



# **HANDBOOK ON WILDLIFE RELATED OFFENCES AND PENALTIES IN UGANDA**



**2021**





# Handbook on Wildlife Related Offences and Penalties in Uganda

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This Handbook is made possible by the generous support of the American people through the United States Agency for International Development (USAID)/Uganda Combating Wildlife Crime Activity implemented by Wildlife Conservation Society (WCS). The contents of this Handbook are the responsibility of Uganda Wildlife Authority, a beneficiary of the aforementioned activity, and do not necessarily reflect the views of USAID, the United States government or WCS.

## Foreword

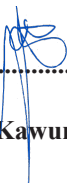
Wildlife crime in Uganda includes poaching, illegal wildlife trade, and encroachment of wildlife conservation areas among others. These threats to wildlife have the potential to affect the natural ecosystems, livelihoods of those employed in the tourism sector as well as gross revenue for the country.

Wildlife crime can also be trans-border crime, facilitated by syndicates of international organized criminals, who have the potential of financing wildlife trafficking and money laundering. This has to be firmly addressed.

The Handbook on Wildlife Related Offences and Penalties will aid both investigators and prosecutors as they plan and prepare for investigations and prosecutions of Wildlife Crime and other related offences. It offers a comprehensive guide to a spectrum of charges that investigators and prosecutors can prefer against perpetrators of Wildlife Crime.

The Wildlife Act is the principle legislation to curb wildlife crime, however this handbook has highlighted other laws that support and complement the fight to cure Wildlife Crime; National Forestry Act, National Environment Act, East African Community Customs Management Act, Anti-Corruption Act, Employment Act and the Uganda Citizenship and Immigration Control Act.

I would therefore, like to thank the team at National Resources Conservation Network for the work done, your commitment in the fight to curb Wildlife Crime is appreciated.



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## **Acknowledgements**

Uganda Wildlife Authority (UWA) is greatly indebted to Natural Resource Conservation Network (NRCN) for spearheading the development of this publication; “Handbook on Wildlife Related Offences and Penalties in Uganda”. Special Mention is made of NRCN’s partners, in particular Wildlife Conservation Society, Royal United Services Institute (RUSI), African Wildlife Foundation (AWF), MTWA, Wild Aid, WCU, ODPP and Judiciary among others for their contribution offered during the compilation of this handbook. Without such concerted efforts, the exercise would not have yielded this valuable document that support and compliment the flight to curb Wildlife crimes in Uganda.

This publication was made possible with the general support from United States Agency for International Development (USAID) through the USAID/Uganda Combating wildlife crime Activity (CWC).

## List of Acronyms

<b>AWF</b>	African Wildlife Foundation
<b>CBD</b>	Convention on Biological Diversity
<b>CITES</b>	Convention on International Trade in Endangered Species of Wild Fauna and Flora
<b>EAC</b>	East Africa Community
<b>ICCWC</b>	International Consortium on Combating Wildlife Crime
<b>IWT</b>	Illegal Wildlife Trade
<b>MTWA</b>	Ministry of Tourism, Wildlife and Antiquities
<b>NEMA</b>	National Environment Management Authority
<b>NFA</b>	National Forest Authority
<b>NRCN</b>	Natural Resource Conservation Network
<b>ODPP</b>	Office of the Directorate of Public Prosecution
<b>RUSI</b>	Royal United Services Institute
<b>SDGs</b>	Sustainable Development Goals
<b>ULRC</b>	Uganda Law Reform Commission
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>USAID</b>	United States Agency for International Development
<b>UWA</b>	Uganda Wildlife Authority
<b>WCS</b>	Wildlife Conservation Society
<b>WCU</b>	Wildlife Clubs of Uganda

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## INTRODUCTION AND BACKGROUND

Uganda has more than 50% of the world's remaining population of mountain gorillas, over 1,060 species of birds, constituting 11% of the global population of bird species, 345 species of mammals, 86 species of amphibians, 142 species of reptiles, 1,249 species of butterflies, over 600 species of fish and over 5,406 species of flora.

According to the different reports by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and International Consortium on Combating Wildlife Crime (ICWC), wildlife crime which includes poaching, illegal wildlife trade and wildlife trafficking has become a serious threat to the security,



political stability, economy, natural resources and cultural heritage of many countries and regions. It threatens the survival of some of the world's most charismatic, as well as many lesser-known species. Wildlife trafficking robs countries of natural resources upon which national economies and livelihoods depend. It also undermines conservation efforts and efforts to eliminate poverty and develop sustainable economic opportunities for rural communities.

Uganda loses an average of \$509 million in illicit outflows per year, through several activities including illegal wildlife trade (IWT). IWT is the fourth largest illicit activity worldwide, after narcotics, human trafficking and trade in counterfeit goods generating \$7 – 23 billion per year globally

(UN 2016). Today, Uganda's wildlife faces increasing threats due to poaching and illegal wildlife trade, but little is known about these illicit money flows from IWT in Uganda.

The Uganda wildlife legislative framework for species protection and illegal trade endeavors to address these conservation challenges through the Uganda Wildlife Act (2019) in addition to the Wildlife Policy (2014) and other sectoral policies and legislation touching marginally on wildlife and biodiversity protection. Such policies and legislation are: The Local Governments Act, Cap 243 (2019), the National Forestry and Tree Planting Act (2003), the Fish Act, Cap 197 (2000), the National Policy for the Conservation and Management of Wetlands (1995) and the Uganda Forestry Policy (2001).

One of the most common wildlife crimes in Uganda is poaching, which is generally defined as an illegal killing of wild animals for their meat, recreation or the rare products obtained from them for example; fur, hides, ivory and horns among others or illegal taking of wild resource or derived parts from their natural habitat (Uganda Wildlife Act 2019).

International Consortium on Combating Wildlife Crime (ICWC) considers 'wildlife' to include all wild fauna and flora, including animals, birds and fish, as well as timber and non-timber forest products.

Wildlife crime is any violation of a criminal law expressly designed to protect wildlife.

'Wildlife crime' refers to the taking, trading (supplying, selling or trafficking), importing, exporting, processing, possessing, obtaining and consumption of wild fauna and flora, including timber and other forest products, in contravention of national or international law.

Wildlife conservation has evolved over the years from pre-historic non-controlled, nonregulated system to a controlled system that has been influenced and marked by social and political developments. The evolution of wildlife regulation and control in Uganda can be appreciated and traced from developments in the pre-colonial, colonial and post-colonial era through to the contemporary legal and policy regime. The 1995 Constitution of the Republic of Uganda domesticates regional and international conventions to which the government of Uganda is a signatory bestowing upon the state the duty to fulfill obligations arising from these commitments. In that regard national

laws and policies have undergone reforms to conform to the regional and international standards. This is in addition to establishing institutions such as Ministry of Tourism, Wildlife and Antiquities; Ministry of Water and Environment; National Environment Authority (NEMA); Uganda Wildlife Authority (UWA); National Forestry Authority (NFA) etc.

The post 1995 Constitutional reforms on wildlife are characterized by multi-sectoral laws and policies with several Acts of Parliament providing for sections on wildlife. Uganda's legislation on wildlife is among other things concerned with prohibition, prevention, licensing, inspection, penalties and public participation.

This book is thus a compilation of offences relating to Wildlife and Environmental crime. A number of Parliamentary enactments were reviewed with the intention of producing a simplified guide to wildlife and environmental offences, and penalties. The simplified version is intended to help people involved in law enforcement, intelligence, investigations and prosecution of wildlife offenders but do not have formal education in wildlife and environmental law.

## **THE HISTORY AND EVOLUTION OF WILDLIFE MANAGEMENT AND LEGISLATION IN UGANDA**

The laws made during the colonial and post-independence period in Uganda underwent more reforms with the coming into force of the 1995 Constitution of the Republic of Uganda. This marked a watershed in the legal and policy regime governing wildlife among other natural resources. The Constitution created a fiduciary relationship between the State and the citizens of Uganda by Article 237 which vests the management of natural resources in the State in trust and for the benefit and common good of the citizens of Uganda. In effect, it moved natural resources from absolute ownership of the state to the public realm.

In the 1990s the Government of Uganda undertook major legal and policy reforms which among others include environment and natural resource conservation objectives that culminated into the 1995 Constitution of the Republic of Uganda which is the overall policy and legal framework in the country. The Constitution mandates the State to hold natural resources in trust for the people of Uganda (Article 237).

## GLOBAL ARRANGEMENTS FOR MANAGING WILDLIFE CRIME

According to reports by Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and International Consortium on Combating Wildlife Crime (ICWC), the adoption of several Resolutions, Statements and Declarations in different fora and at the highest levels reflects the heightened level of political concern over the devastating impacts of poaching and illegal trade in wildlife. These, for example, include inter alia the United Nations General Assembly Resolutions adopted in 2015, 2017 and 2019, which highlight the seriousness of the problem, the involvement of organized crime groups, and the need for coordinated and determined efforts to combat illicit trafficking in wildlife effectively. Further, the Sustainable Development Goals (SDGs) adopted by the United Nations Sustainable Development Summit in September 2015, call for the protection of wild fauna and flora as well as the ecosystems upon which they depend, and addresses tackling illegal trafficking in wildlife through specific Targets under Goal 15 “Life on Land”.

