



**ENVIRONMENTAL LAW AND POLICY IN SABAH:
FROM RIDGE TO REEF**

VOLUME 6: WILDLIFE

DRAFT FOR PEER REVIEW

Disclaimer, Acknowledgements and Call for Inputs

Disclaimer: This legal brief is intended as a means to engage with the relevant law and policy, and should not replace a thorough reading of the official documents themselves, which can be found online.

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Call for inputs: We welcome further comments on content, format, and the brief's potential development and uses. Please email Holly Jonas (holly@foreversabah.org) and Harry Jonas (harry@foreversabah.org).

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OVERVIEW

There are eleven pieces of legislation that together provide the overarching regulatory framework for Sabah's wildlife. These include:

- The Wildlife Conservation Enactment (1997),
- Cruelty to Animals (Prevention) Ordinance (1925),
- Land Ordinance (1930),
- Land Acquisition Ordinance (1950),
- Arms Act (1960),
- Animals Ordinance (1962),
- Forest Enactment (1968),
- Firearms (Increased Penalties) Act (1971),
- Parks Enactment (1984), and
- Biodiversity Enactment (2000),
- Environment Protection Enactment (2002).

This brief provides an overview of each law, details of the institutional arrangements, and sets out the relevant case law. With the exception of the Wildlife Conservation Enactment, all laws referenced in this brief are set out in chronological order and do not reflect their relative importance.

1. WILDLIFE CONSERVATION ENACTMENT

Purpose

The *Wildlife Conservation Enactment (1997)* provides the cornerstone of Sabah's wildlife-related legislation, and establishes rules relating to the conservation and management of wildlife and its habitat. The Wildlife Conservation Enactment has five major areas of focus. These include:

- Wildlife Sanctuaries,
- Conservation Areas,
- Protection of animals,
- Protection of plants, and
- Wildlife Hunting Areas.

Wildlife Sanctuaries

Wildlife Sanctuaries are protected areas that can be established for any of the following reasons:

- Protection of nature, maintenance of wildlife habitats and natural processes,
- Ensuring biodiversity values, and

- Ensuring protection of significant species of animals, plants, biotic communities or genetic resources.¹

Process to establish a Wildlife Sanctuary

Where there is not already a Wildlife Sanctuary established, the Minister responsible for Tourism, Culture and Environment² (the Minister) should consult with the Director of Wildlife (the Director) to determine the necessity of establishing a Wildlife Sanctuary.³ The process includes the steps and regulations set out below.⁴

a. Proposal for a Wildlife Sanctuary

The Yang di-Pertua Negeri⁵ has the authority to declare a Wildlife Sanctuary. The Minister is responsible for submitting a proposal for a Sanctuary to the Yang di-Pertua Negeri and should discuss the proposed area with the Director to determine if a Sanctuary is necessary. The Minister's proposal for a Wildlife Sanctuary should include the following:

- Areas and boundaries for the proposed Sanctuary,
- Assessment of fauna/ flora or other biodiversity values,
- Native rights that will remain after the declaration of the Sanctuary, and
- Summary of meetings and comments made by government agencies and representatives about the proposal.⁶

b. Notice of proposed land

A notice of intention made for the proposed Wildlife Sanctuary must be submitted prior to the Minister's proposal to the Yang di-Pertua Negeri. The notice is required to be in English and Malay languages and should be published in the *Gazette* and posted in the District Collectors office in addition to other chosen areas. The notice of intention should include the following:

- Proposed land,
- Boundaries for the land, and
- Dates for objections and requests for rights/ privileges to be submitted to District Officer or Collector.⁷

c. Objections to proposed land

Anyone who has a concern about the proposed land or loss of rights should submit a written objection to the Director or the Collector of Land Revenue (the Collector). All

¹ Wildlife Conservation Enactment 1997, section 9 (1), (a)-(c).

² KePAS, Official website of Ministry of Tourism, Culture and Environment Sabah, 2011, <http://kepkas.sabah.gov.my>.

³ Wildlife Conservation Enactment 1997, section 9 (1).

⁴ Wildlife Conservation Enactment 1997, section 9 (2).

⁵ The Supreme Head of Sabah.

⁶ Wildlife Conservation Enactment 1997, section 9 (2), (a)-(c).

⁷ Wildlife Conservation Enactment 1997, section 10 (1)(a).

proposals have a fixed period for objections that should be listed on the notice. Objection periods should be for 90 days.⁸

d. Review of objections to proposed land

At the end of the fixed period for objections, the Director or Collector should look into all objections relating to the proposed Wildlife Sanctuary, including concerning the loss of rights.⁹ Any further objections can be brought to the Collector or can be appealed to the Higher Court.¹⁰ The Minister has the authority to order a public hearing for the objectors to publicly state their opposition.¹¹

e. Approval of proposed land in a Wildlife Sanctuary

If Yang di-Pertua Negeri declares an area of land a Wildlife Sanctuary, proper notice must be published in the *Gazette*.¹² Once a piece of land is declared a Wildlife Sanctuary, grants cannot be made, land cannot be alienated and previous rights will no longer be effective if they violate the Enactment.¹³

Special provisions for Wildlife Sanctuaries

a. Increasing the size of a Sanctuary

The size or boundaries of a Wildlife Sanctuary can only be changed by a resolution of the Sabah Legislative Assembly.¹⁴

b. Acquiring land for a Sanctuary

The Yang di-Pertua Negeri has the power to acquire alienated land and use it for a public purpose.¹⁵ Land included in a Wildlife Sanctuary is considered land used for a public purpose.¹⁶ After proper notice is given to the public, land cannot be acquired or constructed on the land proposed for the Sanctuary.¹⁷

c. Management plans for Sanctuaries

Once a Wildlife Sanctuary is established, the Director has three years to submit a management plan for the Sanctuary, the plan should be at least five years.¹⁸ The management plan should include the major resources, boundaries, zones,

⁸ Wildlife Conservation Enactment 1997, section 10 (1)(a), (2).

⁹ Wildlife Conservation Enactment 1997, section 10 (1)(c), (2).

¹⁰ Wildlife Conservation Enactment 1997, section 10 (3)(4).

¹¹ Wildlife Conservation Enactment 1997, section 10 (5).

¹² Wildlife Conservation Enactment 1997, section 9 (6).

¹³ Wildlife Conservation Enactment 1997, section 9 (6).

¹⁴ Wildlife Conservation Enactment 1997, section 9 (7).

¹⁵ Land Acquisition Ordinance (Cap. 69), section 3 (1).

¹⁶ '[P]ublic purpose', land used in connection with the conservation, improvement or exploitation of natural resources. Land Acquisition Ordinance (Cap. 69) section 2 (h), Wildlife Conservation Enactment 1997, section 12.

¹⁷ Wildlife Conservation Enactment 1997, section 11.

¹⁸ Wildlife Conservation Enactment 1997, section 13 (3).

management objectives, management action plans, research proposals and any other items required for the Sanctuary.¹⁹

d. Sanctuary boundaries

The Minister has five years to create fixed boundaries for the Wildlife Sanctuary after its establishment. If a person moves, destroys or interferes with the boundary lines they will be guilty of an offence. A person found guilty will be subject to a fine of ten thousand ringgit or imprisonment for one year, or both.²⁰

e. Grace periods for Sanctuaries

The Minister can approve a grace period for people lawfully living on a recently declared Wildlife Sanctuary. The grace period should not last longer than twelve months and allows previous residents of the Sanctuary to be waived from restrictions of residence and entry in order to tend to their plants and animals.²¹

Provisional Wildlife Sanctuary

The Director of Wildlife has the power to establish a provisional Wildlife Sanctuary. A provisional Wildlife Sanctuary should be established when there is an urgent need to save wildlife, wildlife habitats or ecosystems from immediate danger.²² The Director should give proper notice to the public of the provisional Sanctuary. The notice is effective for one hundred and twenty days.²³ After the notice is published, the Minister has the option to rescind, vary or extend the declaration.²⁴ Provisional Sanctuaries are under the same guidelines for management plans as Wildlife Sanctuaries.²⁵

Restrictions on Wildlife Sanctuaries

a. Prohibited acts

The following acts are prohibited from all Wildlife Sanctuaries:

- Cut, injure or set fire to any tree or vegetation,
- Search for or collect animal product,
- Willfully damage or remove any object of geological, prehistoric, marine or other scientific interest,
- Unlawfully possess of any animal, animal product or plant,
- Knowingly introduce or allow a domestic animal to stray,
- Disturb or stampede an animal,
- Willfully damage any structure,

¹⁹ Wildlife Conservation Enactment 1997, section 13 (1), (a)-(g).

²⁰ Wildlife Conservation Enactment 1997, section 14 (1), (3).

²¹ Wildlife Conservation Enactment 1997, section 23.

²² Wildlife Conservation Enactment 1997, section 22 (1).

²³ Wildlife Conservation Enactment 1997, section 22 (2).

²⁴ Wildlife Conservation Enactment 1997, section 22 (3).

²⁵ Wildlife Conservation Enactment 1997, section 22 (4)–(6).

- Occupy, clear, cultivate or break up for cultivation land,
- Carry out any quarrying activities,
- Construct or occupy any structure or building, or
- Do any of the prohibited by regulations.²⁶

Any person who commits any of the acts listed above will be guilty of an offence and subject to a fine of fifty thousand ringgit or imprisonment for five years, or both.²⁷

FREQUENTLY ASKED QUESTIONS

How many offences of the Wildlife Conservation Enactment are prosecuted each year?

Since 2012, there have been reports of arrests and charges but the research has failed to find an official number of convictions secured under the Wildlife Conservation Enactment. In August 2012, it was reported that no person had been prosecuted under the Wildlife Conservation Enactment for events relating to the disappearance of endangered species.²⁸

b. Limits to residence and entry

A person can only enter areas of a Wildlife Sanctuary that are open to the public.²⁹ The Director may allow a person to enter other areas of a Sanctuary with a research permit.³⁰ No one is allowed to reside on any portion of a Wildlife Sanctuary.³¹ Any person who resides in a Sanctuary will be subject to a fine of twenty thousand ringgit or imprisonment for two years, or both.³²

c. Restrictions on hunting and harvesting

Any person, with the exception of Wildlife Officers, who hunts, searches or harvests any plant or animals in a Wildlife Sanctuary is guilty of an offence. Any person found guilty of the offence shall be liable for fifty thousand ringgit or imprisonment for five years, or both. Permits are allowed for fishing in certain areas.³³

d. Restrictions to flying

No aircraft shall land in a Sanctuary unless in an approved area. No aircraft should be flown at a height of less than five hundred meters over a Sanctuary. The only exceptions to these restrictions are in emergency cases and with the approval of the

²⁶ Wildlife Conservation Enactment 1997, section 17 (1),(a)-(k), (2).

²⁷ Wildlife Conservation Enactment 1997, section 17 (3).

²⁸ Nature Alert, Sabah Wildlife Department in the spotlight and panicking for good reason, August 2012, <http://e-sabahdaily.com/news/sabah-wildlife-department-in-the-spotlight-and-panicking-for-good-reason/>.

²⁹ Wildlife Conservation Enactment 1997, section 15 (2).

³⁰ Wildlife Conservation Enactment 1997, section 15 (3).

³¹ Wildlife Conservation Enactment 1997, section 15 (1).

³² Wildlife Conservation Enactment 1997, section 15 (4).

³³ Wildlife Conservation Enactment 1997, section 16.

Director. Any pilot found guilty for any of these offences can be liable for twenty thousand ringgit or imprisonment for two years, or both.³⁴

Conservation Areas

A Conservation Area is established for the protection of wildlife, wildlife habitats, migration sites, migration corridors and sites of scientific importance. A Conservation Area should provide security for wildlife habitats and surrounding Sanctuaries.³⁵

a. Control of Conservation Areas

The Yang di-Pertua has the power to declare a Conservation Area. Conservation Areas are established to protect wildlife, habitats, migration sites and other areas of importance or value.³⁶ The Minister can prevent non-residents from entering a Conservation Area in order to protect wildlife populations. Restriction periods cannot be for more than one year at a time.³⁷

b. Special provisions for Conservation Areas

The Yang di-Pertua Negeri has the power to create regulations in Conservation Areas for control over the following:

- Development projects,
- Hunting and firearms,
- Movement of animals, products and plants, and
- Aerial spraying of crops and grazing areas.³⁸

Unlike Wildlife Sanctuaries that have very strict provisions, Conservation Areas can contain projects, hunting areas, firearms use and the ability to collect specific plants and animals. Regulations for all additional provisions are laid out below.

