any other police officer authorised thereto specifically or generally in writing by a police officer of the rank of

senior inspector or above, who has reason to believe on reasonable grounds that there is in any house, tent, vehicle, vessel, receptacle or place anything -

(a) with respect to which an offence against this Act has been or is suspected on reasonable grounds to have been committed;

(b) which there are reasonable grounds for believing that will afford evidence as to the commission of any such offence; or

(c) which there are reasonable grounds for believing is intended to be used for the purpose of committing any such offence,

and that the delay in obtaining a search warrant would defeat the object of the search, may himself search without warrant for any such thing mentioned in paragraphs (a), (b) and (c) and seize such thing, if found, and take it before the magistrate of the district in which the search took place to be dealt with according to law.

(2) The fact of such search and the result thereof, shall be reported forthwith to the magistrate.

3. In the case of any house or tent which is in actual occupation as a place of residence any such search shall only be carried out during the hours of daylight.

Appointment and powers of game rangers.

23. (1) The Minister may appoint game rangers and may remove or dismiss any such game ranger.

(2) Every game ranger shall have power, within a game reserve or sanctuary or outside a game reserve or sanctuary within a distance of one mile from the boundary thereof -

(a) to arrest without a warrant any person suspected upon reasonable grounds of having contravened this Act;

(b) to carry out searches without a warrant in terms of section 22.

Evidence.

24. (1) The possession of the carcass, meat, skin, hide, horn or tusk of freshly killed game shall be *prima facie* evidence against a person accused of contravening this Act that he has hunted such game.

(2) Any person charged with doing an act for which by this Act a licence or permission is required shall be deemed to be without such licence or permission unless he produces it to the Court or gives other satisfactory proof of possessing it.

(3) For the purposes of section 21, any person found at any time on land having in his possession a firearm, trap, snare or other apparatus capable of being used to hunt game shall be presumed to be upon the land in pursuit of or in search of game unless the contrary is proved.

Power to make regulations.

25. The Minister may make regulations, not inconsistent with this Act, in regard to the following matters:

(a) the protection and preservation of game in any defined areas;

(b) the powers and duties of persons appointed by the Minister in regard to -

- (i) the exclusion of members of the public from certain areas within a game reserve or sanctuary;
- (ii) the killing, capturing or impounding of any animal within a game reserve or sanctuary and the disposal of such animal;
- (iii) the burning of grass and the cutting of trees, weeds or grass within a game reserve or sanctuary;
- (iv) the disposal of any animal, vegetable or mineral or other product of a game reserve or sanctuary;
- (c) the conditions subject to which permission to enter or reside in a game reserve or sanctuary may be granted, and the periods or times during which a game reserve or sanctuary or any portion thereof shall be open to the public;
- (d) the conditions under which permits for the carrying of firearms in a game reserve or sanctuary may be issued;
- (e) the fees, if any, to be paid for permission to enter a game reserve or sanctuary, for the admission of motor-cars or other vehicles and the taking of photographs within a game reserve or sanctuary, or for any other purpose connected with the use and enjoyment of a game reserve or sanctuary;
- (f) the protection and preservation of a game reserve or sanctuary and of the animals, birds or property therein;
- (g) the regulation of traffic and carriage of passengers in a game reserve or sanctuary, the points by which persons may enter and the routes by which they may pass through a game reserve or sanctuary;
- (h) for the efficient control and management of a game reserve or sanctuary;
- (i) generally for carrying out the provisions of this Act; and
- (j) for the imposition of penalties not exceeding the penalties set out in section 27(2) for a contravention of any such regulation.

Penalties.

26. (1) A person who contravenes the provisions of section 5(2), 6(2), 7(1), 12(1), 13(2), or 14, shall on conviction therefor be liable to a fine not exceeding three hundred rand and in default of payment thereof to imprisonment for a period not exceeding twelve months.

(2) A person who contravenes the provisions of section 5(3) or (4), 12(3), 13(1) or (3), 20(1), (2) or (3) or 21(2) shall on conviction therefor be liable to a fine not exceeding one hundred and fifty rand or in default of payment thereof to imprisonment for a period not exceeding six months.

FIRST SCHEDULE

ROYAL GAME

ANIMALS

<i>English Name</i>	<i>Scientific Name</i>
Antbear	<i>Crycteropus afer afer</i>
Buffalo	<i>Syncerus caffer</i>
Duiker (Blue) or Piti	<i>Guevei caerulea</i>
Elephant	<i>Loxodonta africana</i>
Giraffe	<i>Giraffa camelopardalis</i>
Hippopotamus	<i>Hippopotamus amphibius</i>

Klipspringer
 Livongstone Antelope
 Nyala Antelope
 Oribi
 Rhinoceros
 Roan Antelope
 Sable Antelope
 Tsessebe
 Vaal Rhebuck
 Waterbuck
 Warthog

Oreotragus oreotragus
Nesotragus Livingstonia
Nyala angasii
Ourebia ourebi
Diceros bicornis
Ozanna equina
Ozanna grandicornis
Damaliscus lunatus
Pelea capreolus
Kobus elipsiprymnus
Phacocherus aethiopicus