The National Strategy to combat Poaching, Illegal wildlife Trade and Trafficking of Wildlife and Wildlife Products 2020-2029, indicate that several efforts have been made to mobilize regional and international collaboration among African States to combat illegal trade and trafficking of wildlife and wildlife products. The following conventions/treaties or agreements apply:

- (a) The Resolution 69/314 on tackling illicit trafficking in wildlife adopted by the UN General Assembly on 30th July 2015 calls upon Member States to make illicit trafficking in protected species of wild fauna and flora involving organized criminal groups a serious crime, in accordance with their national legislation and article 2 (b) of the United Nations Convention against Transnational Organized Crime.
- (b) The Convention on International Trade in Endangered Species of Fauna and Flora (CITES) report (2013) detailed the extent and drivers for this criminality on wildlife in Party States including Uganda and the need for urgent measures to combat poaching and illegal trafficking of wildlife and wildlife products. The United Nations Convention on Biological Diversity (CBD) at the Conference of Parties (COP) 12 in support of the Aichi Biodiversity Targets and the CBD Strategic Plan 2011-2020 emphasized the need to strengthen capacities to combat poaching, illegal wildlife trade and trafficking.

- (c) The, RIO+ 20 Summit Outcome, “The future we want” (2012), recognizes the economic, social and environmental impacts of poaching, illegal wildlife trade and trafficking. It called for firm and strengthened action on both the supply and demand side as well as international cooperation and further informed the development of Uganda post Rio+20 Plan of Action (2013). The UN Security Council has adopted several resolutions on wildlife poaching, encouraging the States to adopt effective measures to prevent and counter wildlife trafficking.
- (d) African States also adopted in September 1994 the Lusaka Agreement on Cooperative Enforcement Operations directed at Illegal Trade in Wild Fauna and Flora with aim of reducing and ultimately eliminating illegal trade in wild fauna and flora.
- (e) The African Elephant Summit held in Gaborone, Botswana in 2013 adopted fourteen (14) urgent measures to address the upsurge in poaching of the African elephant and illegal ivory trade.
- (f) The National Ivory Action Plan focuses on reforming Legislation, Intelligence and enforcement, Coordination and collaboration, Awareness creation, Management of the national stockpile and confiscated ivory as well as Training and Capacity Development. These activities are crosscutting in nature and require cooperation of other Government Ministries, Departments and Agencies. There is need for better coordination among law enforcement agencies to increase effectiveness and efficiency of operations.
- (g) The London Conference Declaration 2014 and the Arusha Declaration on Regional Conservation and Combating Wildlife/ Environmental Crime (2014) further emphasized the need to step up efforts aimed at combating poaching, illegal wildlife trade and trafficking.
- (h) Furthermore, Wildlife crime seriously undermines attainment of Sustainable Development Goals (SDGs) particularly, sustainable economic development (SDG8), conservation of terrestrial ecosystems (SGD15), peace, security and good governance (SGD16); and global partnerships (SDG17).
- (i) At the East Africa Community (EAC) level partner states have committed, in line with the EAC Treaty, to combat Poaching Illegal Wildlife Trade and Trafficking of Wildlife and Wildlife Products (PITT) and regional strategy on



PITT has been adopted

## **THE CONSTITUTION OF THE REPUBLIC OF UGANDA, 1995**

The Constitution is the supreme law of Uganda. The present constitution was adopted on 8 October 1995. It is Uganda's fourth constitution since the country's independence from Britain in 1962. The 1995 Constitution established Uganda as a republic with an executive, legislative, and judicial branch. The roles and powers of each of the Government arms are enshrined and spelt out in the Uganda Constitution 1995.

### **PROVISIONS OF THE CONSTITUTION ON THE REPUBLIC OF UGANDA, 1995 ON WILDLIFE, NATURAL RESOURCES CONSERVATION AND PROTECTION**

The Constitution of the Republic of Uganda (1995) embodies principles which underscore government's obligations as enshrined in the National Objectives and Directive Principles of State Policy.

#### **A. OBJECTIVE XIII**

Mandates the State to protect natural resources such as land, water, wetlands, minerals, fauna and flora on behalf of the people of Uganda. In addition, it provides for the creation and development of game parks, reserves, recreation areas and the conservation of natural resources by central and or Local Governments. The National Objective further obligates the state to promote rational use of natural resources so as to safeguard and protect the biodiversity of Uganda.

#### **B. OBJECTIVE XXVII**

Mandates the state to institute measures for promoting public awareness, sustainable management and preservation of natural resources and extends mandate to Local Government.

### **Land Ownership**

Article 237(1) of the Constitution that vests land ownership in the citizens of Uganda and Article 21 that guarantees and protects everyone's right to own property and can

only be enjoyed to the extent to which the rights holder does not contravene existing laws governing wildlife and other natural resources. It is such provisions that place an obligation on the rights holder not to act in contravention lest they commit an offence in accordance with the wildlife laws.

## **Management of Natural Resources**

**Article 237 (2) (b)** of the Constitution (1995) vests the management of natural resources in the state government or a local government.

While Article 237 recognizes private ownership of land, vesting the management of natural resources in the state implies that wherever there is a natural resource whether on private or public land, wildlife is managed by the state unless a person has been granted permission to manage the specified wildlife and its ownership shall vest in such person who has been lawfully granted ownership or use rights. This creates an obligation on the part of the people of Uganda to respect the laws regulating natural resources.

**Article 237 (2)(b)** of the Constitution of Uganda mandates Parliament to pass laws for the management of natural resources in Uganda. The Constitution marked a watershed for the legal and policy regime in Uganda. The post 1995 Constitutional reforms on wildlife are characterized by multi-sectoral laws and policies with several Acts of Parliament providing for sections on wildlife. Uganda's legislation on wildlife is among other things concerned with prohibition, prevention, licensing, inspection, penalties and public participation.

**Article 245.** Mandates Parliament to by law, provide for measures intended-

- a. to protect and preserve the environment from abuse, pollution and degradation;
- b. to manage the environment for sustainable development; and
- c. to promote environmental awareness.

## **THE UGANDA WILDLIFE ACT 2019**

An Act to provide for the conservation and sustainable management of wildlife; to strengthen wildlife conservation and management; to continue the existence of the

Uganda Wildlife Authority; to streamline the roles and responsibilities of institutions involved in wildlife conservation and management; to continue the existence of the Wildlife Fund; to repeal the Uganda Wildlife Act, Cap. 200 and for related matters.

## **OFFENCES UNDER THE UGANDA WILDLIFE ACT 2019**

It is obvious that enactments after the promulgation of the 1995 Constitution are reformist and intended to conform to the spirit and aspirations of the Constitution. Subsequently, the Wildlife Statute, 1996 and the eventual Wildlife Act, 2000 were enacted to govern wildlife in Uganda.

In 2000, the Uganda Law Reform Commission (ULRC) revised the statute now cited as the defunct Wildlife Act (Cap 200). It suffices to note that new conservation challenges and the motivation to institute a dynamic regulatory framework to effectively combat wildlife crime became the cornerstone for formulation of the Wildlife Policy, 2014 and enacting the Uganda Wildlife Act, 2019.

The 2019 Wildlife Act creates a number of offences and prescribes penalties thereto. The following are the offences under the Act: -

### **Section 29. General offences in wildlife conservation areas.**

Unless provided for by this Act, a person who in a wildlife conservation area-

- a. hunts, takes, kills, injures or disturbs any wild plant, wild animal or domestic animal;
- b. takes, destroys, damages or defaces any object of geomorphological, archaeological, historical, cultural or scientific interest, or any structure lawfully placed or constructed; Act Uganda Wildlife Act 2019
- c. prepares land for cultivation, prospects for minerals or mines or attempts any of these operations;
- d. drives, conveys or introduces any wild animal into a wildlife conservation area;
- e. willfully drives, conveys, introduces any domestic animal into a National park or negligently permits any domestic animal, of which he or she is for the time being in charge, to stray into a wildlife conservation area; or
- f. starts or maintains a fire without lawful authority, commits an offence.

### **Section 30. Entering wildlife protected area without permission.**

1. A person who, except in accordance with this Act, attempts to enter into, enters into, resides in, or attempts to reside in a wildlife protected area without permission by the Authority, commits an offence.
2. Subsection (1) shall not apply to a member of staff of the Ministry, Authority, Police, Prisons or the Army on official duty requiring his or her presence in a wildlife protected area.
3. The Authority may issue to any person a permit, in the prescribed form, to enter or reside in any wildlife protected area subject to payment by that person of the prescribed fee, if any.

### **Section 36. Prohibition of utilization of wildlife without wildlife use right.**

1. A person shall not engage in any of the activities under section 35 or any other activity of a like nature which involves the utilization of wildlife or wildlife products without a wildlife use right.
2. Notwithstanding subsection (1), the Authority may study, identify and protect cultural interests of any individual or class of persons in a wildlife conservation area not protected by any other law.
3. A person who engages in any of the activities under section 35 or any other activity of a like nature which involves the utilization of wildlife or wildlife products without a wildlife use right commits an offence.