Protection of animals

a. Animals that cannot be hunted

Animals listed in Schedule 1³⁹ cannot be hunted and are totally protected.⁴⁰ Any person found guilty of hunting these animals will be subject to a term of imprisonment between six months to five years.⁴¹

³⁴ Wildlife Conservation Enactment 1997, section 19.

³⁵ Wildlife Conservation Enactment 1997, section 21 (1).

³⁶ Wildlife Conservation Enactment 1997, section 21 (1).

³⁷ Wildlife Conservation Enactment 1997, section 21 (3).

³⁸ Wildlife Conservation Enactment 1997, section 21 (2).

³⁹ Schedule 1 lists total protected plants and animals, Part I lists animals, Part II lists plants.

⁴⁰ Wildlife Conservation Enactment 1997, section 25 (1).

⁴¹ Wildlife Conservation Enactment 1997, section 25 (3) (a).

Part I (Schedule I)	Sumatra Rhinoceros (<i>Dicerorhinus sumatrensis</i>) Badak Sumatra
	Orang Utan (<i>Pongo pygmaeus</i>) Orang Utan
	Sun Bear (<i>Helarctos malayanus</i>) Beruang Madu
	Dugong (<i>Dugong dugon</i>) Duyung
	Proboscis Monkey (<i>Nasalis larvatus</i>) Monyet Bangkatan
	Clouded Leopard (<i>Neofelis nebulosa</i>) Harimau Dahan
	Gharial (<i>Tomistoma schlegeli</i>) Buaya Julung julung
	Green Turtle (<i>Chelonia mydas</i>) Penyu Hijau
	Hawksbill Turtle (<i>Eretmochelys imbricata</i>) Penyu Sisik
Banteng (<i>Bos javanicus</i>) Tembadau. ⁴²	

b. Animals that can be hunted with a licence

Animals listed under Schedule 2 and 3⁴³ should not be hunted without a licence.⁴⁴ The Director can issue a licence for hunting in limited numbers.⁴⁵ If a person is issued a licence they should not hunt for more than the approved number of animals specified on their licence.⁴⁶ Any person found guilty for any of the following offences will be subject to a fine of fifty thousand ringgit or imprisonment for five years, or both.⁴⁷

FREQUENTLY ASKED QUESTIONS

What is the difference between Part I and Part II of Schedule 1 and 2 of the Enactment?

The Wildlife Conservation Enactment has three main Schedules that list the type of protection over animals and plants found in Sabah. The three Schedules are classified as:

- Schedule 1 - *Totally protected species of animals and plants*
- Schedule 2 - *Protected species of animals and plants-limited*
- Schedule 3 - *Protected species of animals for which hunting licence is required*⁴⁸

Both Schedule 1 and 2, include plants and animals. These Schedules are broken up into Part I, listing animals, and Part II, listing plants. Schedule 3 only lists animals and is not broken up into Part 1 and 2. The Enactment also has Schedule 4 listing Edible Birds' Nests Caves and Schedule 5 listing repeals and transitional provisions. Schedule 4 and 5 do not have the same organization as Schedules 1, 2 and 3 since it does not include plants and animals.

Hunting licences

⁴² Listed in amended version of Wildlife Conservation Enactment, for reference only July 2010.

⁴³ Schedule 2 and 3 lists protected plants and animals, Schedule 2 lists protected species of animals and plants-limited in hunting and collection under a licence, Schedule 3 lists protected species of animals for which a hunting licence is required.

⁴⁴ List included in Annex.

⁴⁵ Wildlife Conservation Enactment 1997, section 26, 27.

⁴⁶ Wildlife Conservation Enactment 1997, section 25 (2), (a)-(b).

⁴⁷ Wildlife Conservation Enactment 1997, section 25 (3) (b).

⁴⁸ Wildlife Conservation Enactment 1997, section 2, 25 (2).

Hunting licences can only be distributed to a person who has a valid firearm licence. The firearm licence should be appropriate for the type of hunting licence for which the person is applying.⁴⁹ The Director has the power to distribute hunting licences and can refuse to approve a licence for any reason.⁵⁰ A hunting licence cannot be issued unless the person shows proof of a firearm licence, can use the firearm properly and can identify the animals listed in Schedule 1, 2 and 3 of the Enactment.⁵¹

a. Types of hunting licences

There are four types of hunting licences for which a person can apply, and they are set out in the box below.⁵²

Sporting	Allows holder to hunt animals in Schedule 2 in wildlife areas specified in the numbers permitted. Can hunt animals in Schedule 3 in wildlife areas. Not more than six months. Can be issued to a State visitor. ⁵³
Commercial	Allows holder and other persons designated to hunt specific animals, species and quantities for commercial farming, export, sale and trade. Allows eggs or other animal product to be collected. Time period is specific to the period listed on the licence and can be renewed. ⁵⁴
Animal Kampung	Held on behalf of and for benefit of a specific kampung. Allows specific members of a kampung to hunt animals in Schedule 2 and 3 in wildlife areas. Issued for one year and may be renewable. Any member of a kampung who violates the licence commits an offence. ⁵⁵
Other Licences	All other licences the Director believes necessary. ⁵⁶

b. Hunting in a Forest Reserve or Park

Hunting licences do not allow a person to hunt on alienated land, Forest Reserves⁵⁷, Parks,⁵⁸ reserved land, or State Land that requires the owners or authorities approval for entry.⁵⁹

c. Transfer of hunting licences

Hunting licences cannot be transferred. A person can only use a hunting licence that has been permitted for their individual use.⁶⁰

⁴⁹Wildlife Conservation Enactment 1997, section 28 (1).
⁵⁰Wildlife Conservation Enactment 1997, section 28 (2).
⁵¹Wildlife Conservation Enactment 1997, section 28 (4), (a)-(b).
⁵² Wildlife Conservation Enactment 1997, section 29, (a)-(d).
⁵³ Wildlife Conservation Enactment 1997, section 30.
⁵⁴ Wildlife Conservation Enactment 1997, section 31.
⁵⁵ Wildlife Conservation Enactment 1997, section 32.
⁵⁶ Wildlife Conservation Enactment 1997, section 29 (d).
⁵⁷ 'Forest reserve' is defined in the Forest Enactment 1968.
⁵⁸ 'Park' is defined in the Parks Enactment 1984.
⁵⁹ Wildlife Conservation Enactment 1997, section 28 (9).

d. Record keeping and reporting

Any licence holder should keep a record of the following, with an exception to the kampung licence:

- Number of animals killed, wounded or captured,
- Ammunition carried and used hunting, and
- Map with the area showing where he is hunting, with protected area boundaries marked.⁶¹

Records should be entered no later than forty-eight hours after each hunting day and should be shown when requested by the authorized officer.⁶²

e. Protection of land and property

A landowner is allowed to reasonably protect his land, crops and other property from protected animals. A landowner should inform a Wildlife Officer of any death, injury or damage caused to property on his land by a protected animal as soon as possible.⁶³ A landowner can use a firearm to protect a person or piece of property only if there is no other option.⁶⁴ A landowner is not allowed to harm any animal

Restrictions on hunting

a. Prohibited acts

It is illegal to perform a range of acts while hunting. If a person is found guilty for any of the offences set out in the box, they can be subject to a fine or imprisonment, or both depending on the severity.⁶⁵

Prohibited Acts

- Hunt a young animal still suckling,
- Hunt a female animal while pregnant, suckling young or accompanied by young,
- Shoot at an animal from any motor vehicle, aircraft, launch or craft propelled by mechanical means,
- Approach more than 300 feet towards and animal in a motor vehicle, launch or aircraft for the purpose of hunting,
- Use aircraft, motor vehicle or mechanically propelled vessel to drive, stampede or disturb an animal,
- Use aircraft or radio telephone to locate an animal for hunting, within forty-eight hours,
- Approach or build a platform or hide within five hundred metres of a salt lick or mud wallow, for hunting,
- Set fire to any grass or other vegetation for the purpose of hunting,
- Use dogs for hunting or driving animals, not including birds,

⁶⁰ Wildlife Conservation Enactment 1997, section 28 (8).

⁶¹ Wildlife Conservation Enactment 1997, section 35(1), (a)-(c)/(3)(a).

⁶² Wildlife Conservation Enactment 1997, section 35 (2).

⁶³ Wildlife Conservation Enactment 1997, section 39 (1), (2).

⁶⁴ Wildlife Conservation Enactment 1997, section 39 (3).

⁶⁵ Wildlife Conservation Enactment 1997, section 33 (1), (a)-(l).

- Hunt animals between six in the evening and six in the morning,
- Possess any of the following for hunting:
 - drugs, poisons, poisoned weapons or poisoned baits,
 - explosives or missiles containing detonators,
 - traps, snares, gins, nets, deadfalls, fixed stakes, pits, set guns or any contrivance likely to cause harm to human life,
 - devices capable of producing an electric current sufficient to kill a fish or animal,
 - lures, artificial calls, electronic devices or recordings,
 - artificial light,
 - firearms capable of firing more than one round at each pull of the trigger, firearms prescribed generally or firearms for the hunting a particular species of animals, or
- Any other prohibited method of hunting that may be prescribed.

b. Restriction on hunting near a dwelling, road or track

No hunting should be conducted within three hundred meters of a dwelling, road or track that is routinely used. Any person who hunts near the following areas is guilty of an offence and will be liable to a fine of ten thousand ringgit or imprisonment for one year, or both.⁶⁶

FREQUENTLY ASKED QUESTIONS

Why is the penalty for hunting an animal without a licence more than the penalty for recklessly injuring or killing an animal?

Section 25 of the Wildlife Conservation Enactment, which is entitled 'Animals that shall not be hunted',⁶⁷ and section 37 entitled titled 'Reckless injury or killing of animal'⁶⁸ stipulate different penalties. The two offences are distinguished by the different mindsets that a person is presumed to have at the time of the offence. For example killing an animal that should not be hunted is considered an intentional killing. In contrast, a recklessly killing or injuring of an animal is considered an unintentional killing that may have occurred without due care.

Section 25 describes the penalty for hunting an animal without a licence or hunting over the established quota. The penalty, depending on the Schedule on which the animal is listed, ranges from 6 months to 5 years. This penalty is considered significantly higher because the offence is viewed as the intentional killing of an animal. In this case, a person is considered to have disregarded the law despite knowing the restrictions in place for hunting.

Section 37 describes killing an animal without the intent that would be established in the killings under section 25. The killing under section 37 has a lower level fine and penalty because it is considered to be 'reckless' behavior, or in other words, without due care. The hunter should not have been able to predict that his actions would result in killing the protected animal and therefore he/she qualifies for this lesser penalty.

The charge that a person ultimately receives is to be determined by the courts, and is

⁶⁶ Wildlife Conservation Enactment 1997, section 34.

⁶⁷ Wildlife Conservation Enactment, 1997, section 25.

⁶⁸ Wildlife Conservation Enactment, 1997, section 37.

subject to appeal.

Animals in a person's possession

a. Property of the government

Unless a person has a valid licence or permit, all protected animals and animal products are property of the government. Any protected animal or product that has been injured, killed or taken without a licence should be given to an authorized officer or can be seized. Any person who does not give a protected animal or product back to the government will be guilty of an offence, subject to a fine of twenty thousand ringgit or imprisonment for two years, or both.⁶⁹

b. Protected animals or products

Unless authorized by the Minister, a person who does not have a proper licence should not be in possession of any animal or animal product listed in Schedule 1. A person who is found in possession of a protected animal or product will be subject to an offence specific to the category of animal or products possessed.⁷⁰

c. Wounded and orphaned animals

If a person finds a wounded or orphaned animal they must give the animal to the nearest authorized officer. If a person fails to kill or wounds an animal while hunting, they are not allowed to follow that animal into a Sanctuary or Park to continue the killing.⁷¹

Ownership and registration for animals and products

a. Certificate of legal ownership

The Director can give a certificate of legal ownership to a person who has obtained a protected animal or animal product lawfully. A person can obtain a protected animal or animal product lawfully with the proper licence, permit, importing means or other lawful means.⁷² If a person obtains a protected animal or animal product with a valid hunting licence they do not have to obtain a certificate of legal ownership.⁷³

b. Animals in captivity

A person can only have an animal in captivity when they have been given legal ownership for the animal.⁷⁴ Legal ownership extends for the life of the animal and

⁶⁹ Wildlife Conservation Enactment 1997, section 40.

⁷⁰ Wildlife Conservation Enactment 1997, section 41.

⁷¹ Wildlife Conservation Enactment 1997, section 42.

⁷² Wildlife Conservation Enactment 1997, section 47 (1).

⁷³ Wildlife Conservation Enactment 1997, section 47 (2).