BIRDS

English Name

Bateleur
 Bee-eaters - all species
 Bustards and Korhaans - all species
 Coursers - all species
 Cuckoos and Coucals - all species
 Cranes - all species
 Crested Guineafowl
 Dikkops - all species
 Dwarf Goose
 Flamingo - all species
 Grouse - all species
 Hammerhead
 Herons and Egrets - all species
 Hornbills - all species
 Hoepoes - all species
 Honeyguides - all species
 Ibis - all species
 Jacana - all species
 Kingfisher - all species
 Louries - all species
 Orioles - all species
 Owls - all species
 Plovers - all species
 Rollers (Bluejays) - all species
 Secretary Bird
 Storks - all species
 Snipe - all species
 Sunbirds - all species
 Swallows - all species
 Swifts - all species
 Vultures - all species
 Woodpeckers - all species
 Wagtails and Longclaws - all species

Scientific Name

Terathopius ecaudatus.
 Family *Meriopidae.*
 Family *Otididae.*
 Family *Gareolidae.*
 Family *Cuculidae.*
 Family *Gruidae.*
Guttera Lividicollis.
 Family *Burhinidae.*
Nettapus auritus.
 Family *Phoenicopteridae.*
 Family *Pteroclididae.*
Scopus umbretta bannermani.
 Family *Ardeidae.*
 Family *Bucerotidae.*
 Family *Upupidae.*
 Families *Prodotiscidae* and *Indicatoridae.*
 Family *Threskiornithidae.*
 Family *Jacaniidae.*
 Family *Alcedinidae.*
 Family *Musophagidae.*
 Family *Oriolidae.*
 Families *Tytonidae* and *Bubonidae.*
 Family *Charadriidae.*
 Family *Coraciidae.*
Sagittatus serpentarius.
 Family *Ciconiidae.*
 Family *Scolopacidae.*
 Family *Nectariniidae.*
 Family *Hirundinidae.*
 Family *Aegyptidae.*
 Family *Picidae.*
 Family *Motacillidae.*

SECOND SCHEDULE

LARGE GAME

English Name

Kudu
 Wildebeest (blue wildebeest)
 Zebra

Scientific Name

Strepsiceros Strepsicerous.
Connochaetus taurinus.
Equus (Quagga) burchellii.

(Added L.H. 47/1968.)

THIRD SCHEDULE

SMALL GAME

ANIMALS

English Name

Bushbuck
Duiker (Grey)
Duiker (Red)
Impala
Reedbuck
Rooi Rhebuck
Steinbuck

Scientific Name

Tragelaphus scriptus.
Sylvicapra Grimmia.
Cephalophus natalensis.
Aepyceros melampus.
Redunca arundinum.
Redunca fulvorufula.
Raphicerus campestris.

BIRDS

English Name

Duck and Geese - all species
Green Pigeons - all species
Guineafowl (common)
Partridges - all species
Pheasants - all species
Quail - all species

Scientific Name

Family *Anatidae.*
Family *Treronidae.*
Numida mitrata.

Family *Phasianidae.*

GAME LICENCE FEES

(Under section 9)

Date of Commencement: 12th December, 1953.

The Minister has fixed the following fees to be paid for licences to hunt small game and large game during the open season:

LARGE GAME

In the case of residents - R. c.
For the whole season 6 0
In the case of non-residents -
For the whole season 12 0

SMALL GAME

In the case of residents - R. c.
For the whole season 4 0
For one month 2 0
For hunting birds only for the whole season 1 0
In the case of non-residents -
For the whole season 8 0
For one month 4 0
For hunting birds only for the whole season 2 0

For the purposes hereof "resident" means a person who is domiciled in Swaziland.
(G.N. 51/1953)

TEMPORARY PROTECTION OF GAME

(Under section 4)

Date of Commencement: 19th May, 1958.

1. Throughout the whole of Swaziland the following game shall be protected until further notice (G.N. 19/1958) -

Reedbuck

Duiker (Red)

Quail

(Amended G.N. 26 of 1963; L.N. 47/69)

2. Within the Pigg's Peak, Mbabane and Mankaiana Districts and Hlatikulu District (other than that portion lying south of the Ngwavuma River and east of the eastern boundary of Swazi Area No. 31) and within that portion of the Manzini District lying to the west of Main Roads Nos. 5 and 8, the following game shall be protected until further notice -

Bushbuck

Duiker (grey)

Impala

Rooi Rhebuck

Steinbuck.

(Amended L.N. 40/1970)

VARIATION OF CLOSE SEASON

(Under section 7)

Date of Commencement: 2nd December, 1955.

The Minister has made the following variation of the close season as defined by section 7(1):

Throughout the whole of Swaziland and until further notice the period from the first day of February to the thirty-first day of October inclusive shall be the only close season within which it shall be unlawful to hunt quail, save as otherwise provided in the aforesaid Act. (G.N. 73/1955.)