### **Section 52. Prohibition of persons who are not licensed under this Part regarding certain acts.**

A person who without a license issued in accordance with this Part-

- (a) conducts business as a professional hunter or professional trapper;
- (b) advertises himself or herself as a professional hunter or professional

trapper;

(c) solicits a contract or commission under which or for which he or she is to act in the capacity of a professional hunter or a professional trapper;

(d) for gain or reward, assists another person to hunt a protected animal except as a guide, tracker, porter or in some other like capacity, commits an offence and is on conviction liable to a term of imprisonment not exceeding ten years.

### **Section 53. Suspension or cancellation of license.**

(1) The Board may, on the recommendation of the Executive Director, cancel a license under this Part, if the licensee-

- (a) is convicted of an offence under this Act;
- (b) fails to comply with any condition of the license; or
- (c) is not, in the opinion of the Executive Director, conducting the business for which the license is used in a fit and proper manner.

(2) The Executive Director shall immediately suspend the license pending consideration of the cancellation under subsection (1).

(3) The Executive Director shall notify the licensee in writing of a decision to suspend or cancel the license and shall state the reason for the decision.

### **Section 56. Attempted killing or killing wild animal.**

(1) A person may kill or attempt to kill a wild animal in self-defense or in defense of another person, except that nothing in this section shall absolve from liability of an offence under this Act, a person who at the time of the attempted killing or killing was committing an offence under this Act.

(2) It shall be the duty of any person who kills a wild animal under subsection (1) to prove that the act was done in self-defense or the defense of another person.



### **Section 57. Ownership of carcass.**

- (1) Except as otherwise provided by this Act or by the conditions of any license issued under this Part, the killing of a wild animal under section 59 shall not be considered a transfer of ownership of the carcass of the animal to another person.
- (2) A person who kills a wild animal under section 59 shall, as soon as practicable, report the facts to an officer and shall, unless entitled to retain the carcass under the conditions of any license issued under Part VI of this Act, hand over the carcass or parts of the carcass as the officer may direct.
- (3) A person who contravenes this section commits an offence.

### **Section 59. Accidental killing of wild animal.**

- (1) Where a person kills a wild animal through accident or error, he or she shall, as soon as may be practicable, report the facts to an officer and shall where possible hand over the carcass or part of the carcass as the officer may direct.
- (2) Subsection (1) shall not apply to a person entitled under a wildlife use right or permit issued under this Act to hunt a protected or wild animal of that specie and sort, in the circumstances under which he or she killed the animal, and no offence under this Act shall have been committed in relation to the killing of the animal.
- (3) A person who contravenes this section commits an offence.

### **Section 60. Wounded wild animal.**

- (1) A person who wounds a wild animal shall capture, kill the animal or report to an officer at the earliest opportunity.
- (2) A person who does not comply with the provisions of subsection (1) commits an offence.

### **Section 61. Wounded dangerous animal.**

- (1) A person who, in any circumstances, wounds a dangerous animal and fails to kill or capture it within twenty hours after its wounding shall immediately report the facts to an officer.

- (2) An officer who receives a report under subsection (1) shall take immediate steps to locate the wounded dangerous animal, assess its condition and decide, whether or not to kill it and shall either carry out the act himself or herself or give instructions accordingly.
- (3) Where the wounded dangerous animal under subsection (1) enters a conservation area, sections 60(3) or (4) shall apply.
- (4) Section 60(5), in respect of private land, shall not apply to a person entering that land in pursuit of a wounded dangerous animal wounded by him or her, except that he or she shall report the facts to the owner of the land as soon as practicable.
- (5) Where an officer receives a report under subsection (1), he or she shall, as soon as practicable, take steps to minimise or prevent the threat, and those steps may include killing the animal.
- (6) A person who contravenes this section commits an offence.

## **Section 62. Import, export or re-export permit**

- (1) The CITES Management Authority on the advice of the CITES Scientific Authority may issue to any person a permit in a prescribed form to import, export or re-export any wildlife species or wildlife specimen.
- (2) A person who imports, exports or re-exports or attempts to import, export or re-export any species or specimen-
  - a. without a permit; or
  - b. without passing through a designated customs post or port; commits an offence.

## **Section 63. Additional restriction on import export, transit or re-export of specimen.**

- (1) The Minister may, after consulting the Minister responsible for trade, make regulations imposing additional restrictions on import, export, re-export or transit of wildlife species or wildlife specimen.
- (2) A person who contravenes the regulations made under subsection (1) commits

an offence.

### **Section 70. General penalty.**

Subject to this Act, a person convicted of an offence under this Act for which no penalty is provided is liable-

- (a) in the case of a first offence, to a fine of not exceeding three hundred and fifty currency points or to a term of imprisonment not exceeding ten years or both;
- (b) in the case of a second or subsequent offence, to a fine not exceeding five hundred currency points or to a term of imprisonment not exceeding twenty years or both.

### **Section 71. Offences relating to protected species.**

(1) A person who without a permit issued in accordance with this Act-

- (a) takes, hunts, molests or reduces into possession protected specimen;  
or
- (b) is found in possession of, sells, buys, transfers or accepts transfer of protected specimen; commits an offence, and shall on conviction be liable to a fine not exceeding ten thousand currency points or to life imprisonment or both.

(2) Where an offence prescribed in subsection (1) relates to a specie classified as-

- (a) extinct in the wild;
- (b) critically endangered; or
- (c) endangered; a person shall on conviction be liable to a fine of not
- (d) exceeding one million currency points or to life imprisonment or both.

## **Section 72. Destruction and obliteration of devices.**

Where a person is convicted of an offence under this Act in respect of any excavation, fence, enclosure or any other device fixed in or on the ground or upon vegetation, which the person has made, used or had in his or her possession for the purpose of hunting in contravention of this Act, the court shall, in addition to any other penalty imposed, order the device to be destroyed or obliterated in such manner as the court may specify, and any expenditure incurred shall be recoverable from the person as a civil debt.

## **Section 73. Forfeiture as an additional penalty.**

- (1) On the conviction of a person of an offence under this Act where the court considers forfeiture to be necessary, the court shall, notwithstanding any other written law and in addition to any other penalty imposed-
  - (a) declare the domestic animal, firearm or other weapon, trap, net, poison, material or any motor vehicle, aircraft, boat, or any other article taken by or used in connection with the commission of the offence to be forfeited to the Authority.
  - (b) cause to be forfeited to the Authority protected specimen referred to section 71.
- (2) The disposal of specimen, domestic animal or article forfeited to the Government under this section shall be subject to sections 76, 77, 78 and 79.

## **Section 74. Conditional order of forfeiture.**

- (1) When a court is required under sections 75(1) and (2) to make a declaration of forfeiture in respect of any article the ownership of which requires registration under any written law, the court shall make a conditional order of forfeiture in the prescribed form.
- (2) Upon the making of a conditional order of forfeiture under subsection (1), the Executive Director shall, within thirty days after, the making of the order cause to be published in the Gazette and in two consecutive issues of a newspaper having wide circulation, a notice of the order.
- (3) If ownership of the article is registered in the names of a person other than the convicted person, the Executive Director shall, within seven days after

publication of the notice in the Gazette, cause a copy of the notice to be sent to the person in whose names the article is registered.

- (4) A person who wishes to claim a right of ownership in the article may, within sixty days of the last publication of the conditional order, lodge with the court a written application for discharge of the order, setting out his or her claim of ownership in the article.
- (5) Upon an application made under subsection (4), the court shall set a date for a hearing of the application and serve notice of the hearing to the applicant and on the Authority.
- (6) In any hearing of any application made under subsection (4), the burden of proof shall be upon the applicant to prove that he or she was not privy to the offence and that the article was, at the time that the offence was committed, being used for that purpose without his or her knowledge or consent.
- (7) Where court rejects an application for discharge, the court shall declare the article absolutely forfeited to the Authority.
- (8) Where upon an application made under subsection (4), a court is satisfied that an article is owned jointly by, or is the subject of a rental agreement between the applicant and the convicted person, and the applicant has discharged the burden of proof in accordance with subsection (6), the court shall declare as forfeited all of the estate, interest or rights of the convicted person in the article and shall order them to be disposed of as it deems fit.
- (9) A right of a claimant under a rental agreement to repossess an article which is subject to a conditional order of forfeiture made under subsection (1) shall be suspended pending determination of an application made under subsection (4).

#### **Section 75. Seized good may be subject to forfeiture order.**

- (1) If an article the ownership of which requires registration under any written law is seized as a result of an offence under this Act and the person responsible is unknown and cannot be found for the purpose of charging him or her with the offence or, having been charged, fails to appear to answer the charge, the Executive Director may apply to the court for a declaration of forfeiture.
- (2) Upon an application under subsection (1), the court shall make a conditional order of forfeiture in the prescribed form, and the provisions of sections 76(2),



(3), (4), (5), (6), (7) and (8) shall apply.