⁷⁴ Wildlife Conservation Enactment 1997, section 43 (1).

during that time the owner is responsible for making sure that the animal does not escape or harm anyone.⁷⁵

c. Canceling a permit for captivity

A person who has a permit to keep an animal in captivity should not create unnecessary or undue suffering to that animal.⁷⁶ The Director has the power, after inspection, to cancel a permit or keep an animal if the animal is not being kept in proper conditions.⁷⁷

d. Registration for animal products

Even if a person lawfully obtains a protected animal product they are required to register the product within thirty days.⁷⁸

e. Animal dealer's permit

The Director has the power to issue animal dealer's permits. Animal dealer's permits allow a person to manufacture articles and sell items from protected animals and protected animal products.⁷⁹ A person who does not obtain a permit before manufacturing or selling protected animals and products will be guilty of an offence and subject to a fine of thirty thousand ringgit or imprisonment for three years, or both.⁸⁰

f. Trade and movement

The Minister has the power to prohibit the transfer of a protected animal or animal product by sale, gift or otherwise. The Minister does not have the power to prohibit the transfer of a protected animal or animal product when it is allowed under the law.⁸¹

Protection of plants

a. Plants that cannot be harvested

Plants listed in Schedule I⁸² cannot be harvested and are totally protected.⁸³ Any person found guilty of harvesting these plants will be subject to a fine of fifty thousand ringgit or imprisonment for five years, or both.⁸⁴

⁷⁵ Wildlife Conservation Enactment 1997, section 43 (4), 43 (1).

⁷⁶ Wildlife Conservation Enactment 1997, section 46.

⁷⁷ Wildlife Conservation Enactment 1997, section 44 (3).

⁷⁸ Wildlife Conservation Enactment 1997, section 49.

⁷⁹ Wildlife Conservation Enactment 1997, section 51 (1).

⁸⁰ Wildlife Conservation Enactment 1997, section 51 (2).

⁸¹ Wildlife Conservation Enactment 1997, section 49. The section reads: The Minister may, by order published in the *Gazette*, prohibit the transfer of any protected animal or any animal product therefrom by sale, gift or otherwise except by operation of law.

⁸² Schedule 1 lists total protected plants and animals, Part I lists animals, Part II lists plants.

⁸³ Wildlife Conservation Enactment 1997, section 54 (1), (a).

Part II (Schedule I)	Nepenthes rajah (Periuk Kera)
	Paphiopedilum spp (Orkid Selipar)
	Rafflesia spp (Rafflesia)
	Tetrastigma spp (Pokok Perumah Rafflesia)

b. Plants that require a licence to harvest

Plants in Schedule 2 cannot be harvested without a licence.⁸⁵ Any person found harvesting plants in Schedule 2 will be guilty of an offence subject to a fine of thirty thousand ringgit or imprisonment for three years, or both.⁸⁶

c. Exceptions to restrictions

The Director has the power to make an exception to harvesting certain restricted plants. The Director must first look at all the information before him and discuss the decision with a Scientific Authority.⁸⁷ Exceptions to harvesting can be made for the following reasons:

- Construction of buildings or structures,
- Civil engineering work,
- Forestry or agricultural development, or
- Other activities that that Scientific Authority approves.⁸⁸

Licences for plant collection

The Director has the power to issue a plant collection licence to a person interested in harvesting plant species listed in Schedule 2.⁸⁹ The Director declares the total number of plant species that can be harvested each year and limits the number individuals can harvest.⁹⁰ A plant collection licence application can be denied or not renewed for any reason by the Director.⁹¹ Plant licences cannot be transferred.⁹² There are two types of plant licences that can be obtained. The categories are listed below.⁹³

Collector's Plant Collection	Allows holder to search for and harvest plants in Schedule 2 in Wildlife areas or areas listed on the licence. Licence cannot be for more then ninety days but can be renewed for a fee. ⁹⁴
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⁸⁴ Wildlife Conservation Enactment 1997, section 54 (2), (a).

⁸⁵ Wildlife Conservation Enactment 1997, section 54 (1), (b), List included in Annex.

⁸⁶ Wildlife Conservation Enactment 1997, section 54 (2) (b).

⁸⁷ Wildlife Conservation Enactment 1997, section 55.

⁸⁸ Wildlife Conservation Enactment 1997, section 54, (a)–(d).

⁸⁹ Wildlife Conservation Enactment 1997, section 56 (1).

⁹⁰ Wildlife Conservation Enactment 1997, section 56 (2), (a)-(b).

⁹¹ Wildlife Conservation Enactment 1997, section 56 (3).

⁹² Wildlife Conservation Enactment 1997, section 56 (64).

⁹³ Wildlife Conservation Enactment 1997, section 57, (a)-(c).

⁹⁴ Wildlife Conservation Enactment 1997, section 58.

Commercial Plant Collection	Allows holder to search for and harvest plants or species in the numbers specifies for sale, export or cultivation and propagation. Time period is specific to the period listed on the licence and can be renewable. ⁹⁵
Other Licences	All other licences that the Director believes necessary. ⁹⁶

a. Collecting plants in a Forest Reserve of Park

Plant collection licences do not allow a person to hunt on alienated land, Forest Reserves, Parks, reserved land or State Land that requires the owners or authorities approval for entry.⁹⁷

b. Permits for plant dealers

The Director has the power to grant a plant dealer’s permit in order to lawfully sell and distribute protected plants.⁹⁸ It is restricted to buy or sell any protected plants from any person that does not have a plant dealer’s, cultivation or commercial permit/ licence. Anyone who engages in the above activities is guilty of an offence subject to a fine, imprisonment or both depending on the severity.⁹⁹

Wildlife Hunting Areas

Wildlife Hunting Areas are established in order to manage the habitat and animal populations. Wildlife Hunting Areas are areas of land that are properly regulated for hunting wildlife.¹⁰⁰

Process to establish a Wildlife Hunting Area

In order to establish a Wildlife Hunting Area the Minister should consult with the Director of Wildlife to determine the necessity of establishing a Wildlife Hunting Area.¹⁰¹ The Yang di-Pertua Negeri has the authority to declare a Wildlife Hunting Area and should use information found in Minister’s proposal to determine if the Hunting Area is necessary.

a. Proposal for a Wildlife Hunting Area

The Minister’s proposal for a Wildlife Hunting Area should include the following:

- Areas and Boundaries for the proposed Hunting Area,
- Description of the wildlife hunted and the management form,
- Native rights that will remain after the declaration of the Hunting Area, and

⁹⁵ Wildlife Conservation Enactment 1997, section 59.

⁹⁶ Wildlife Conservation Enactment 1997, section 57 (c).

⁹⁷ Wildlife Conservation Enactment 1997, section 56 (6).

⁹⁸ Wildlife Conservation Enactment 1997, section 61.

⁹⁹ Wildlife Conservation Enactment 1997, section 60.

¹⁰⁰ Wildlife Conservation Enactment 1997, section 64.

¹⁰¹ Wildlife Conservation Enactment 1997, section 64 (1).

- Summary of meetings and comments made by government agencies and representatives about the proposal.¹⁰²

b. Notice of proposed land

The Minister is responsible for publishing a notice of intention for the land proposed for a Wildlife Hunting Area. The notice is required to be in English and Malay languages and should include the following:

- Proposed land,
- Boundaries for the land, and
- Dates for objections and requests for rights/ privileges to be submitted to District Officer or Collector.¹⁰³

c. Objections to proposed land

Anyone who wants to raise a concern with regard to the proposed land or loss of rights should submit a written objection to the Director or Collector. All proposals have a fixed period for objections listed on the notice. Objection periods should be for 90 days.¹⁰⁴

d. Review of objections to proposed land

At the end of the fixed period for objections, the Director or Collector should look into all the objections made to the proposed Wildlife Hunting Area, including into the objections raised about a person's loss of rights.¹⁰⁵ If a person does not agree with the Director's decision they can bring their objections to the Collector or can appeal their decision with the High Court.¹⁰⁶ The Minister has the authority to order a public hearing for objectors to publicly state their opposition.¹⁰⁷

e. Approval of proposed land in a Wildlife Hunting Area

If Yang di-Pertua Negeri declares an area of land a Wildlife Hunting Area, proper notice must be given in the Gazette.¹⁰⁸ Once a piece of land is declared a Hunting Area, grants cannot be made, land cannot be alienated and previous rights will no longer be effective if they violate the enactment.¹⁰⁹

Special provisions for Hunting Areas

a. Increasing the size of a Hunting Area

¹⁰² Wildlife Conservation Enactment 1997, section 64 (2), (a)-(d).

¹⁰³ Wildlife Conservation Enactment 1997, section 65 (1)(a).

¹⁰⁴ Wildlife Conservation Enactment 1997, section 65 (1)(a), (2).

¹⁰⁵ Wildlife Conservation Enactment 1997, section 65 (1)(c), (2).

¹⁰⁶ Wildlife Conservation Enactment 1997, section 65 (3)(4).

¹⁰⁷ Wildlife Conservation Enactment 1997, section 65 (5).

¹⁰⁸ Wildlife Conservation Enactment 1997, section 64.

¹⁰⁹ Wildlife Conservation Enactment 1997, section 66.

The size or boundaries of a Wildlife Hunting Area can only be changed by a resolution of the Legislative Assembly.¹¹⁰

b. Acquiring land for a Hunting Area

The Yang di-Pertua Negeri has the power to acquire alienated land and use it for a public purpose.¹¹¹ Land included in a Wildlife Hunting Area is considered land used for a public purpose.¹¹² Land can be acquired for the use of a Hunting Area, however from the time notice is given no land can be acquired or constructed on the land proposed in the Hunting Area.¹¹³

c. Management plans for a Hunting Area

Once a Hunting Area is established the Director has three years to submit at least a five year management plan for the Hunting Area.¹¹⁴ The management plan should include the major resources, boundaries, zones, management objectives, management action plans, research proposals and any other items required for the Hunting Area.¹¹⁵

d. Boundaries for Hunting Areas

The Minister has five years to create fixed boundaries for the Wildlife Hunting Area after its establishment. Any person who moves, destroys or interferes with the boundary lines will be guilty of an offense. Any person found guilty will be liable to imprisonment for one year or a fine of ten thousand ringgit, or both.¹¹⁶

Restrictions on Wildlife Hunting Areas

a. Prohibited acts

The following acts are prohibited from all Wildlife Hunting Areas:

- Cut, injure or set fire to any tree or vegetation,
- Search for or collect animal product,
- Willfully damage or remove any object of geological, prehistoric, marine or other scientific interest,
- Unlawfully possess any animal, animal product or plant,
- Knowingly introduce or allow a domestic animal to stray,
- Willfully damage any structure,
- Occupy, clear, cultivate or break up for cultivation land,

¹¹⁰ Wildlife Conservation Enactment 1997, section 64 (6).

¹¹¹ Land Acquisition Ordinance (Cap. 69), section 3 (1).

¹¹² "public purpose", land used in connection with the conservation, improvement or exploitation of natural resources. Land Acquisition Ordinance (Cap. 69) section 2 (h), Wildlife Conservation Enactment 1997, section 67.

¹¹³ Wildlife Conservation Enactment 1997, section 66.

¹¹⁴ Wildlife Conservation Enactment 1997, section 68 (3).

¹¹⁵ Wildlife Conservation Enactment 1997, section 68 (1), (a)-(g).

¹¹⁶ Wildlife Conservation Enactment 1997, section 69 (1), (2).