## **Section 76. Forfeiture of profits from illegal trade.**

- (1) Where a person has been convicted of an offence involving illegal trading in wildlife or wildlife specimen, including the killing of a wild animal, removal of a protected plant from its natural habitat and removal of an egg from its nest or other natural habitat as a part of a process of illegal trading, the court may, in addition to a penalty imposed and any order for forfeiture made under this Act, if it is satisfied by evidence given in court that the convicted person is, and has been for some time, notwithstanding that he or she has not been convicted, a person who habitually or on a continuing basis engages in the illegal trading of wildlife or wildlife specimen-
  - (a) order the convicted person to disclose his or her assets to the court;
  - (b) cause a valuation of those assets to be made by a valuer appointed by the court;
  - (c) determine and declare what proportion of those assets are to be taken as obtained through illegal trading of wildlife and wildlife specimens;
  - (d) order that the proportion determined and declared under paragraph©-
    - (i) if it is money, be forfeited to the Authority; or
    - (ii) if it is any other form of asset, be sold and the proceeds of the sale be forfeited to the Authority.
- (2) Where a person ordered by the court under subsection (1) to disclose his or her assets-
  - (a) fails to do so within the time required or at all;
  - (b) makes a false declaration of disclosure;
  - (c) obstructs or causes a person to obstruct-
    - (i) the making of a valuation of the assets declared or otherwise;
    - (ii) the gathering of the assets for their disposal through sale or

otherwise;

(iii) the sale or other disposal of the assets; or

(iv) the handing over of the proceeds of the sale of the assets or forfeited monies to the Authority, he or she commits an offence.

(3) A person convicted of an offence under subsection (2) shall be liable to a punishment of a term of imprisonment of-

(a) not less than the term of imprisonment to which he or she has been sentenced for the offence of or in connection with illegal trading in wildlife or wildlife specimens; or

(b) not less than three years, whichever is the longer period.

(4) A sentence of imprisonment imposed by the court under subsection (3) shall not discharge an obligation imposed by this section on a convicted person to disclose his or her assets.

(5) An asset transferred by a person to which this section applies, after or at the time of the arrest of that person, to, or which is held on behalf of that person by, a member of the family of or a business associate of that person, shall be presumed to be an asset of that person and this section shall apply to that asset as if it remained under the control of that person.

(6) A person or organization, in possession of or having any form of control or authority over any asset to which this section applies shall cooperate with and assist the court and a person and authority acting under the directions of the court to implement this section.

(7) A person to whom subsection (6) applies, including a person in authority in an organization to which subsection (6) applies, who does not comply with or obstructs the application of subsection (6) commits an offence.

## **Section 77. Revocation of license, permit or certificate.**

If a holder of a wildlife use right, licensee or the holder of a permit or certificate issued under this Act is convicted of an offence under this Act which involves the license or the wildlife use right, the permit or the certificate, the license, permit, certificate or

wildlife use the right shall be automatically revoked.

## **THE NATIONAL FORESTRY AND TREE PLANTING ACT, 2003.**

An Act to provide for the conservation, sustainable management and development of forests for the benefit of the people of Uganda; to provide for the declaration of forest reserves for purposes of protection and production of forests and forest produce; to provide for the sustainable use of forest resources and the enhancement of the productive capacity of forests; to provide for the promotion of tree planting; to consolidate the law relating to the forest sector and trade in forest produce; to establish a National Forestry Authority; to repeal the Forest Act, Cap. 246 and the Timber (Export) Act Cap. 247; and for related matters.

## **OFFENCES UNDER THE NATIONAL FORESTRY AND TREE PLANTING ACT, 2003.**

Wildlife and forestry are inter-linked in that forests are habitats for wildlife. The management of wildlife stretches to all wildlife regardless of where they inhabit. It suffices to note that wildlife in Uganda has variety of habitats including mountains, hills, tropical rain forests, woodland, freshwater lakes, swamps, and Savannah with scattered clumps of trees.

Therefore, the Forestry and Tree Planting Act, 2003 significantly impacts wildlife in Uganda, has implications for wildlife conservation and combating wildlife crime. It provides for a number of wildlife related offences including the following: -

### **Section 14. Prohibited activities in forest reserves.**

- (1) No person shall, in a forest reserve, cut, disturb, damage, burn or destroy any forest produce, or remove or receive any forest produce except—
  - (a) in accordance with regulations or guidelines made for the proper management of the forest reserve;
  - (b) in the course of the management of the forest reserve by the responsible body;
  - (c) in terms of the exercise of a right or interest in the forest reserve; or

(d) in accordance with a license issued under this Act.

- (2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding fifty currency points or to imprisonment for a term not exceeding five years, or both.

### Section 31. Protected trees

- (1) The Minister or a District Council may, by statutory order, in respect of private land declare a particular tree, or group of trees on that land to be a protected tree or trees subject to such controls as the Minister may specify in the order.

- (2) A declaration under subsection (1) shall be for the purpose of—

- (a) preserving scenic beauty or attraction;
- (b) conserving a distinctive specimen of any tree species;
- (c) preventing soil erosion;
- (d) conservation of biological diversity or species diversity; or
- (e) Conservation, protection and development of natural resources.

- (3) The Minister or a District Council shall, before making an order under this section—assess, make and publish a report on the socio economic and ecological impacts of the proposed declaration;

(a) ensure that the declaration is based on the results of an assessment relating to species status and the state of the particular tree or group of trees; and

(b) take into account the views of the affected communities.

- (4) Any person who, without the written consent of the Minister or the respective District Council—

(a) cuts, damages, destroys, disturbs or removes any protected tree; or

(b) collects, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of any part of a protected tree,

commits an offence and is liable, on conviction, to imprisonment for a term not

exceeding three years or a fine not exceeding thirty currency points or both.

### **Section 32. Prohibited activities**

- (1) No person shall, except, for forestry purposes and in accordance with a management plan, or in accordance with a license granted under this Act, in a forest reserve or community forest—
  - (a) cut, take, work or remove forest produce;
  - (b) clear, use or occupy any land for—
    - (i) grazing;
    - (ii) camping;
    - (iii) livestock farming;
    - (iv) planting or cultivation of crops;
    - (v) erecting of a building or enclosure; or
    - (vi) recreational, commercial, residential, industrial or hunting purposes;
  - (c) collect biotic and abiotic specimens; or
  - (d) construct or re-open a road, track, bridge, airstrip, or landing site.
- (2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding three years, or both.

### **Section 33. Domestic use of forest produce**

- (1) Subject to the management plan, a member of a local community may, in a forest reserve or community forest, cut and take free of any fee or charge, for personal domestic use in reasonable quantities, any dry wood or bamboo.
- (2) For the avoidance of doubt, no person may, in a strict nature reserve or a site of



special scientific interest cut or take dry wood or bamboo or other forest produce.

### **Section 34. Prevention of damage**

- (1) A person cutting, working, harvesting, removing or taking forest produce from a forest reserve shall take all care and necessary precautions to prevent damage to other forest produce or to the environment.
- (2) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten currency points or to imprisonment for a term not exceeding two years, or both.

### **Section 35. Precaution against fire**

- (1) No person shall light or cause to be lit a fire in a forest, except in a place established for that purpose, or as otherwise permitted by an authorised person.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding seven years.
- (3) An authorised person may burn or authorise any person to burn such fire-lines or grass or other inflammable material as may, in his or her opinion, be necessary for the control of fire or for the better protection or management of any part of a forest.

### **Section 43. Unlicensed activities**

- (1) No person shall, except in accordance with section 33 or where he or she has been granted a license for the purpose, grow, cut, take, work or remove any forest produce from a forest reserve or community forest.
- (2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding three years, or both.

### **Section 44. Timber export licenses**

- (1) No person shall export timber without an export license issued by a licensing authority appointed by the Minister.
- (2) A person who exports or attempts to export timber without a license issued in

accordance with subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or imprisonment for a term not exceeding three years or both.

- (3) An export permit issued under this section shall be issued only for the export of graded timber.

## **Section 81. General offences**

Any person who-

- (a) contravenes any of the terms or conditions of a license granted under this Act;
- (b) without due authority, alters, moves, destroys or defaces any boundary mark of a forest;
- (c) fails to sustainably manage, maintain and control a forest in accordance with this Act;
- (d) fails to comply with a management plan;
- (e) fails or neglects to plant trees in accordance with this Act; or
- (f) fails to comply with the order of an authorised person,
- (g) commits an offence and is liable, on conviction, to a fine not exceeding forty currency points, or to imprisonment for a term not exceeding five years, or both.

## **Section 83. Penalties**

A person convicted of an offence under this Act for which no penalty is provided is liable—

- (a) in the case of a first offence, to a fine not exceeding thirty currency points or imprisonment for a term not exceeding three years or both; and
- (b) in the case of a second or subsequent offence, to a fine not exceeding forty currency points or imprisonment for a term not exceeding five years

or both.

#### **Section 84. Power of court to confiscate and order forfeiture**

- (1) (1) The court by which a person is convicted of an offence under this Act may order the forfeiture of—
- (a) any forest produce in respect of which the offence was committed or which was found in that person's possession; or
  - (b) any vehicle, machinery, weapon or other thing which was used to commit the offence or which was capable of being used to take forest produce found in his or her possession.
- (2) Any forest produce forfeited under subsection (1) shall, unless otherwise ordered by the court, be sold or otherwise disposed of—
- (a) as the responsible body may direct; or
  - (b) where the responsible body has been convicted of the offence, sold or otherwise disposed of as the Minister directs.

#### **Section 85. Power of court to order compensation to the state**

A person who is convicted of an offence against this Act may be held liable for any loss or damage caused by the offence and may be ordered by the court to pay—

- (a) to the State, in addition to any penalty imposed by the court for the offence, an amount of compensation for that loss or damage up to five times the value of the produce; or
- (b) up to ten times the amount of any fees, royalties or other payments which, had the act constituting the offence been authorised, would have been payable in respect of the authorised act.

## **Section 86. Cancellation of licenses, etc**

The court may, on convicting a person granted a license under this Act of an offence against this Act-

- (i) order that the license be cancelled; or
- (ii) disqualify that person from obtaining a license for a period as the court thinks fit.

## **Section 87. Further powers of court**

A court, on convicting any person-

(a) for an offence against this Act, may order that person, within a time specified in the order, to do any act the person had failed, refused or neglected to do;

(a) of clearing, using or occupying land in a forest reserve shall, in addition to any other penalty it may impose, order that person, within a time to be specified in the order-

- (i) to vacate the land;
- (ii) to restore the land to its original state; or
- (iii) to remove from the land any livestock, buildings or enclosures which he or she may have erected, and any crops which he or she may have planted on that land.

## **THE NATIONAL ENVIRONMENT ACT, 2019.**

An Act to repeal, replace and reform the law relating to environmental management in Uganda; to provide for the management of the environment for sustainable development; to continue the National Environment Management Authority as a coordinating, monitoring, regulatory and supervisory body for all activities relating to environment; to provide for emerging environmental issues including climate change, the management of hazardous chemicals and biodiversity offsets; to provide for strategic environmental

assessment; to address environmental concerns arising out of petroleum activities and midstream operations, to provide for the management of plastics and plastic products; to establish the Environmental Protection Force; to provide for enhanced penalties for offences under the Act; to provide for procedural and administrative matters; and for related matters.

## **OFFENCES UNDER THE NATIONAL ENVIRONMENT ACT, 2019**

The object of the National Environment Act, 2019 is to further the principles of environmental management by facilitating the conservation and enhancement of the environment.

The Act provides for conservation of biological diversity (Section 59) and several environmental and ecological guarantees such as pollution, ecological safety, water, wetlands, forestry, hills and rangeland conservation which render conducive for wildlife protection thus containing provisions that are applicable to the protection and sustainable use of wildlife. It among others provides for offences related to wildlife life including: -

### **Section 159. Seizures**

(1) A person who-

(a) supplies or misuses chemicals, including acid, to harm any person or the environment, or

(b) imports, exports, transports, stores, manufactures, formulates, distributes, sells or offers for sale any chemical which has been adulterated, or which has decomposed or deteriorated so as to be ineffective for its purpose or which is packed in containers which have deteriorated or have been damaged rendering them hazardous to store, handle or use safely,

Commits an offence and is liable, on conviction, to a fine not exceeding thirty thousand currency points or imprisonment not exceeding twelve years or both.

### **Section 164. Failure to comply with orders, notices and environmental easements.**

A person who fails or refuses to comply with an environmental restoration order,

prohibition order, stop notice, improvement notice, compliance notice, environmental easement or any decision issued or granted under this Act, commits an offence and is liable, on conviction—

- (a) in the case of an individual, to a fine not exceeding ten thousand currency points or imprisonment not exceeding seven years or both; or
- (b) in the case of a body corporate, to a fine not exceeding five hundred thousand currency points.

### **Section 165. Failure to comply with environmental standards.**

A person who contravenes any environmental standards prescribed under this Act commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or imprisonment not exceeding seven years, or both.

### **Section 168. Conspiracy to commit an offence.**

A person who conspires with another person to contravene any of the provisions of this Act commits an offence and is liable, on conviction, to a fine not exceeding five thousand currency points or imprisonment not exceeding five years.

### **Section 170. General penalty.**

A person who contravenes any provision of this Act for which no penalty is specifically provided, commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding five thousand currency points or imprisonment not exceeding seven years, or both; or
- (b) in the case of a body corporate, to a fine not exceeding fifty thousand currency points.

## **THE ANTI- MONEY LAUNDERING ACT, 2013**

An Act to provide for the prohibition and prevention of money laundering, the establishment of a Financial Intelligence Authority and a Financial Intelligence Authority Board in order to combat money laundering activities; to impose certain

duties on institutions and other persons, businesses and professions who might be used for money laundering purposes; to make orders in relation to proceeds of crime and properties of offenders; to provide for international cooperation in investigations, prosecution and other legal processes of prohibiting and preventing money laundering; to designate money laundering as an extraditable offence; and to provide for other related matters.

## **OFFENCES UNDER THE ANTI- MONEY LAUNDERING ACT, 2013**

Wildlife crime by nature involves illicit financial gain. Criminals tend to benefit from IWT by laundering the proceeds back into the economy. The Anti-Money Laundering Act, 2013 defines and provides for crimes of money laundering and establishes the Financial Intelligence Authority (FIA) which is mandated to investigate financial crime. (Sec. 3 of the Act). The wildlife related offences under the Act include the following: -

### **Section 5. Money Laundering as a distinct and Separate crime**

The crime of money laundering under this Act-

- (a) is a crime distinct from and in addition to other crimes under the laws of Uganda, including the crime generating the proceeds subject to the money laundering; and
- (b) may be charged without the person having been convicted of the crime of generating the proceeds of money laundering.

### **Section 83. Application for confiscation order or pecuniary penalty order**

- (1) Where a person is convicted of an offence under this Act; court may in addition to any other sentence make the following orders-
  - (a) a confiscation order against property that is tainted property in respect of the crime;
  - (b) a pecuniary penalty order against the person in respect of benefits derived by the person from the commission of the crime; or
  - (c) a confiscation order against property in which the person convicted has interest.



- (2) Whenever after conviction of the person, any other tainted property is discovered, an authorized officer or any other person may apply to court for additional confiscation orders in respect of the tainted property.
- (3) An application under subsection (2) may be made in respect of more than one crime.
- (4) An applicant may apply to amend an application under subsection (1) to include any other tainted property or benefit, as the case may be, and the court may upon being satisfied that-
  - (a) the tainted property or benefit was not reasonably capable of identification when the application was made;
  - (b) necessary evidence became available only after the application was originally made; and
  - (c) it is in the interest of justice that the application be amended, grant the application.

## **Section 91. Payment instead of a confiscation order**

- (1) Where the court is satisfied that a confiscation order should be made in respect of the property of a person convicted of a crime, but that the property or any part or interest cannot be made subject to such an order and, in particular-
  - (a) cannot, on the exercise of due diligence, be located;
  - (b) has been transferred to a third party in circumstances which do not give rise to a reasonable inference that the title or interest was transferred for the purpose of avoiding the confiscation of the property;
  - (c) is located outside the Republic of Uganda
  - (d) has been substantially diminished in value or rendered worthless; or
  - (e) has been commingled with other property that cannot be divided without difficulty, the court may, instead of ordering the property or interest in it to be confiscated, order the person to pay to the Republic of Uganda an amount equal to the value of the property, part or interest.

- (2) Where the court orders a person to pay an amount under subsection (1), that amount shall be treated as if it were a fine imposed upon him or her in respect of a conviction for a crime.

## **Section 116. Prohibition of money laundering**

A person who-

- (a) converts, transfers, transports and transmits property knowingly or having reasons to believe such property to be proceeds of crime, for purposes of concealing or disguising the illicit origin of the property or assisting any other person who is involved in the commission of the crime generating the proceeds to evade the legal consequences of his/her actions;
- (b) conceals, disguises or impedes the establishment of the true nature, source, location, disposition, movement or ownership of or its rights with respect to property knowing or having reasons to believe such property to be proceeds of a crime, commits an offence;
- (c) acquires, possesses, uses or administers property knowing or having reason to believe at the time of receipt that the property is the proceeds of crime, commits an offence;
- (d) acts to avoid a transaction reporting requirements provided in Part III of this Act, commits an offence;
- (e) assists another person to benefit from known proceeds of crime, commits an offence;
- (f) uses known proceeds of crime to facilitate the commission of a crime commits an offence;
- (g) participates in, associates with, conspires to commit, attempts to commit, aid and abet or facilitate and counsel the commission of any of the acts described in sections (a) to (f) above commits an offence.

## **Section 118. Falsification, concealment of documents**

A person who falsifies, conceals, destroys or otherwise disposes of or causes or permits

the falsification, concealment, destruction or disposal of any document or material which is or is likely to be relevant to an investigation into money laundering or is subject to any order made in accordance with provisions of this Act, commits an offence.