- Carry out any quarrying activities,
- Construct or occupy any structure or building, or
- Commit any other offence in the Enactment.¹¹⁷

Any person who commits any of the acts listed above will be guilty of an offence and subject to a fine of fifty thousand ringgit or imprisonment for five years or both.¹¹⁸

b. Environmental offences

It is prohibited to spread chemicals, toxins, discharge oil or other waste into a Hunting Area that may cause harm to fauna or flora. It is also prohibited to interfere or obstruct any water flowing into a Wildlife Hunting Area.¹¹⁹

c. Restrictions to flying

No aircraft can land in a Wildlife Hunting Area unless it lands in an approved area. No aircraft should be flown at a height of less than five hundred meters over a Hunting Area. The only exceptions to these restrictions are in emergency cases or instances where the Director has given approval. Any pilot found guilty for any of these offences can be liable for twenty thousand ringgit or imprisonment for two years, or both.¹²⁰

d. Limits to residence and entry

A person can only enter areas of a Hunting Area if they have an approved licence to hunt in that area.¹²¹ No one is allowed to reside on any portion of a designated Hunting Area without approval.¹²² Any person who resides in a Hunting Area will be subject to a fine of twenty thousand ringgit or imprisonment for two years, or both.¹²³

e. Natives' rights in Hunting Areas

Restrictions on Hunting Areas do not prohibit native or traditional rights to be exercised. Native rights should be included in the proposal for a Hunting Area. The Director can make an agreement with individuals awarded native rights in order to lessen or eliminate their privilege. Eliminating or lessening native rights usually requires compensation from the Director.¹²⁴

FREQUENTLY ASKED QUESTIONS

How do you legally secure native hunting rights? Do natives need to apply for a hunting

¹¹⁷ Wildlife Conservation Enactment 1997, section 72 (1), (a)-(i), (2).
¹¹⁸ Wildlife Conservation Enactment 1997, section 72 (3).
¹¹⁹ Wildlife Conservation Enactment 1997, section 73 (a)-(c).
¹²⁰ Wildlife Conservation Enactment 1997, section 74.
¹²¹ Wildlife Conservation Enactment 1997, section 70 (2).
¹²² Wildlife Conservation Enactment 1997, section 70 (1).
¹²³ Wildlife Conservation Enactment 1997, section 70 (4).
¹²⁴ Wildlife Conservation Enactment 1997, section 75.

licence?

Native and traditional hunting rights are secured under Malaysian law when a Wildlife Hunting Area (Hunting Area) is established. The Minister responsible for Tourism, Culture and the Environment (the Minister) is responsible for establishing Wildlife Hunting Areas. The Minister's proposal should include the native rights that will remain after the declaration of the Hunting Area.¹²⁵

The restrictions listed above for Hunting Areas do not prohibit native or traditional rights from being exercised. Any person who wants to raise a concern with regard to the proposed land or loss of rights must submit a written objection to the Director or Collector within 90 days of the proposal.¹²⁶ The Director or Collector is responsible for looking into all objections made to the proposed Hunting Area.¹²⁷

If the Director wishes to exclude native rights in the Hunting Area it must be subject to a negotiation regarding the lessening or elimination of the privilege. Eliminating or lessening native rights usually requires compensation from the Director.¹²⁸

Unlike kampung hunting licences, which are distributed to specific kampungs after properly following the application process above, native rights are established when any of the requirements under section 15 of the Land Ordinance are met.¹²⁹

Edible bird's nest and guano

All caves that contain edible bird's nests and guano are property of the Government. It is prohibited to collect bird's nests or guano from caves owned by the government.¹³⁰ Only the caves listed in Part I of Schedule 4 are considered private land and will not be considered property of the government.¹³¹ Any ownership disputes for privately owned caves should be settled in a Native Court.¹³²

Turtle egg traditional collection area

The Director has the power to declare an area of land a turtle egg collection area. Traditional collection areas do not require a permit to collect turtle eggs, but must follow specific rules for the collection areas in order to protect the native rights of those that live near the area. Collection areas allow people to collect turtle eggs but do not give them the right to sell the eggs.¹³³ A person who sells or attempts to sell turtle eggs from a collection site will be guilty of an offence subject to a fine of fifty

¹²⁵ Wildlife Conservation Enactment 1997, section 64 (2)(d).

¹²⁶ Wildlife Conservation Enactment 1997, section 65 (1)(a), (2).

¹²⁷ Wildlife Conservation Enactment 1997, section 65 (1)(c), (2).

¹²⁸ Wildlife Conservation Enactment 1997, section 75.

¹²⁹ Cross referenced in this brief, section 4, Land Ordinance.

¹³⁰ Wildlife Conservation Enactment 1997, section 85 (1) (a)-(b), (2).

¹³¹ Wildlife Conservation Enactment 1997, section 85 (1) (a), List included in Annex.

¹³² Wildlife Conservation Enactment 1997, section 86 (1).

¹³³ Wildlife Conservation Enactment 1997, section 87 (2).

thousand ringgit or imprisonment for five years, or both.¹³⁴ See *Case Law* section below for related case.

Additional powers of authority

a. Rights of entry and access

Wildlife Officers are allowed to enter or pass through private land in order to carry out the Wildlife Enactment. Wildlife Officers are given this privilege and can use it to accompany workmen and equipment.¹³⁵

FREQUENTLY ASKED QUESTIONS

Is trespassing considered an offence and does it give authorities the power to apprehend someone?

A person can only enter areas of a Wildlife Sanctuary that are open to the public.¹³⁶ The Director may allow a person to enter other areas of a Sanctuary with a research permit.¹³⁷ No one is allowed to reside on any portion of a Wildlife Sanctuary.¹³⁸ Any person who resides in a Sanctuary will be subject to a fine of twenty thousand ringgit or imprisonment for two years, or both.¹³⁹

The Minister can prevent non-residents from entering a Conservation Area in order to protect wildlife populations. Restriction periods cannot be for more than one year at a time.¹⁴⁰ It is prohibited in the Enactment to enter a Wildlife Hunting Area without a proper licence.¹⁴¹

As stated below, Section 89 (i) gives authorized officials the right to arrest a person who is believed to have committed an offence under the enactment without a warrant.¹⁴² This restriction allows authorized officers to arrest an individual who has entered areas of a Wildlife Sanctuary, Conservation Area or Hunting Area that is not open to the public.

b. Power to search

An authorized officer has the power to require a person to produce an item for inspection or enter and search a person that they believe has committed an offence. Officers have the power to enter or search any land, building, tent, vehicle, boat or possession on a person, including baggage. Officers are still required to obtain a

¹³⁴ Wildlife Conservation Enactment 1997, section 87 (4).

¹³⁵ Wildlife Conservation Enactment, 1997, section 116.

¹³⁶ Wildlife Conservation Enactment 1997, section 15 (2).

¹³⁷ Wildlife Conservation Enactment 1997, section 15 (3).

¹³⁸ Wildlife Conservation Enactment 1997, section 15 (1).

¹³⁹ Wildlife Conservation Enactment 1997, section 15 (4).

¹⁴⁰ Wildlife Conservation Enactment 1997, section 21 (3).

¹⁴¹ Wildlife Conservation Enactment, 1997, section 70.

¹⁴² Wildlife Enactment, 1997, section 89 (i).

warrant to enter a house in order protect the right of privacy a person expects in their own home.¹⁴³

c. Power to arrest

An authorized officer has the power to arrest a person that is reasonably suspected of committing an offence. The Officer is not required to obtain a warrant. Officers do not have the authority to detain someone without a warrant except when the person is likely to flee after their release.¹⁴⁴

FREQUENTLY ASKED QUESTIONS

Can an authorized official arrest a person for carrying a firearm under the Wildlife Enactment or are they only allowed to arrest the person for carrying an illegal firearm under the Firearms Act of 1971?

A person is considered guilty of an offence under the Wildlife Conservation Enactment if they are found *“on any land on which there are animals, in possession of a firearm or any other weapon capable of killing or wounding any animal or with a free ranging dog.”*¹⁴⁵

Section 89 (i) gives authorized officials the right to arrest a person who is believed to have committed an offence under the Enactment without a warrant.¹⁴⁶ This restriction allows authorized officers to arrest an individual who is possession of a firearm capable of killing or wounding an animal.

Authorized Officers of the Enactment should be considered Wildlife Officers, Honorary Wildlife Wardens, a Park Officers, a Police Officer, a Customs Officers, Forestry Officers, Plant Quarantine Officers or any person authorized by the Minister in the Gazette.¹⁴⁷ Depending on the area, an authorized officer can inspect land, weapons and persons in order to protect wildlife and habitat.¹⁴⁸ Authorized Officers can exercise powers of a police officer in order to investigate and prevent an offence of the Enactment.¹⁴⁹ Authorized officers also have the power to arrest an individual if they believe an offence has been committed under the Enactment.¹⁵⁰

A Forest Officer may be considered an authorized officer of the Wildlife Enactment but they are responsible for upholding the Enactment within their areas of authority. Forest Officers have jurisdiction in a Forest Reserve and Customs Officers enforce the enactment through border and importation inspections. Multiple authorized officers are established to uphold to the Enactment but the areas they can protect are limited to their initial duties and jurisdiction.

d. Power to amend Schedule

¹⁴³ Wildlife Conservation Enactment, 1997, section 89.

¹⁴⁴ Wildlife Conservation Enactment, 1997, section 52.

¹⁴⁵ Wildlife Enactment, 1997, section 98 (10).

¹⁴⁶ Wildlife Enactment, 1997, section 89 (i).

¹⁴⁷ Wildlife Conservation Enactment, 1997, section 2, ‘authorized officer’.

¹⁴⁸ Wildlife Conservation Enactment, 1997, section 88.

¹⁴⁹ Wildlife Conservation Enactment, 1997, section 117 (1).

¹⁵⁰ Wildlife Conservation Enactment, 1997, section 89.

The Minister has the power to amend the Schedule after discussing the changes with the Director. Notice of the changes should be published in the *Gazette*.¹⁵¹

FREQUENTLY ASKED QUESTIONS

Asian Elephants and the Banteng have recently become *totally protected animals*, moving from Schedule 2 to Schedule 1 of the Wildlife Conservation Enactment. This Schedule change was a verbal announcement by the Minister and hard to locate in the *Gazette*. When will this protection take effect and be enforceable? Will it be enforceable without the official Schedule change in the *Gazette*?

Background: The Wildlife Conservation Enactment (the Enactment) states that the Minister responsible for Wildlife¹⁵² (the Minister) has the authority to amend any Schedule in the Enactment after consultation with the Director of Wildlife (the Director) and notice published in the *Gazette*.¹⁵³ The Minister can make changes to the Schedule in order to help preserve and maintain Wildlife in Sabah. For instance if the Minister notices that a certain animal population is decreasing, he may want to establish protection for that animal by listing it within a Schedule, or changing the Schedule to increase the protection of the animal.

Asian Elephants and Banteng were previously included in Schedule 2, which lists protected species of animals limited in hunting with a licence. In 2010, the Banteng was moved to Schedule I of the protected animals¹⁵⁴ and in 2012, the Asian Elephant was moved to Schedule I as well.¹⁵⁵ When the Elephant and the Banteng moved to Schedule I, they became *totally protected animals* under the Enactment.¹⁵⁶ Although there are statements from the Minister of this change in Schedule, there remain open questions such as:

- How can authorities enforce the new classification if it is not published in the *Gazette*?
- Is the publication in the *Gazette* the only way to establish a Schedule change?

Analysis: When the Minister is notifying the public of changes to a Schedule, notice in the *Gazette* should be used as the primary form of communication. However, if a change to the Schedule has been announced but is not published in the *Gazette*, individuals might argue that they were unaware of the change. Although the animal's level of classification determines the type of punishment the offender will receive, since the Wildlife Conservation Enactment was enacted to establish rules for the protection and conservation of wildlife, authorities and prosecutors can hold a person accountable for other offences without relying on the specific Schedule classification. These other offences include hunting for over the specified quota or hunting animals not included in the hunting licence.¹⁵⁷

Where an animal is listed under Schedule 2 or Schedule 3 it is considered a Protected

¹⁵¹ Wildlife Conservation Enactment, 1997, section 104.

¹⁵² Wildlife Conservation Enactment, 1997, section 2 (Enactment No. 2 1968).

¹⁵³ Wildlife Conservation Enactment, 1997, section 104.

¹⁵⁴ Listed in amended version of Wildlife Conservation Enactment, for reference only July 2010.

¹⁵⁵ Current Status of Asian Elephants in Borneo, Gajah 35 (2011) 29-35, announces upgrade of Sabah's Bornean pygmy elephant will be upgraded to Schedule I at Sabah Wildlife Colloquium in January 2012.

¹⁵⁶ Wildlife Conservation Enactment, 1997, section 25.

¹⁵⁷ Wildlife Conservation Enactment, 1997, section 25 (2), (a)-(b).

Animal. Protected Animals can be hunted with a licence but only for the quota listed on the licence.¹⁵⁸ Animals in Schedule 1 are considered *totally protected animals* and cannot be hunted at all.¹⁵⁹ When the Asian Elephant and the Banteng were moved from Schedule 2 to 1, they became classified as animals that are totally protected and can no longer be hunted for any reason.