### **Section 120. Failure to keep records**

An accountable person who fails to keep record of information in accordance with section 7 or maintain such records in accordance with section 7, commits an offence.

### **Section 121. Facilitating money laundering**

An accountable person or its officers or employees, who knowingly allows it or its services to be used to commit or facilitate money laundering in contravention of section 16, commits an offence.

(2) A person referred to in section 9 who reasonably ought to have known or suspected that any of the facts referred to in section 9 exists, and who negligently fails to report the prescribed information in respect of a suspicious or unusual transaction or a series of transactions or enquiry, commits an offence.

### **Section 129. Contravening a restraining order**

A person who intentionally contravenes a restraining order issued under section 73 of Part VI, by disposing of or otherwise dealing with property that is subject to the restraining order, commits an offence.

### **Section 136. Penalties**

(1) A person who commits any offence prohibited under Part VII and section 3 of this Act is liable on conviction to-

(a) in the case of a natural person, imprisonment for a period not exceeding fifteen years or a fine not exceeding one hundred thousand currency points or both;

(b) in the case of a legal person by a fine not exceeding two hundred thousand currency points.

(2) An offence mentioned in sections 115 to 133 is punishable—

(a) if committed by a natural person, by imprisonment for a period not exceeding five years or a fine not exceeding thirty three thousand currency points, or both;

(b) if committed by a legal person such as a corporation, by a fine not exceeding seventy thousand currency points;

(c) if a continuing offence, by a fine not exceeding five thousand currency points for each day on which the offence continues; or

(d) if no specific penalty is provided, by a fine not exceeding nine thousand currency points and in case of a continuing offence, to an additional fine not exceeding five thousand currency points for each day on which the offence continues.

(3) Where it is necessary, for the purpose of convicting a person who has committed an offence, to establish the state of mind of the legal person, it shall be sufficient to show that a director, officer, employee or agent of the body corporate, acting in the course of employment of the director, employer or agent, had that state of mind.

## **THE PENAL CODE ACT 2007**

This Code shall be interpreted in accordance with the principles of legal interpretation obtaining in England, and expressions used in it shall be presumed, so far as is consistent with their context, and except as may be otherwise expressly provided, to be used with the meaning attaching to them in English criminal law and shall be construed in accordance therewith.

## **OFFENCES UNDER THE PENAL CODE ACT 2007**

Under common law, the public trust doctrine places a high duty of care and responsibility on the state to protect the resources placed under its trust. The Penal Code Act provides for offences committed against the State and the consequential punishments. This emanate from the responsibility of the State to protect the life and property of its citizens.

## **The Act;**

Sanctions in Section 3 (a) and (b) - the liability, trial or punishment of a person for an offence not provided for in the Penal Code but is against any other written law in force in Uganda; and offences relating to the jurisdiction of Uganda courts in respect of acts done beyond the ordinary jurisdiction of such courts.

It among others provides for offences related to wildlife life including: -

**Section 253 (7), (8): Stealing of dead bodies, body parts or products of animals categorized as those in the enjoyment of their natural liberty among the things capable of being stolen.**

**Section 279. Killing animals capable of being stolen with intent to steal the skin, carcass or any part of the animal.**

**Section 318. Prohibits exportation or re-exportation of goods without a license.**

**Section 319. Creates a crime against smuggling of goods by concealment.**

Wildlife crime is most times committed by two or more people who agree to execute the illegal act. Section 390 of the Penal Code Act prohibits any conspiracy to execute a criminal act.

**Section 390. Conspiracy to commit felony.**

“Any person who conspires with another to commit any felony, or to do any act in any part of the world which if done in Uganda would be a felony and which is an offence under the laws in force in the place where it is proposed to be done, commits a felony and is liable, if no other punishment is provided, to imprisonment for seven years, or if the greatest punishment to which a person convicted of the felony in question is liable is less than imprisonment for seven years, then to such lesser punishment.”

## **THE EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT ACT, 2004**

An Act of the Community to make provisions for the management and administration of Customs and for related matters.

### **OFFENCES UNDER THE EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT ACT, 2004**

The Protocol obligates Uganda to sustainably conserve wildlife resources in partnership with the local communities.

The protocol requires Uganda to cooperate in management of trans-boundary wildlife resources, promoting of social and economic incentives for conservation and to conclude agreements aimed at conserving trans-boundary wildlife resources. Under the Act, importation or exportation of prohibited goods are detailed below.

#### **Section 200. Prohibition of Importation and Exportation of Prohibited goods**

Any person who-

(a) imports or carries coastwise –

(i) any prohibited goods whether or not the goods are unloaded; or

(ii) any restricted goods contrary to any condition regulating the importation or carriage coastwise of such goods, whether or not the goods are unloaded;

(b) unloads after importation or carriage coastwise –

(i) any prohibited goods; or

(ii) any restricted goods which have been imported or carried coastwise contrary to any condition regulating such importation or carriage coastwise;

(c) exports, carries coastwise, or puts on board any aircraft, vehicle or vessel, or brings to any Customs airport, Customs area, or place to be put

on board, for exportation or for use as stores or for carriage coastwise-

(i) any prohibited goods; or

(ii) any restricted goods contrary to any condition regulating the exportation or use as stores, or carriage coastwise of such goods;

(d) acquires, has in his or her possession, keeps or conceals or procures to be kept or concealed, any goods which he or she knows or ought reasonably to have known to be-

(i) prohibited goods; or

(ii) restricted goods which have been imported or carried coastwise contrary to any condition regulating such importation or carriage coastwise; or

(iii) uncustomed goods, Commits an offence and shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine equal to fifty percent of the dutiable value of the goods involved, or both.

## **THE ANTI – CORRUPTION ACT, NO. 6 OF 2009**

An Act to provide for the effectual prevention of corruption in both the public and the private sector, to repeal and replace the Prevention of Corruption Act, to consequentially amend the Penal Code Act, the Leadership Code Act and to provide for other related matters.

## **OFFENCES UNDER THE ANTI – CORRUPTION ACT, NO. 6 OF 2009**

Corruption is seen as one of the most critical factors enabling illicit wildlife trafficking as a facilitator of poaching as well as transactions between supply, transit and demand countries and an important source of resilience for organized criminal groups involved in such crimes. Corruption may facilitate many of the crimes along the wildlife trade route from poaching to trafficking and to law enforcement (e.g. illegal payments to issue hunting licenses and export certificates, bribery of forest patrol officers, customs officials, police officers, prosecutors and illegal payments to manipulate court decisions.

The Act creates some offences to address the above situations as seen below:



## Section 2. Corruption

A person commits the offence of corruption if he or she does any of the following acts-

- (a) the solicitation or acceptance, directly or indirectly, by a public official, of any goods of monetary value, or benefits, such as a gift, favour, promise, advantage or any other form of gratification for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
- (b) the offering or granting, directly or indirectly, to a public official, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage or any other form of gratification for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
- (c) the diversion or use by a public official, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any movable or immovable property, monies or securities belonging to the State, to an independent agency, or to an individual, which that official has received by virtue of his or her position for purposes of administration, custody or for other reasons;
- (d) the offering or giving, promising, solicitation or acceptance, directly or indirectly, of any undue advantage to or by any person who directs or works for, in any capacity, a private sector entity, for himself or herself or for any other person, for him or her to act, or refrain from acting, in breach of his or her duties;
- (e) the offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she is able to exert any improper influence over the decision making of any person performing functions in the public or private sector in consideration of the undue advantage, whether the undue advantage is for himself or herself or for any other person, as well as the request, receipt or the acceptance of the offer or the promise of the advantage, in consideration of that influence, whether or not the supposed influence leads to the intended result;

(f) the fraudulent acquisition, use or concealment of property derived from any of the acts referred to in this section;

(g) the participation as a principal, co-principal, agent, instigator, accomplice or accessory after the fact, or in any other manner in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this section;

(h) any act or omission in the discharge of his or her duties by a public official for the purpose of illicitly obtaining benefits for himself or herself or for a third party.

### **Section 3. Corrupt transactions with agents.**

If-

(a) an agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or herself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his or her principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his or her principal's affairs or business;

(b) a person corruptly gives or agrees to give or offers any gratification to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do any act in relation to his or her principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his or her principal's affairs or business.

(c) a person who corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any agent for himself or herself or for any other person, any gratification as an inducement or reward for doing or omitting to do or, for having done or omitted to do any act in relation to the business or affairs of his or her principal or for showing favour or disfavour to any person in relation to the business or affairs of his or her principal, commits an offence.

## **Section 5. Bribery of a public official.**

A person who-

(i) directly or indirectly by himself or herself or through any other person offers, confers, gives or agrees to offer any gratification to any member of a public body an inducement or reward so that the member-

(ii) votes or abstains from voting at any meeting of that public body in favour of or against any measure, resolution or question submitted to that public body;

(iii) performs, or abstains from performing his or her duty in procuring, expediting, delaying, hindering or preventing the performance of any official act; or

(iv) aids in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person; or

(b) being a member as is referred to in paragraph (a) directly or indirectly solicits or accepts any gratification for himself or herself or for any other person, by himself or herself, or through any other person, as an inducement or reward for any act or abstaining from performing any act, referred to in subparagraphs (i), (ii) and (iii) of paragraph (a);

commits an offence.