The previous classification of the Elephant and Banteng allowed individuals to obtain a licence to hunt them. In order to receive a licence to hunt animals in Schedule 2 and 3 the person must receive approval from the Director. The Director is responsible for administering all hunting licences and determining the amount and type of animals that can be hunted by each person.¹⁶⁰ A person who has a licence to hunt animals in Schedule 2 and 3 is limited to the type and number of animals that can be hunted in those Schedules.¹⁶¹

Since licence holders are only allowed to hunt the animals listed on their licence, hunting animals not approved for their licence will be considered a violation. If there is a change to a Schedule it will directly affect the person who holds the licence. Changes to a person's licence should be the responsibility of the Director who administers the licences and determines each individual's hunting quota.¹⁶²

If a person is found hunting the Asian Elephant and Banteng it would be easy to identify a violation of their hunting licence. Any violation of a hunting licence can result in the revocation of the persons licence.¹⁶³ Since all persons who obtain hunting licences, regardless of the type, are required to identify the animals in Schedule 1, 2, and 3 there should be no excuse as to the person hunting what they may have assumed to be another animal.¹⁶⁴ Any other person that may have previously had the privilege to lawfully hunt the Asian Elephant or Banteng should have been notified by the Director about the change and may argue inadequate notice as a defense if they were not notified.

On a related note, in May of 2014, authorities used their discretion to forbid individuals from eating Wild Boar meat in Tawau. This restriction also prohibited people from hunting and selling Wild Boar meat. This restriction resulted in previous sellers having their operating licences withdrawn by authorities when the ban occurred. This restriction imposed by the Government was as a result of palm oil bombs that were set off as part of hunting Wild Boars. The Government imposed this prohibition in order to protect the Wild Boars, wildlife and habitat.¹⁶⁵

2. CRUELTY TO ANIMALS (PREVENTION) ORDINANCE

Purpose

The *Cruelty to Animals (Prevention) Ordinance (1925)* establishes Sabah's laws for the prevention of cruelty to animals.

¹⁵⁸ Wildlife Conservation Enactment, 1997, section 26, 27.

¹⁵⁹ Wildlife Conservation Enactment, 1997, section 25 (3) (a).

¹⁶⁰ Wildlife Conservation Enactment, 1997, section 28(2).

¹⁶¹ Wildlife Conservation Enactment, 1997, section 25 (2), (a)-(b).

¹⁶² Wildlife Conservation Enactment, 1997, section 28(2).

¹⁶³ Wildlife Conservation Enactment, 1997, section section 33 (1), (a)-(l).

¹⁶⁴ Wildlife Conservation Enactment, 1997, section 28 (4) (c).

¹⁶⁵ The Borneo Post, 'Tawau non-Muslims unhappy over wild boar meat ban', May 22, 2014.

Restricted act of cruelty towards animals

The following acts are considered cruel acts towards animals. Any person found guilty of any of the following offences can be liable for a fine of five hundred ringgit or imprisonment for six months, or both:

- Cruelly beating, ill-treatment, torture, overdriving, causing or procuring to be beaten any animal,
- A person in charge of any animal while transporting them from one place to another, neglects to supply such animal with sufficient food or water,
- Carrying or causing to be carried any animal in such a manner or position as to subject it to unnecessary pain or suffering,
- Employing or causing to be employed in any work or labour an animal which in consequence of any disease, infirmity, wound, sore or otherwise is unfit to be so employed, or

Holding an animal in confinement, causing any unnecessary suffering by wantonly or unreasonably doing or omitting to do any act, or neglecting to supply sufficient and proper food and water to such animal.¹⁶⁶

3. LAND ORDINANCE

Please note that there is a dedicated brief on the *Land Ordinance (1930)* and related legislation. This section only sets out information from the Land Ordinance that is relevant to areas of land that can be included in protected areas of the Wildlife Enactment.

Purpose

The Land Ordinance (1930) establishes Sabah's laws relating to the regulation and control of State land.

Alienated land

The *Land Ordinance* describes alienated land as land that is leased or disposed State land on behalf of the Government. Alienated land may require payment such as rent or another type of premium.¹⁶⁷ During the time of proposals for a Wildlife Sanctuary, Conservation Area or Hunting Area, no land shall be alienated from the proposed area.¹⁶⁸

Native customary rights

The *Land Ordinance* establishes native customary rights, as set out in the box, below.¹⁶⁹

¹⁶⁶ Cruelty to Animals (Prevention) Ordinance, 1925, section 3 (a)-(e).

¹⁶⁷ Land Ordinance, 1930, section 4, "alienate".

¹⁶⁸ Wildlife Conservation Enactment, 1997, section 11, 66.

¹⁶⁹ Land Ordinance, 1930, section 15, (a)-(g).

Native Customary Rights

- Land possessed by customary tenure,
- Land planted with fruit trees, when the number of fruit trees amounts to fifty and upwards to each hectare,
- Isolated fruit trees, and sago, rotan, or other plants of economic value, that the claimant can prove to the satisfaction of the Collector were planted or upkept and regularly enjoyed by him as his personal property,
- Grazing land that the claimant agrees to keep stocked with a sufficient number of cattle or horses to keep down the undergrowth,
- Land that has been cultivated or built on within three years,
- Burial grounds or shrines, and
- Usual rights of way for men or animals from rivers, roads, or houses to any or all of the above.

4. LAND ACQUISITION ORDINANCE

Purpose

The *Land Acquisition Ordinance (1950)* establishes Sabah's laws for the acquisition of land by the Yang di-Pertua Negeri for the public. The Ordinance states that Wildlife Sanctuaries and Conservation Areas established in the Wildlife Enactment are considered areas of 'public purpose'. When protected areas of the Wildlife Enactment are considered areas of public purpose they given specific rules and exceptions for acquiring land.

Including alienated land in a Sanctuary

The Yang di-Pertua Negeri has the power to acquire alienated land and use it for a public purpose.¹⁷⁰ Wildlife Sanctuaries, Conservation Areas and Hunting Areas are considered land used for a public purpose.¹⁷¹

Temporary occupation

The Yang di-Pertua Negeri has the power to determine if the State should temporarily occupy a piece of unoccupied land and use it for a public purpose.¹⁷² If the Yang di-Pertua Negeri believes a piece of land is suitable for a public purpose he may give permission to complete the anticipated project. Temporary occupation of the land should not be for longer than three years.¹⁷³

5. ARMS ACT

Purpose

¹⁷⁰ Land Acquisition Ordinance (Cap. 69), section 3 (1).

¹⁷¹ "public purpose", land used in connection with the conservation, improvement or exploitation of natural resources. Land Acquisition Ordinance (Cap. 69) section 2 (h).

¹⁷² Land Acquisition Ordinance (Cap. 69), section 11 (1).

¹⁷³ Land Acquisition Ordinance, section 11 (2).

The *Arms Act (1960)* establishes the rules relating to the possession, inspection, distribution and maintenance of arms, imitation arms and ammunition. The Arms Act is a Federal Enactment that regulates the laws for the Peninsular of Malaysia, the State of Sarawak and the State of Sabah. The Arms Act regulates and establishes laws for the distribution of firearm licences. All firearm licences that must be obtained before any person can receive a hunting licence through the Wildlife Enactment.

Carrying arms or ammunition without a licence or permit

Any person who carries arms or ammunition without a licence, permit or without following the conditions listed in the licence or permit shall be subject to an offence not more than seven years or a fine not more than ten thousand ringgit, or both.¹⁷⁴

6. ANIMALS ORDINANCE

Purpose

The *Animals Ordinance (1962)* amends and consolidates laws for the livelihood of animals and controls the introduction and expansion of animal and bird diseases in Sabah.

Restrictions on importations

The Yang di-Pertua Negeri has the power to determine the list of animals that should not be imported to Sabah. The Yang di-Pertua Negeri should update the list of restricted animals in the Gazette. The list of animals can include any animal, bird, carcass, semen, fodder, litter, dung or any animal or bird product.¹⁷⁵

Licence to import an animal or animal product

In order to import any animal or bird, a person must obtain a licence to import that specific animal. The Director of Veterinary Authority has the power to administer a licence for importation.¹⁷⁶

Restrictions on exportations

It is prohibited to export an animal, bird, animal product or bird product without a licence. A Veterinary Authority has the power to administer a licence for the exportation of animals, birds and products.¹⁷⁷

7. FOREST ENACTMENT

Please note that there is a dedicated brief on the *Forest Enactment (1968)* and related legislation. This section only sets out information from the Forest Enactment

¹⁷⁴ Arms Act, 1960, section 8.

¹⁷⁵ Animals Ordinance, 1962, section 3.

¹⁷⁶ Animals Ordinance, 1962, section 4.

¹⁷⁷ Animals Ordinance, 1962, section 12.

that is relevant to wildlife. The Wildlife Conservation Enactment focuses on the conservation and protection of wildlife and its habitat but the enforcement of these provisions can occur on areas designated as Forest Reserves. Areas of overlap between the Forest Enactment and Wildlife Conservation Enactment include:

- Ceasing or excising areas of a Forest Reserve,
- Limits on hunting and plant collection, and
- Animal rescue operations.

Additional areas of overlap that involve the authority of the Department of Forestry on wildlife areas are listed in the 'Institutional Arrangement' section below.

Purpose

The *Forest Enactment (1968)* provides the cornerstone of Sabah's forest-related legislation, and establishes rules relating to the preservation of forests, regulation and control of forest produce.

Ceasing or excising a Forest Reserve

The Amendment to the Forest Enactment includes the elimination of the entire section titled *Forest Reserve not to cease or to be excised*.¹⁷⁸ The elimination of this section allows authorities to remove or modify portions of a Forest Reserve at their discretion. Prior to this amendment authorities could remove land in a Reserve if it was to be used for a Park, Game Sanctuary or Bird Sanctuary.¹⁷⁹

Limits on hunting and harvesting in Forest Reserves

If a person is granted a hunting or plant collection licence under the Wildlife Conservation Enactment they are only authorized to use their licence in designated Hunting Areas. A person cannot hunt or harvest any plant or animal on a Forest Reserve without consent from the authorized officials in the Department of Forestry.¹⁸⁰ For example, animals found in a Forest Reserve including the Forest Tortoise¹⁸¹ should only be hunted in designated hunting areas or with prior approval from the Director of Forestry and the Director of Wildlife.

Animal rescue operations

If a person has plans to clear a forest area for cultivation or construction they should notify the Director of Wildlife at least thirty days before any building or construction occurs.¹⁸² After the Director inspects the land he should determine if the construction can begin or if an animal needs to be removed from the premises.¹⁸³ If

¹⁷⁸ Forest Enactment, 1968, section 22.

¹⁷⁹ Forest (Constitution of Forest Reserves and Amendment) Enactment 1984, section 3.

¹⁸⁰ Wildlife Conservation Enactment, 1997, section 28 (9), 56(6) .

¹⁸¹ Wildlife Conservation Enactment, 1997, section 25 (2), Part I Schedule 2 Protected Animal (72.) Forest Tortoise (*Tetsudo emys*) Kura-kura Bukit.

¹⁸² Wildlife Conservation Enactment, 1997, section 38 (1).

¹⁸³ Wildlife Conservation Enactment, 1997, section 38 (2).

the Director determines that an animal needs to be rescued, the Director and the owner must coordinate how to rescue the animal before any building or activity can take place.¹⁸⁴

8. FIREARMS (INCREASED PENALTIES) ACT

Purpose

The *Firearms (Increased Penalties) Act, 1971*, establishes increased penalties for the use of firearms in certain offences that include firearms. Offences include extortion, robbery and resisting arrests. The *Arms Act* is a Federal Enactment that regulates the laws for the Peninsular of Malaysia, the State of Sarawak and the State of Sabah. The State of Sabah does not have its own Firearms Act but most individuals prosecuted for violations of the Wildlife Enactment are sentenced under the Firearms (Increased Penalties) Act if their offence meets the criteria. Penalties under the Firearms act are specific to each type of possession of a firearm or imitation firearm as opposed to the Wildlife Enactment.

Possessing a firearm during an offence

Where a person who is committing an offence or is attempting to commit an offence and is in possession of a firearm they will be subject to imprisonment for life and with whipping with not less than six strokes.¹⁸⁵

Showcasing an imitation firearms during an offence

If person who is committing an offence or is attempting to commit an offence, displays an imitation firearm in an attempt to place a person in fear of death or hurt, they will be subject to imprisonment not more then ten years and with whipping with not less than three strokes.¹⁸⁶

Unlawful possession of firearms

Where a person is in unlwaful possession of a firearm, they will be subject to imprisonment for not more then fourteen years and with whipping with not less than six strokes.¹⁸⁷

9. PARKS ENACTMENT

Please note that there is a dedicated brief on the Parks Enactment (1984) and related legislation. This section only sets out information from the Parks Enactment that is relevant to wildlife. The Wildlife Conservation Enactment focuses on the conservation and protection of wildlife and its habitat but the enforcement of these

¹⁸⁴ Wildlife Conservation Enactment, 1997, section 38 (3).

¹⁸⁵ Firearms (Increased Penalties) Act, 1971, section 4.