## **Section 8. Influence peddling.**

A person who does or, omits to do an act in contravention of established principles or procedure as a result of improper influence, for his or her own benefit or for the benefit of a third party commits an offence.

## **Section 9. Conflict of interest.**

(1) An employee, or a member of a public body, public company or public undertaking who, in the course of his or her official duties, deals with a matter in which he or she or his or her immediate family has a direct or indirect interest

or is in a position to influence the matter directly or indirectly and he or she knowingly, fails to disclose the nature of that interest and votes or participates in the proceedings of that body, company or undertaking, commits an offence and is liable on conviction to a term of imprisonment not exceeding twelve years or a fine not exceeding five thousand currency points or both.

#### **Section 11. Abuse of office.**

- (1) A person who, being employed in a public body or a company in which the Government has shares, does or directs to be done an arbitrary act prejudicial to the interests of his or her employer or of any other person, in abuse of the authority of his or her office, commits an offence and is liable on conviction to a term of imprisonment not exceeding seven years or a fine not exceeding one hundred and sixty-eight currency points or both.
- (2) Where a person is convicted of an offence under subsection (1) and the act constituting the offence was done for the purposes of gain, the court shall, in addition to any other penalty it may impose, order that anything received as a consequence of the act, be forfeited to the Government.

#### **Section 26. Punishment for offences under sections 3, 4, 5, 6, 7, 8, 12, and 13.**

- (1) A person convicted of an offence under sections 2, 3, 4, 5, 6, 7, 8, 12, and 13 is liable on conviction to a term of imprisonment not exceeding ten years or a fine not exceeding two hundred and forty currency points or both.
- (2) Notwithstanding subsection (1), a person convicted of an offence under section 2 or 3 is, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with any public body or a subcontract to execute any work comprised in such a contract, is liable on conviction to a term of imprisonment not exceeding twelve years or a fine not exceeding two hundred and eighty-eight currency points or both.

#### **Section 27. Penalty to be imposed in addition to other punishment.**

Where a person is convicted of an offence committed by the acceptance of any gratification in contravention of any provision of this Act, then, if that gratification is a sum of money or if the value of that gratification can be assessed, the court shall, in addition to imposing on that person any other punishment, order him or her to pay

as a penalty, within such time as may be specified in the order, a sum which is equal to the amount of the gratification or is, in the opinion of the court, the value of that gratification, and any such penalty shall be recoverable as a fine.

Section 29. Acceptor of gratification to be guilty notwithstanding that purpose not carried out, etc

- (1) Where, in any proceedings against an agent for any offence under section 3(a), it is proved that the agent corruptly accepted, obtained or agreed to accept or attempted to obtain any gratification having reason to believe or suspect that the gratification was offered as an inducement or reward for his or her doing or forbearing to do any act or for showing or forbearing to show any favour or disfavour to any person in relation to his or her principal's affairs or business, the agent commits an offence under that section notwithstanding that he or she did not have the power, right or opportunity to do so, show or forbear or that he or she accepted the gratification without intending to do so, show or forbear or that he or she did not in fact do so, show or forbear or that the act, favour or disfavour was not in relation to his or her principal's affairs or business.
- (2) Where, in any proceedings against a person for an offence under section 3(b), it is proved that the person corruptly gave, agreed to give or offered any gratification to an agent as an inducement or reward for doing or forbearing to do an act or for showing or forbearing to show any favour or disfavour to a person having reason to believe or suspect that the agent had the power, right or opportunity to do so, show or forbear and that the act, favour or disfavour was in relation to his or her principal's affairs or business, that person commits an offence under that section notwithstanding that the agent had no power, right or opportunity or that the act, favour or disfavour was not in relation to his or her principal's affairs or business

### **Section 35. Payment of compensation out of resources of convicted person.**

- (1) Where it is proved to the satisfaction of the court that a principal whose agent has been convicted of an offence under this Act has suffered loss as a result of the commission of the offence, the court may order any sums standing to the credit of the convicted person or any property which the court is satisfied was acquired directly from any gratification obtained by the agent to be applied in making good the loss; and in the case of property which is not money, the court may order the sale of the property and the proceeds of sale paid to the principal.

- (2) Any monies remaining from the proceeds of sale of property after payment to the principal of any loss under subsection (1) shall be refunded to the convicted person.

## **THE FIRE ARMS ACT, 2006**

An Act to amend and consolidate the law relating to the regulation, control, and manufacture, import, export, sale, repair, storage and possession of firearms and ammunition and for other matters connected therewith.

### **OFFENCES UNDER THE FIRE ARMS ACT 2006**

Guns have been said to be facilitators of poaching. Many people have been arrested in Uganda upon killing wild animals using guns. It is however interesting to note that most of them wield these guns illegally. The Uganda Firearms Act makes it an offence to possess a fire arm without a permit.

#### **Section. 3. Restrictions on purchasing, etc. of firearms or ammunition.**

- (1) Subject to this Act, no person shall purchase, acquire or have in his or her possession any firearm or ammunition unless, in respect of each such firearm, he or she holds a valid firearm certificate.

- (2) Any person who-

purchases, acquires or has in his or her possession any firearm or ammunition without holding a valid firearm certificate, or otherwise than as authorised by such a certificate, or, in the case of ammunition, in quantities in excess of those so authorised; or fails to comply with any condition, subject to which a firearm certificate is held by him or her, commits an offence and is liable on conviction to imprisonment for a term not exceeding ten years or to a fine not exceeding twenty thousand shillings or to both.

- (3) Notwithstanding subsection (1), no person shall purchase or acquire any ammunition unless he or she is in possession of a permit in the prescribed form issued by a licensing officer.

- (4) Any person who contravenes subsection (3) commits an offence and is liable on

conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.

## **THE UGANDA CITIZENSHIP AND IMMIGRATION CONTROL ACT CAP 66, (1999)**

An Act to make provision for acquisition of citizenship of Uganda pursuant to the Constitution, to provide for the compulsory registration of all Ugandans and the issue of national identification numbers and the issue of national identity cards to citizens of Uganda; to regulate the issue of passports to citizens of Uganda, to provide for the regulation and control of aliens in Uganda; to repeal the Uganda Citizenship Act, the Immigration Act, the Passports Act and the Aliens (Registration and Control) Act; and to provide for other matters incidental or connected with the foregoing.

## **OFFENCES UNDER THE UGANDA CITIZENSHIP AND IMMIGRATION CONTROL ACT CAP 66, 1999**

Wildlife crime encompasses a series of diverse and often overlapping offences which range from illegal hunting, processing, exporting and importing, trafficking, supplying, to receiving, possessing and consuming parts of wild animals. It frequently involves other associated criminal offences, such as document fraud, money-laundering, tax evasion, corruption and immigration and travel offences (UNODC, 2012).

Some wildlife traffickers have been arrested in foreign countries and found not to be in possession of valid travel documents. The Citizenship and Immigration Act creates some offences that may be committed by these traffickers.

### **Section 48. Offences and penalties under Part V.**

- (1) Any person who fails to surrender a passport or any travel document when required to do so by the board commits an offence and is liable on conviction to a fine not exceeding thirty currency points or imprisonment not exceeding six months or both.
- (2) Any person who, without lawful authority of the board, makes, prints or binds any material, whether in part or in whole, with intent to produce a passport or any other travel document commits an offence and is liable on conviction to a fine not exceeding four hundred currency points or imprisonment not



exceeding five years or both.

- (3) Any person who unlawfully alters, forges, causes to be altered or forged any part of a passport or other travel document commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding two years or both.
- (4) Any person who without lawful authority issues, renews, distributes or has in his or her possession any passport or other travel document commits an offence and is liable on conviction to a fine not exceeding sixty currency points or imprisonment not exceeding two years or both.
- (5) Any person who fails to comply with the terms and conditions of the issue of a passport commits an offence and is liable on conviction to a fine not exceeding sixty currency points or imprisonment not exceeding two years or both.

## **Section 52. Prohibited Immigrants.**

The following persons are prohibited immigrants and their entry into or presence within Uganda is unlawful except in accordance with the provisions of this Act -

(a) a destitute person;

(b) any person who-

(i) refuses to submit to a medical examination after having been required to do so under section 50;

(ii) is certified, by a Government medical practitioner, to be suffering from a contagious or infectious disease which makes his or her presence in Uganda dangerous to the community;

(c) any person against whom there is in force an order of deportation from Uganda made under this Act or any other law for the time being in force;

(d) any person whose presence in or entry into Uganda is, or at the time of his or her entry was, unlawful under this Act or any other law for the time being in force;

(e) any person who has not in his or her possession a valid passport issued to that person by or on behalf of the Government of the State of which he or she is a subject or citizen or a valid passport or document of identity issued to him or her by an authority recognised by the Government, such document being complete and having endorsed on it all particulars, endorsements and visas required from time to time by the Government or authority issuing that document and by the Government;

(f) any person who is a drug trafficker and who is living, or who prior to entering Uganda was living, on the earnings of drugs or drug trafficking or trade;

(g) a person who as a consequence of information received from the government of any State, or any other source considered reliable by the Minister or the commissioner, is declared by the Minister or by the commissioner to be an undesirable immigrant; but every declaration of the commissioner under this paragraph shall be subject to confirmation or otherwise by the Minister;

(h) any person who, not having received a free pardon, has been convicted in any country, for murder, or any offence for which a sentence of imprisonment has been passed for any term, and who by reason of the circumstances connected with the offence is declared by the Minister to be an undesirable immigrant; except that this paragraph shall not apply to offences of a political character not involving moral turpitude;

(i) any person who is a subject or citizen of any country with which Uganda is at war;

(j) the children, if under eighteen years of age and dependents of a prohibited immigrant, and any other dependent of a prohibited immigrant; and

(k) any person convicted of any offence under this Act

### **Section 53. Entry into Uganda.**

- (1) Subject to this Act, no person shall enter or remain in Uganda unless that person is in possession of a valid entry permit, certificate of permanent residence, or pass, issued under this Act.
- (2) This section shall not apply to such person or class of persons as the Minister, may by statutory order, declare.
- (3) A person who is not a citizen of Uganda shall not be issued with an entry permit, certificate of permanent residence or pass referred to in subsection (1) unless that person is in possession of a passport, certificate of identity, convention travel document or any other valid travel document.
- (4) A person intending to take on employment under entry permit class G specified in the Fourth Schedule to this Act may only enter Uganda after his or her application for the entry permit has been granted.

### **Section 59. Employment without entry permit.**

- (1) A person who is not a citizen of Uganda shall not, unless that person is in possession of a valid entry permit, certificate of permanent residence or special pass issued under this Act-
  - (a) be employed in a parastatal or private body;
  - (b) be employed in the public service;
  - (c) be employed by a private person;
  - (d) engage in private business in Uganda.
- (2) A person who-
  - (a) not being a citizen of Uganda, engages in any employment or profession, whether or not for gain, contrary to subsection (1); or
  - (b) employs any alien, whether or not for gain, whom he or she knows or has reasonable cause to believe is contravening subsection (1), commits an offence and is liable on conviction to a fine not exceeding one hundred and fifty currency points or imprisonment not exceeding two years or both.

- (3) Any person convicted of an offence under subsection (1)(a) is liable, in addition to any penalty imposed under that section, to a fine not exceeding two currency points in respect of each day on which he or she has acted contrary to subsection (1)(a); and the board may suspend or cancel the employer's permit, if any.

## **Section 66. Offences and penalties under Part VI.**

- (1) A person who-

- (a) without reasonable excuse refuses to answer any lawful or reasonable question put to him or her by an immigration officer;
- (b) knowingly makes any false declaration, return or statement for the purpose of obtaining or assisting another person to obtain a permit, certificate or pass under this Act;
- (c) alters a permit, certificate or pass issued under this Act;
- (d) obstructs or impedes an immigration officer in the exercise of his or her duties;
- (e) knowingly misleads an immigration officer seeking, in the exercise of his or her duties, information in relation to any matters under this Act;
- (f) knowingly uses or has in his or her possession a forged or irregular document of identity, passport, pass or other document which has been altered or issued without lawful authority;
- (g) fails to furnish any list or information required to be furnished by him or her under section 50;
- (h) unlawfully enters or is unlawfully present within Uganda in contravention of the provisions of this Act or any regulations made under it;
- (i) except as otherwise permitted by any provision of this Act or any regulations made under it, remains in Uganda after the expiration or cancellation of any permit, pass, certificate or other authority issued to him or her under this Act or any regulations made under it;

(j) having made an application for an entry permit or a certificate of permanent residence which has been rejected makes another such application as if he or she has not previously applied;

(k) conceals any information which could have otherwise affected his or her entry into Uganda;

(l) contravenes any term or condition subject to which any permit, certificate or pass has been issued to him or her under this Act or under any regulations made under it; or

(m) contravenes any provision of any order or direction made under this Act or under any regulation made under it, commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding three years or both and may, in addition, be deported.

- (2) Where a person is convicted of an offence under this Part of the Act, the board may, in addition to any penalty imposed for the offence, cancel any permit, certificate or pass in respect of which the offence was committed.
- (3) Any person who, having been deported from any other country or ordered to leave Uganda under this Act or any other written law, returns to Uganda without the permission of the Minister commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding three years or both, and may, notwithstanding the conviction and on the expiration of the sentence of imprisonment, if any, imposed upon him or her be deported again under section 60.
- (4) Where a prohibited immigrant enters Uganda from a ship, aircraft or vehicle, whether or not with knowledge of the owner, agent or person in charge of it, the owner, agent or person in charge commits an offence and is liable on conviction to a fine not exceeding one hundred currency points; and provision shall be made by the owner, agent or person in charge, as the case may be, to the satisfaction of an immigration officer for the conveyance out of Uganda of the prohibited immigrant.
- (5) Subsection (4) shall not apply in any case where the prohibited immigrant has been granted a permit or pass to enter Uganda under this Act, or any regulations made under it.

- (6) Any aircraft which brings into Uganda any undesirable person shall be liable to a fine of not less than one hundred and fifty currency points and shall be required to arrange for the departure out of Uganda of the undesirable alien.
- (7) The commissioner shall, from time to time, furnish a list of undesirable aliens to the Civil Aviation Authority and it shall be the duty of the authority to give notice of it to all airline operators.
- (8) Notice given to Civil Aviation Authority shall be taken to be sufficient notice to all aircrafts conveying aliens into Uganda.

### **Section 80. General penalty.**

Any person who-

- (a) Contravenes any term or condition subject to which any permit, certificate or pass has been issued to him or her under this Act;
- (b) contravenes any other provision of this Act or of any lawful order or direction made or given under this Act, commits an offence and where no other penalty is provided is liable on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding two years or both.

## **THE EMPLOYMENT ACT OF 2006**

An Act to revise and consolidate the laws governing individual employment relationships, and to provide for other connected matters.

### **OFFENCES UNDER THE EMPLOYMENT ACT, 2006**

Some wildlife traffickers are engaged in what seems to be legal businesses. (E.g. furniture workshops, shoe shops etc.) They have employed other people to help them in these businesses. In the course of going about their businesses, they may commit different crimes including those under the Employment Act of 2006 that include -

## **Section 5. Forced labour**

- (1) No person shall use or assist any other person, in using forced or compulsory labour.

## **Section 15. Obstruction of officers**

A person commits an offence where he or she-

- (a) Willfully delays or obstructs any labour officer in the exercise of any power, duty or function under this Act; or
- (b) fails to comply with any reasonable directions, order, requirement, request, demand or inquiry of a labour officer, made or given in pursuance of any power conferred upon the labour officer by this Act; or
- (c) Conceals or otherwise prevents or attempts to conceal any person from appearing before, or being examined by a labour officer.

## **Section 16. Criminal offences**

- (1) A person who records or causes to be recorded wrong, inaccurate or deficient information in an employee's records of service, whether retained by the employer or communicated to a labour officer, with an intention to defraud the employee or the employer or any public authority, or who acts so as to conceal such fraudulent acts, commits an offence.
- (2) It is an offence for an employer or employee to fail, without justifiable cause to reply to a labour officer's written request for information within a period of fourteen days from the time that request was received by the employer or the employee as the case may be.
- (3) Where a court imposes a fine under this section, the court may order part of or all of the fine to be paid to an employee or employer, as the case may be, who has suffered loss as a consequence of the commission of the offence.

## **Section 95. Criminal liability**

Nothing in this Act and no imposition of a disciplinary penalty for a breach of the Disciplinary Code shall exempt any person from being proceeded against, convicted or punished for a criminal offence.

## **Section 96. Penalties**

- (1) A person who contravenes a provision of this Act, for which no penalty is expressly provided is liable, on conviction to a fine not exceeding twenty four currency points and on a second or subsequent conviction for the same offence, is liable to a fine not exceeding forty eight currency points or to imprisonment for a term not exceeding two years, or to both.
- (2) Where an employer acts in contravention of any provision of this Act not specifically designated as an offence, a labour officer may caution him or her in writing against repeating or continuing such behaviour and if, having received a written caution, the employer repeats the infringement in respect of which a caution, has been given, he or she commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or to imprisonment not exceeding one year or to both.
- (3) Where an employer already convicted under subsection (2) commits a subsequent offence against the same provision of the Act, the employer is liable to a fine not exceeding forty-eight currency points or to imprisonment for a term not exceeding two years or to both.
- (4) Where a court imposes a fine it may under this Act, it may direct that the fine, when recovered, or such part of it as the court thinks fit, shall be applied to compensate any employer, employee or other person for any wrong done.







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