¹⁸⁶ Firearms (Increased Penalties) Act, 1971, section 5.

¹⁸⁷ Firearms (Increased Penalties) Act, 1971, section 6.

provisions can occur on areas designated as Parks or Nature Reserves. Areas of overlap between the Parks Enactment and Wildlife Conservation Enactment include:

- Converting a Reserve or Sanctuary,
- Limits on hunting and plant collection, and
- Following wounded animals.

Additional areas of overlap that involve the authority of the Director of Parks, Park Officers, Honorary Park Rangers or Park Wardens on wildlife areas are listed in the 'Institutional Arrangement' section below.

Purpose

The *Parks Enactment (1984)* establishes Sabah's laws relating to National Parks and Reserves.

Conversion of Reserve or Sanctuary into a Park

The Yan di-Pertua Negeri has the power to convert any Forest Reserve, Game Sanctuary¹⁸⁸, Bird Sanctuary¹⁸⁹ or any other reserve or sanctuary (including a Wildlife Sanctuary) into a Park or Nature Reserve. The conversion can be for the entire or a portion of the reserve or sanctuary. Notice of intention must be published in the *Gazette*.¹⁹⁰

Limits on hunting and harvesting in Park or Nature Reserve

If a person is granted a hunting or plant collection licence under the Wildlife Conservation Enactment they are only authorized to use their licence in designated hunting areas. A person cannot hunt or harvest any plant or animal on a Park or Nature Reserve without consent from the Director of Parks or authorized officials.¹⁹¹ For example, animals found in a Park or Nature Reserve should only be hunted in designated hunting areas or with prior approval from the Director of Parks and Director of Wildlife.

Following a wounded animal into a Park or Nature Reserve

If a person wounds an animal while hunting and the animal enters a Wildlife Sanctuary or Park, the person who attempted to kill the animal is not authorized to enter the sanctuary or Park to kill the animal.¹⁹² Even if the person has a licence to hunt the injured animal, they are only authorized to hunt in the specified Hunting

¹⁸⁸ All existing Game Sanctuaries declared in previous Birds Nest Ordinance, section 7, will be considered a Wildlife Sanctuary, Wildlife Conservation Enactment, 1997, section 13.

¹⁸⁹ All existing Bird Sanctuaries declared in previous Birds Nest Ordinance, section 7, will be considered a Wildlife Sanctuary, Wildlife Conservation Enactment, 1997, section 13.

¹⁹⁰ Parks Enactment 1984, section 12.

¹⁹¹ Wildlife Conservation Enactment, 1997, section 28 (9), 56(6).

¹⁹² Wildlife Conservation Enactment, 1997, section 36 (1).

Areas and are not allowed to hunt in a Sanctuary or Park. Injuring the animal should be recorded as killing an animal for purposes of the hunting quota.¹⁹³

10. BIODIVERSITY ENACTMENT

Please note that there is a dedicated brief for the Biodiversity Enactment and related legislation. This section only sets out information from the enactment that is relevant to area of the environment that may be relevant to wildlife.

Purpose

The *Biodiversity Enactment (2000)* provides the cornerstone of Sabah's biodiversity-related legislation, and establishes rules relating to the conservation and sustainable use of biological resources. The Sabah *Biodiversity Enactment* has four major areas of focus. These Include:

- Biological Diversity, Biological Resources, and Associated Traditional Knowledge,
- Access licences,
- Restrictions, and
- Authorized officers.

11. ENVIRONMENT PROTECTION ENACTMENT

Please note that there is a dedicated brief for the *Environment Protection Enactment (2002)* and related legislation. This section only sets out information from the enactment that is relevant to area of the environment that may be relevant to wildlife.

Purpose

The *Environment Protection Enactment (2002)* establishes Sabah's laws for the protection of the environment and all other related matters.

Establishing protection policies and areas

The Minister has the authority under the Environment Protection Enactment to establish an environmental protection policy for an area where pollution is significant or likely to become significant for the environment.¹⁹⁴ In addition, the Minister also has the authority to establish Environmental Protection Areas for the protection on the environment by notification in the Gazette.¹⁹⁵

Biological Diversity, Biological Resources, and Associated Traditional Knowledge

¹⁹³ Wildlife Conservation Enactment, 1997, section 36 (2).

¹⁹⁴ Environment Protection Enactment, 2002, section 9, 10 (1), (a)-(b).

¹⁹⁵ Environment Protection Enactment, 2002, section 11.

Biological Diversity, also referred to as *biodiversity*, encompasses the variability among living organisms from all sources, including plants material, terrestrial, marine and other aquatic ecosystems and ecological complexes.¹⁹⁶ Biodiversity is known as the diversity within species, ecosystems and biological resources.¹⁹⁷

Biological Resources are considered genetic resources or materials of plants, animals or any organism with a microbial origin or biotic component of the ecosystem.¹⁹⁸ Biological resources are resources that have actual use, potential use or value to humanity.¹⁹⁹ In order to properly maintain the Biodiversity of Sabah individuals are shifting towards obtaining Traditional Knowledge from indigenous communities in order to maintain the diversity of the State's natural resources.

Associated Traditional Knowledge is a concept that promotes the interaction between indigenous communities and individuals seeking natural resources. Traditional Knowledge is used in order to maintain and profit from biological resources.²⁰⁰ Malaysia has been recognized for its rich biodiversity however, a majority of these rich areas are occupied by indigenous communities.²⁰¹ Since indigenous communities have lived on this land for centuries they have developed a strong knowledge base for properly managing natural resources. Associated Traditional Knowledge uses the knowledge obtained by indigenous peoples to develop methods for sustainable resource management.²⁰²

12. INSTITUTIONAL ARRANGEMENT

Sabah Wildlife Department

The Sabah Wildlife Department is responsible for administering and enforcing the Wildlife Conservation Enactment. The Department should consist of the Director of Wildlife and other officers appointed by the State Public Service Commission.²⁰³

Director of Wildlife

The Director of Wildlife is appointed by the State Public Service Commission. The Director is responsible for administering the Wildlife Conservation Enactment and

¹⁹⁶ Sabah Biodiversity Enactment, 2000, section 2, 'biodiversity'.

¹⁹⁷ Sabah Biodiversity Enactment, 2000, section 2, 'biodiversity'.

¹⁹⁸ Sabah Biodiversity Enactment, 2000, section 2, 'biological resources'.

¹⁹⁹ Sabah Biodiversity Enactment, 2000, section 2, 'biological resources'.

²⁰⁰ Nicholas, Colin & Lasimbang, Jannie, Deliberations at the National Roundtable on Biodiversity and Indigenous Knowledge Systems in Malaysia, Background to the Roundtable, <http://www.coac.org.my/codenavia/portals/coacv2/images/articles/IPs%20and%20Biodiversity.pdf>, 2004, p. 5-6.

²⁰¹ Nicholas, Colin & Lasimbang, Jannie, Deliberations at the National Roundtable on Biodiversity and Indigenous Knowledge Systems in Malaysia, Background to the Roundtable, , 2004, p. 5-6.

²⁰² Ahtoi, Gallus, Deliberations at the National Roundtable on Biodiversity and Indigenous Knowledge Systems in Malaysia, Anak Negeri of Sabah – Towards to Recognition of Traditional Knowledge, <http://www.coac.org.my/codenavia/portals/coacv2/images/articles/IPs%20and%20Biodiversity.pdf>, 2004, p. 9-12.

²⁰³ Wildlife Conservation Enactment 1997, section 3.

overseeing the enforcement of the Enactment.²⁰⁴ The Director is responsible for advising the Minister, resolving disputes, controlling hunting, trade, farming, tourism, and ensuring the proper regulation of the Sanctuaries and Conservation areas. The Director should act as the liaison to the Federal Government, State Departments and authority in other countries.²⁰⁵ The Director is given any authority necessary to carry out his responsibilities.²⁰⁶

Wildlife Officers

Wildlife Officers are officers specifically appointed to carry out the provisions of the Wildlife Conservation Enactment.²⁰⁷ Wildlife Officers are appointed by the State Public Service Commission and are under the supervision of the Director of Wildlife.²⁰⁸

Honorary Wildlife Wardens

The Director has the power to appoint Honorary Wildlife Wardens. Wildlife Wardens are appointed to help carry out the provisions of the Wildlife Conservation Enactment. Wildlife Wardens can be appointed to assist with the Enactment or honored for their valuable service. Wardens should be appointed for three years, which can be renewable, unless they were appointed for valuable service, then there is no time limit. The Director has the power to establish any additional conditions for the Wardens. When a new Warden is appointed it should be published in the *Gazette*.²⁰⁹

FREQUENTLY ASKED QUESTIONS

Do Wildlife Wardens have the authority to apprehend someone committing an offence in a Wildlife Sanctuary of Conservation Area?

Wildlife Wardens are appointed to help carry out the provisions of the Wildlife Conservation Enactment. Since the Wildlife Wardens are appointed to upholding the Enactment they have the authority to apprehend someone committing an offence if they have been designated by the Director to perform those duties.

Wildlife Guides

The Director has the power to issue licences for wildlife guides. The licence for a guide should not exceed three years but can be renewable if necessary. Licenced wildlife guides are considered authorized officers and the Minister is responsible authorizing their power in the *Gazette*.²¹⁰

²⁰⁴ Wildlife Conservation Enactment 1997, section 3.

²⁰⁵ Wildlife Conservation Enactment 1997, section 4.

²⁰⁶ Wildlife Conservation Enactment 1997, section 5.

²⁰⁷ Wildlife Conservation Enactment, 1997, section 3(2).

²⁰⁸ Wildlife Conservation Enactment, 1997, section 3(1).

²⁰⁹ Wildlife Conservation Enactment 1997, section 7.

²¹⁰ Wildlife Conservation Enactment 1997, section 8.

Authorized officers

Authorized officers of the Enactment should be considered Wildlife Officers, Honorary Wildlife Wardens, Park Officers, Police Officers, Customs Officers, Forestry Officers, Plant Quarantine Officers or any person authorized by the Minister in the *Gazette*.²¹¹ Depending on the area, an authorized officer can inspect land, weapons and persons in order to protect wildlife and habitat.²¹² Authorized officers can exercise powers of a police officer in order to investigate and prevent an offence of the Enactment.²¹³ Authorized officers also have the power to arrest an individual if they believe an offence has been committed under the Enactment.²¹⁴

As stated above, a Forest Officer may be considered an authorized officer of the Wildlife Enactment but they are responsible for upholding the Enactment within their areas of authority. Although Forest Officers are considered authorized officers under the Wildlife Enactment, the Forest Enactment only considers officials in the Department of Forestry, Forest Officers and police officers authorized officers.²¹⁵

13. RELEVANT CASE LAW

Central Queensland Speliological Society v. Central Queensland Cement Pty Ltd²¹⁶

This Australian case determines whether blowing up an abandoned nesting site for protected bats could be considered 'taking' the bats nest. Additionally, would blowing up an abandoned nest 'disturb' the bats that may have previously lived in the nest. The Court ruled that blowing up an abandoned nesting site for protected bats would not be considered a removal or disruption to the protected species.

Rationale

The restrictions for the animal nests were established to ensure the protection of the animals. If a nest is abandoned and animals were not harmed during the destruction, it is not considered the same offence. The destruction of the nest does not have a lasting effect on the animals because the animals were not expected to return. The protection over the nests was created to ensure the protection of the animals and their habitat, not the nest itself. If the protected animal abandoned the nest there would be no animals to protect and the law does not cover the nest alone.

State of Bihar v. Murad Ali Khan and others²¹⁷

This Indian case determines whether a complaint by a wildlife ranger can be processed at the same time a police investigation is going on. The Supreme Court

²¹¹ Wildlife Conservation Enactment, 1997, section 2, 'authorized officer'.

²¹² Wildlife Conservation Enactment, 1997, section 88.

²¹³ Wildlife Conservation Enactment, 1997, section 117 (1).

²¹⁴ Wildlife Conservation Enactment, 1997, section 89.

²¹⁵ Forest Enactment, 1968, section 2, 'authorised officer'.

²¹⁶ (1989) 2 Qd R 512 cited in Environmental Law in Malaysia (Borneo edition), 2007, James Lam Chee Seng.

²¹⁷ (1988) 4 SCC 655 cited in Environmental Law in Malaysia (Borneo edition), 2007, James Lam Chee Seng.

ruled that the magistrate can hear a claim brought by forest officials even if the police are already investigating the incident.

Rationale

In order to protect the wildlife and prevent future harm that might occur during the time of a lengthy investigation, the Magistrate should be able to process a claim. After hearing the claim the Magistrate may issue warrant that be issued immediately.

Turtle egg-related cases

The *Wildlife Conservation Enactment (1997)* classified the Green Turtle and the Hawksbill Turtle as *Totally Protected Animals*. Animals listed in Schedule 1²¹⁸ cannot be hunted and are totally protected.²¹⁹ Any person found guilty of hunting these animals will be subject to a term of imprisonment between six months to five years.²²⁰ The protection of these turtles extends to the consumption and sale of Turtle Eggs.

Although the consumption and sale of turtle eggs is prohibited, the Director of Wildlife does have the power to declare an area of land a Turtle Egg Traditional Collection Area. Traditional Collection Areas do not require a permit to collect Turtle Eggs, but must follow specific rules for the collection areas in order to protect the Native Customary Rights of those that live near the area. Collection areas allow people to collect turtle eggs but do not give them the right to sell the eggs.²²¹ A person who sells or attempts to sell turtle eggs from a Traditional Collection Area will be guilty of an offence subject to a fine of fifty thousand ringgit or imprisonment for five years, or both.²²²

Case Law

In 2006, the High Court in Sabah and Sarawak decided two separate cases involving native rights claims against the State of Sabah, the Board of Trustees of Sabah Parks and the Assistant Collector of Land Revenue. Both cases were ruled in favor of individual Plaintiffs, Ab Rauf (Rauf) and Haji Abdillah (Abdillah).

In the case brought by Plaintiff, Rauf, against the State of Sabah and the Board of Trustees of the Sabah Parks of Land Revenue, Rauf represented himself and seventy family members claiming to have inherited the right to collect turtle eggs on Sipadan Island.²²³ Rauf claimed that Sabah's prohibition on collecting turtle eggs, enforced in 1997, caused him and his family to experience significant loss and damages including the loss of two contracts with tourism companies worth MYR70,000. Rauf claimed

²¹⁸ Schedule 1 lists total protected plants and animals, Part I lists animals, Part II lists plants.

²¹⁹ Wildlife Conservation Enactment 1997, section 25 (1).

²²⁰ Wildlife Conservation Enactment 1997, section 25 (3) (a).

²²¹ Wildlife Conservation Enactment 1997, section 87 (2).

²²² Wildlife Conservation Enactment 1997, section 87 (4).

²²³ *Ab Rauf Bin Mahajud v. the State Government of Sabah and the Board of Trustees of the Sabah Parks*

that his living was dependent on the collection of turtle eggs. The Court recognized the Plaintiff's right to collect turtle eggs.

Rauf also claimed that the right to collect turtle eggs extended the Native Customary Rights to the entire island of Sipadan. The Court rejected the Plaintiff's claim to Native Customary Rights to the land, as the right to access the island to collect turtle eggs occurred for a short duration throughout the years.

In the case brought by Plaintiff, Abdillah, against the Assistant Collector of Land Revenue for Sipadan Island and the State of Sabah, Abdillah sued on behalf of the descendants of Panglima Aby Sari bin Goneh.²²⁴ Abdillah's suit concerns the ownership of 2.5 acres of land on Sipadan Island, which includes a house and coconut orchard. Abdillah's great grandfather under Native Customary Rights inherited the 2.5 acre land which included the right to collect turtle eggs.²²⁵ In 2005, the Collector of Land Revenue caused the plaintiff and other individuals to vacate the island restricting their collection of turtle eggs.²²⁶

The High Court of Sabah ruled that native communities were allowed to collect turtle eggs on the limited and confined area of ownership of 2.5 acres. Since the Native Customary Rights to the land were inherited from a previous generation the right was to remain undisturbed.²²⁷

²²⁴ Haji Abdillah bin Haji Abdul Hamid v. ACLR of Semporna and the State Government

²²⁵ Native customary rights includes and planted with fruit trees, when the number of fruit trees amounts to fifty and upwards to each hectare, Land Ordinance, 1930, section 15 (b)

²²⁶ Haji Abdillah bin Haji Abdul Hamid v. ACLR of Semporna and the State Government

²²⁷ Haji Abdillah bin Haji Abdul Hamid v. ACLR of Semporna and the State Government

ANNEX

Enactments repealed by Wildlife Conservation Enactment

The *Birds Nest Ordinance* and the *Fauna Conservation Ordinance (1963)* were repealed by the *Wildlife Conservation Enactment (1997)*.²²⁸

Animals that can be hunted with a licence

Schedule 2 (Part I) – Protected Animals²²⁹

1. Kinabalu Shrew (*Crocidura baluensis*) Cencurut Kinabalu
2. Dayak Roundleaf Bat (*Hipposideros dyacorum*) Kelawar Ladam-bulat Dayak
3. Coppery Pipistrelle (*Pipistrellus cuprosus*) Kelawar Hidung Pendek Tembaga
4. Gilded Tube-nosed Bat (*Murina rozendaali*) Kelawar Hidung Laras Emas
5. Flying Lemur (*Cynocephalus variegatus*) Kubung
6. Slow Loris (*Nycticebus coucang*) Kongkang
7. Tarsier (*Tarsius bancanus*) Kera Hantu
8. Maroon Leaf Monkey (*Presbytis rubicunda*) Monyet Merah
9. Grey Leaf Monkey (*Presbytis hosei*) Monyet Kikok
10. Silver Leaf Monkey (*Presbytis cristata*) Monyet Kelabu
11. Long-tailed Macaque (*Macaca fascicularis*) Kera
12. Pig-tailed Macaque (*Macaca nemestrina*) Beruk
13. Gibbon (*Hylobates muelleri*) Kelawat
14. Pangolin (*Manis javanica*) Tenggiling
15. Giant Squirrel (*Ratufa affinis*) Tupai Kerawak Putih-kuning
16. Kinabalu Squirrel (*Callosciurus baluensis*) Tupai Kinabalu
17. Giant Tufted Ground Squirrel (*Rheithrosciurus macrotis*) Babut
18. Hose's Pigmy Flying Squirrel (*Petaurillus hosei*) Tupai Terbang Kecil
19. Temminck's Flying Squirrel (*Petinomys setosus*) Tupai Terbang Dada Putih
20. Horsfield's Flying Squirrel (*Iomys horsfieldi*) Tupai Terbang Ekor Merah
21. Grey-cheeked Flying Squirrel (*Hylopetes lepidus*) Tupai Terbang Pipi Kelabu
22. Black Flying Squirrel (*Aeromys tephromelas*) Tupai Terbang Hitam
23. Smoky Flying Squirrel (*Pteromyscus pulverulentus*) Tupai Terbang Kotor
24. Whiskered Flying Squirrel (*Petinomys genibarbis*) Tupai Terbang Berjambang
25. Spotted Giant Flying Squirrel (*Petaurista elegans*) Tupai Terbang Bintang
26. Red Giant Flying Squirrel (*Petaurista petaurista*) Tupai Terbang Merah
27. Thomas's Flying Squirrel (*Aeromys thomasi*) Tupai Terbang Merah
28. Long-tailed Porcupine (*Trichys fasciculata*) Landak Padi
29. Thick-spined Porcupine (*Thecurus crassispinis*) Landak Borneo
30. Yellow-throated Marten (*Martes flavigula*) Mengkira
31. Malay Weasel (*Mustela nudipes*) Pulasan Tanah
32. Ferret-Badger (*Melogale personata*) Pulasan Lamri
33. Malay Badger (*Mydaus javanensis*) Teledu
34. Hairy-nosed Otter (*Lutra sumatrana*) Memerang Kumis

²²⁸ Sabah Lawnet – State Laws, <http://www.lawnet.sabah.gov.my/Lawnet/SabahLaws/StateLaws.aspx>

²²⁹ Wildlife Conservation Enactment, 1997, section 25 (2)

35. Smooth Otter (*Lutra perspicillata*) Memerrang Licin
 36. Oriental Small-clawed Otter (*Aonyx cinerea*) Memerang Kecil
 37. Malay Civet (*Viverra zangalunga*) Musang Tanggalong
 38. Otter-Civet (*Cynogale bennettii*) Musang Memerang
 39. Binturong (*Arctictis binturong*) Musang Binturong
 40. Small-toothed Palm Civet (*Arctogalidia trivirgata*) Musang Akar
 41. Masked Palm Civet (*Paguma larvata*) Musang Lamri
 42. Common Palm Civet (*Paradoxurus hermaphroditus*) Musang Pulut
 43. Hose's Civet (*Hemigalus hosei*) Musang Hitam Pudar
 44. Banded Palm Civet (*Hemigalus derbyanus*) Musang Belang
 45. Banded Linsang (*Prionodon linsang*) Musang Linsang
 46. Collared Mongoose (*Herpestes semitorquatus*) Bambun Ekor Panjang
 47. Short-tailed Mongoose (*Herpestes brachyurus*) Bambun Ekor Pendek
 48. Leopard Cat (*Felis bengalensis*) Kucing Batu
 49. Marbled Cat (*Felis marmorata*) Kucing Dahan
 50. Flat Headed Cat (*Felis planiceps*) Kucing Hutan
 51. Bay Cat (*Felis badia*) Kucing Merah
 52. Asian Elephant (*Elephas maximus*) Gajah
 53. Banteng (*Bos javanicus*) Tembadau
 54. Sei Whale (*Balaenoptera borealis*) Ikan Paus Sei
 55. Bryde's Whale (*Balaenoptera edent*) Ikan Paus Bryde
 56. Killer Whale (*Orcinus orca*) Ikan Paus Buding
 57. Short-finned Pilot Whale (*Globicephala macrohynchus*) Ikan Paus Pendek Sirip
 58. Pigmy Sperm Whale (*Kogia breviceps*) Ikan Paus Nayan
 59. Grey Dolphin (*Grampus griseus*) Dolfin Kelabu
 60. Bottlenose Dolphin (*Tursiops truncatus*) Dolfin Hidung Botol
 61. Indo-Pacific Hump-backed Dolphin (*Sousa chinensis*) Dolfin Bongkok Bernie
 62. Irrawaddy Dolphin (*Orcaella brevirostris*) Dolfin Empesut
 63. Finless Porpoise (*Neophocaena phocaenides*) Ikan Lumba-lumba Ambu
 64. Fraser's Dolphin (*Lagenodelphis hosei*) Dolfin Fraser
 65. Long Snouted Spinner Dolphin (*Stenella longirostra*) Dolfin Hidung Mancung
- Reptiles
66. Estuarine Crocodile (*Crocodylus porosus*) Buaya
 67. False Gharial (*Tomistoma schlegeli*) Buaya Julung-julung
 68. Monitor Lizard (*All varanus species*) Biawak
 69. Reticulated Python (*Python reticulatus*) Ular Sawa Panjang
 70. Blood Python (*Python curtus*) Ular Sawa Darah
 71. King Cobra (*Ophiophagus hannah*) Ular Tedung Selar
 72. Forest Tortoise (*Tetsudo emys*) Kura-kura Bukit
- FRIGA TEBIRDS
73. Asian Giant Turtle (*Orlitia borneensis*) Juku-Juku Besar
 74. Christmas Island Frigatebird (*Fregata andrewsi*) Simbang Pulau Christmas
 75. Lesser Frigatebird (*Fregata ariel*) Simbang Kecil
- CORMORANTS AND DARTERS
76. Great Cormorant (*Phalacrocorax carbo*) Dendang Air
- HERONS AND BITTERNs
77. Oriental Darter (*Anhinga melanogaster*) Kosa
 78. Great-billed Heron (*Ardea sumatrana*) Bangau Bakau
 79. Purple Heron (*Ardea purpurea*) Bangau Paya
 80. Grey Heron (*Ardea cinerea*) Seriap

81. Reef Egret (*Egretta sacra*) Bangau Laut
82. Little Egret (*Egretta garzetta*) Bangau Kecil
83. Chinese Egret (*Egretta eulophotes*) Bangau Cina
84. Intermediate Egret (*Egretta intermedia*) Bangau Kerbau
85. Little Heron (*Butorides striatus*) Pucong Keladi
86. Black-crowned Night-Heron (*Nycticorax nycticorax*) Pucong Kuak
87. Rufous Night Heron (*Nycticorax caledonicus*) Pucong Malam
88. Malayan Night Heron (*Gorsachius melanolophus*) Pucong Rimau
89. Yellow Bittern (*Ixobrychus sinensis*) Pucong Merah
90. Schrenck' s Bittern (*Ixobrychus eurhythmus*) Pucong Gelam
91. Black Bittern (*Ixobrychus flavicollis*) Pucong Hitam
92. Cinnamon Bittern (*Ixobrychus cinnamomeus*) Pucong Bendang STORKS
93. Storm' s Stork (*Ciconia stormi*) Botak Storm
94. Lessers Adjutant Stork (*Leptoptilos javanicus*) Botak Kecil IBISES
95. Black-headed Ibis (*Threskiornis melanocephalus*) Sekendi Kepala Hitam
- Hawks and Eagles
96. Bat Hawk (*Machaeramphus alcinus*) Helang Malam
97. Jerdon Baza (*Avicedo jerdoni*) Helang Baza
98. Crested Honey-Buzzard (*Pernis ptilorhynchus*) Helang Lebah
99. Brahminy Kite (*Haliastur indus*) Helang Merah
100. Black Kite (*Milvus migrans*) Helang Kembara Hitam
101. Black Eagle (*Ictinaetus malayensis*) Helang Hitam
102. Lesser Fish-Eagle (*Ichthyophaga humilis*) Helang Kangok
103. Grey-headed Fish-Eagle (*Ichthyophaga ichtyaetus*) Helang Kepala Kelabu
104. Kinabalu Serpent-Eagle (*Spilornis kinabaluensis*) Helang Kinabalu
105. Crested Serpent-Eagle (*Spilornis cheela*) Helang Berjambul
106. Besra (*Accipiter virgatus*) Helang Pipit
107. Crested Goshawk (*Accipiter trivirgatus*) Helang Putih
108. Wallace's Hawk-Eagle (*Spizaetus nanus*) Helang Selat OSPREYS
109. Osprey (*Pandion haliaetus*) Helang Tiram FALCONS
110. White-fronted Falconet (*Microhierax latifros*) Falko Dahi Putih
111. Peregrine Falcon (*Falcon peregrinus*) Falko Belalang
112. Common Falconet (*Microhierax caerulescens*) Falko Biasa
113. Oriental hobby (*Falco severus*) Falko Timor
114. Eurasian Kestrel (*Falco tinnunculus*) Falko Serani MEGAPODES
115. Tabon Scrubfowl (*Megapodius cumingii*) Tambun PARTRIDGES AN Pheasant
116. Blue-breasted Quail (*Coturnix chinensis*) Pikau
117. Long-billed Partridge (*Rhizothera longirostris*) Siul Selanting
118. Ferruginous Partridge (*Caloperdix oculea*) Sang Seruk Rimba
119. Red-breasted Partridge (*Arborophila hyperythra*) Siul Dada Merah
120. Chestnut-necklaced Partridge (*Arborophila charltonii*) Sang Serok
121. Black Wood-Partridge (*Melanoperdix nigra*) Siul Bertam
122. Crested Partridge (*Rollulus rouloul*) Siul Berjambul
123. Crimson-headed Partridge (*Haematortyx sanguiniceps*) Siul Kepala Merah
124. Crested Fireback (*Lophura ignita*) Ayam Pegar
125. Crestless Fireback (*Lophura erythrophthalma*) Merah Mata

126. Bulwer's Pheasant (*Lophura bulweri*) Pakiak
127. Bornean Peacock-Pheasant (*Polyplectron schleiermacheri*) Merak Pongsu
128. Great Argus (*Argusianus argus*) Kuang Raya
129. PLOVERS
130. Malaysian Plover (*Charadrius peronii*) Rapang Pasir SANDPIPERS AND SNIPES
131. Far Eastern Curlew (*Numenius madagascariensis*) Kedidi Timor
132. Nordmann's Greenshank (*Tringa guttifer*) Kedidi Kaki Hijau Berbintik
133. Asian Dowitcher (*Limnodromus semipalmatus*) Kedidi Dada Merah
Thick-Knees
134. Beach Thick-knee (*Esacus magnirostris*) Burung Lutut Tebal
Skuas, Gulls and Turns
135. Black-naped Tern (*Sterna sumatrana*) Camar Tengkok Hitam
136. Bridled Tern (*Sterna anaethetus*) Camar Batu
137. Chinese-crested Tern (*Sterna bernsteini*) Camar Cina Berjambul
Pigeons and Doves
138. Large-Green Pigeon (*Treron capellei*) Lengguak
139. Cinnamon-headed Green-Pigeon (*Treron fulvicollis*) Punai Bakau
140. Black-naped Fruit-Dove (*Ptilinopus melanospila*) Punai Tengkok Hitam
141. Grey Imperial Pigeon (*Ducula pickeringi*) Merpati Raja Kelabu
142. Metallic Wood-Pigeon (*Columbia vitiensis*) Merpati Kayu
143. Emerald Dove (*Chalcophaps indica*) Punai Tanah
144. Nicobar Pigeon (*Caloenas nicobarica*) Punai Emas P ARROTS
145. Blue-naped Parrot (*Tanygnathus lucionensis*) Bayan Tengkok Biru
146. Blue-rumped Parrot (*Psittinus cyanurus*) Bayan Puling
147. Long-tailed Parakeet (*psittacula longicauda*) Bayan Nuri
148. Blue-crowned Hanging-Parrot (*Loriculus galgulus*) Bayan Kecil/Serindit
Cuckoos, Malkohas and Coucals
149. Violet Cuckoo (*Chrysococcyx xanthorhynchus*) Sewah Rembah
150. Short-toed Coucal (*Centropus rectunguis*) But-But Jari Pendek
151. Sunda Ground-Cuckoo (*Carpococcyx radiceus*) Sewah Tanah OWLS
152. Bay Owl (*Phodilus badius*) Jampuk Pantai
153. Reddish Scops-Owl (*Otus rufescens*) Hantu Merah
154. Mountain Scops-Owl (*Otus spilocephalus*) Hantu Gunung
155. Collared Scops-Owl (*Otus lempiji*) Hantu Reban
156. Mantanani Scops-Owl (*Otus mantananensis*) Hantu Mantanani
157. Barred Eagle-Owl (*Bubo sumatrana*) Hantu Bubu
158. Buffy Fish-Owl (*Ketupa ketupu*) Hantu Kuning
159. Collared Owlet (*Glaucidium brodiei*) Hantu Kecil
160. Brown Boobook (*Ninox scutulata*) Hantu Betemak
161. Brown Wood-Owl (*Strix leptogrammica*) Hantu Punggor FROGMOUTHS
162. Large Frogmouth (*Batrachostomus auritus*) Segan Besar NIGHTJARS
163. Bonaparte's Nightjar (*Caprimulgus concretus*) Tukang Bonaparte SWIFTS
164. Waterfall Swifts (*Hydrochous gigas*) Layang-Layang Hantu
165. Edible-nest Swiftlet (*Aerodramus fuciphagus*) Layang-Layang Gua
166. Black-nest Swiftlet (*Aerodramus maximus*) Layang-Layang Padi
167. Brown-backed Needletail (*Hirundapus giganteus*) Layang-Layang Besar
Hornbills

168. Wrinkled Hornbill (*Rhyticeros corrugatus*) Enggang Berkedut
169. Wreathed Hornbill (*Rhyticeros undulatus*) Enggang Gunung
170. White-crowned Hornbill (*Berenicornis comatus*) Enggang Jambul Putih
171. Bushy-crested Hornbill (*Annorrhinus galeritus*) Enggang Belukar
172. Black Hornbill (*Anthracoceros malayanus*) Enggang Gatal Birah
173. Pied Hornbill (*Anthracoceros coronatus*) Enggang Tangling
174. Rhinoceros Hornbill (*Buceros rhinoceros*) Enggang Badak
175. Helmeted Hornbill (*Rhinoplax vigil*) Enggang Terbang Mentua
- Honeyguides
176. Malaysian Honeyguide (*Indicator archipelagicus*) Gembala Lebah
- Woodpeckers
177. Speckled Piculet (*Picumnus innominatus*) Belatok Belang
178. Rufous Woodpecker (*Celeus brachyurus*) Belatok Kecil
179. White-bellied Woodpecker (*Dryocopus javensis*) Belatok Gajah PITTAS
180. Giant Pitta (*Pitta caerulea*) Pacat Besar
181. Fairy Pitta (*Pitta nympha*) Pacat
182. Blue-headed Pitta (*Pitta baudi*) Pacat Kepala Merah
183. Blue-banded Pitta (*Pitta arquata*) Pacat
184. Banded Pitta (*Pitta guajana*) Pacat Bukit
185. Blue-winged Pitta (*Pitta moluccensis*) Pacat Sayap Biru
186. Hooded Pitta (*Pitta sordida*) Pacat Gembala Pelandok BULBULS
187. Straw-headed Bulbul (*Pycnonotus zeylanicus*) Barau-barau
188. Hook-billed Bulbul (*Setornis criniger*) Merbah THRUSHES
189. Everett's Trush (*Zoothera everetti*) Murai Everett
190. White-crowned Forktail (*Enicurus leschenaulti*) Murai Cegar Belukar
191. White-rumped Shama (*Copsychus malabaricus*) Murai Rimba
192. Magpie Robin (*Copsychus saulari*) Murai Kampung BABBLEDERS
193. White-chested Babbler (*Trichastoma rostratum*) Burung Telanjuk
194. Ferruginous Babbler (*Trichastoma bicolor*) Rimba Sampah
195. Grey-breasted Babbler (*Malacopteron albogulare*) Rimba Dahan
196. Bornean Wren-Babbler (*Ptilocichla leucogrammica*) Rimba Borneo
- Fly Catchers
197. Sunda Blue Flycatcher (*Cyornis caerulea*) Sambar Biru Sunda
198. Malaysian Blue Flycatcher (*Cyornis turcosa*) Sambar Biru Malaysia
199. Asian Paradise Flycatcher (*Terpsiphona paradisi*) Sambar Ekor Panjang
- Whistlers
200. Mangrove Whistler (*Pachycephala cinerea*) Sambar Siul Belukar
- Flowerpeckers
201. Brown-backed Flowerpecker (*Dicaeum everetti*) Sepah Puteri Gunung
- Starlings and Mynas
202. Hill Myna (*Gracula religiosa*) Tiong Mas BRISTLEHEADS
203. Bornean Bristlehead (*Pityriasis gymnocephala*) Burung Jambul
- Jays and Crows
204. Black Magpie (*Platysmurus leucopterus*) Murai Hitam
205. Short-tailed Green Magpie (*Cissa thalassina*) Murai Hijau
- Insects
206. Rajah Brooke's Birdwing (*Trogonoptera brookiana*) Kupu-Kupu Rajah

207. Common Birdwing (*All Troides species*) Kupu-kupu (semua spesies Troides)

Schedule 3 (Part I) ²³⁰

1. Large Flying Fox (*Pteropus vampyrus*) Keluang Bakau
2. Island Flying Fox (*Pteropus hypomelanus*) Keluang Pulau
3. Common Porcupine (*Hystrix brachyura*) Landak Raya
4. Bearded Pig (*Sus barbatus*) Babi Hutan
5. Lesser Mousedeer (*Tragulus javanicus*) Pelandok
6. Greater Mousedeer (*Tragulus napu*) Napoh
7. Common Barking Deer (*Muntiacus muntjac*) Kijang
8. Bornean Yellow Muntjac (*Muntiacus atherodes*) Kijang
9. Sambar Deer (*Cervus unicolor*) Rusa

Plants that require a licence to harvest

Schedule 2 (Part II) – Protected Animals ²³¹

1. Caryota spp – Botu
2. Ceratolobus spp – Rotan
3. Corypha spp – Gabang
4. Cycadaceae – Paku Laut
5. Cytoceae – Paku
6. Zingiberaceae – Halia Hutan
7. Nenga spp – Pinang Hutan
8. Nepenthaceae – Periuk Kera
9. Orchidaceae – Anggerek Hutan
10. Podocarpus spp (Commercial spp) – Lampias
11. Rhododendron spp – Mawar Hutan
12. Livistonia sp – Silad
13. Arenga sp - Polod

Edible birds' nests and guano

The caves in Part I of Schedule 4 listed below are considered property of a private individual. ²³²

1. Madai Segalong and Baturong, Darvel Bay
2. Segama, Darvel Bay
3. Gaya Island, East Coast
4. Kelumpang River, East Coast
5. Senobong, including Pengharapan and Lingutan, Upper Kinabatangan
6. Melikop, Upper Kinabatangan
7. Batu Timbang, Kuamut River, Upper Kinabatangan
8. Melobong, Marudu Bay

²³⁰ Wildlife Conservation Enactment 1997, section 2, 25 (2)

²³¹ Wildlife Conservation Enactment 1997, section 54 (1), (b)

²³² Wildlife Conservation Enactment 1997, section 85 (1)(a)

9. Batu Mandi, Kudat
10. Mantanani Islands, West Coast
11. Pohun Batu, Interior