

STATE OF SABAH

PARKS ENACTMENT 1984 (Sabah No. 6 of 1984)

LIST OF AMENDMENTS

<i>Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
2/1987	54	16-4-1987
7/1996	2 (definitions of “animal”, “protected plant”, “vegetation”), 3, 17(1), 25(1), 41(1), 45(2), 46(1), (4), (5), (7), 47(1), (2), (3), (4), (6), (7), 48, 51(1), 54, 56(1), (2), 58(1), 59(1), 60A, Sch.	25-7-1996
10/2002		21-11-2002
2/2007	2 (definition of “animal”, “declaration”, “land”) 12, 23, 45 (2), 48 (1), 51 (1) (c), 54, 55 (1), 59 (1), (f), (g)	1-7-2008

An Enactment to repeal and re-enact the law relating to the provision and control of National Parks and National Reserves in Sabah and to provide for matters incidental thereto and connected therewith so as to make better provisions respecting the constitution, administration, procedure, functions and finance of Parks.

[15 March 1984]

ENACTED by the Legislature of the State of Sabah as follows:

PART I
PRELIMINARY

Short title.

1. This Enactment may be cited as the Parks Enactment 1984.

Interpretation.

2. In this Enactment unless the context otherwise requires —

“animal” means any mammal, reptile, insect, bird, fish, crustacean, coral (whether living or dead) any vertebrate or invertebrate animal living in aquatic and terrestrial environment;

“authority” means the Board, or the Director or any Park Officer authorised by the Director in that behalf;

“Board” means the Board of Trustees constituted under the provisions of section 24;

“boat” includes vessels of all sizes, motorized or non motorized, powered mechanically, manually or by sail, which is used for the purpose of recreation, transporting goods or passengers, fishing or dredging on water;

“building” includes any house, hut, shelter, platform, wall, fence, gate, bridge or any other constructed structure;

“Collector” shall have the same meaning as in the Land Ordinance [Cap. 68.];

“commercial timber” shall have the same meaning in Schedule I of the Forest Rules 1969 of the Forest Enactment 1968;

“coral” refers to the living polyps and/or the external skeleton, hard calcareous or soft, dead or alive, individually or in colony;

“declaration” means a declaration of land as a Park or Nature Reserves under section 13;

“Director” means the Director of Parks appointed under section 41;

“Fund” means the Park Fund established under section 46;

“harvest” means to gather, collect, take, pick, uproot, cut down, lop, prune any plant either in whole or part of it, or any cutting thereof;

“Honorary Park Ranger or Honorary Park Warden” means any person, other than a park officer, appointed by the Director under section 41A;

“hunt” and “hunting” means the doing of any act immediately directed at the killing, wounding, injuring, disturbing, collecting, taking or capture of any wild animal including eggs and young ones, and the following of any animal of its lair;

“land” means the State land as defined in the Land Ordinance [Cap. 68.] and any other land granted or leased to the Board for the purpose of a Park or Nature Reserve and includes the territorial waters of the State and the seabed beneath;

“logged-over area” means any area where commercial species as defined in Schedule I of the Forest Rules 1969 of the Forest Enactment 1968 had been logged over leaving behind the non-commercial trees;

“mineral” means all rock, stone gravel, sand, soil and coral other than mineral oil, minerals or mineral substances which are subject to the provisions of the Mining Ordinance 1960 [Ord. No. 20/1960.];

“Minister” means the minister for the time being responsible for matters relating to Parks;

“notification of intention” means a notification published under sections 3 and 18;

“Parks” means any area of land constituted as a Park under the provisions of Part II;

“Nature Reserves” means any area of land constituted as a Nature Reserve under the provisions of Part II. It also means an area of land having a minimum size of 2,500 acres but does not qualify for one or more characteristics to be a Park under the international definition;

“Park Officer” means any person appointed under section 41(1) (b);

“person” includes an individual, and a body of persons, corporate or unincorporated;

“poison” includes any chemical or any organic substance which cause harm, deterioration, temporary or permanent loss of senses, unconsciousness loss of ability to move or death to any living animal, human being or plant;

“protected plant” means any plant specified in the Schedule;

“thing” means any log, tractor, lorry, logging truck, machinery and any other equipment believed to have been used in the commission of an offence;

“tree” in section 48(1) means any woody plant with a diameter of 30 centimeters and above, measured at 140 centimeters above ground, or when felled, measured 30 centimeters at the large end of the trunk;

“trophy” means any animal alive or dead, and any bone, claw, shell, carapace, plastron, feather, hair, hoof, horn, ivory, beak, skin, tooth, tusk, egg or other durable portion whatsoever of any animal, whether processed or not which is readily recognised as a durable portion of any animal;

“Trustee” means a person appointed as a Trustee under section 25;

“vegetation” means any vegetable matter living or dead including, but not restricted to, trees, aquatic plants (sea grass, sea weed and marine algae), creepers, logs, rattan, bamboo’s, stems, roots, wood, leaves, flowers, saps, latex, fruits, seeds, mushrooms, nuts or any product of the above.

PART II
ESTABLISHMENT OF PARKS AND NATURE RESERVES

Power to constitute Park or Nature Reserve.

3. The Yang di-Pertua Negeri may, with the advice of the Minister, by notification in the *Gazette*, declare his intention to constitute any land as a Park or Nature Reserve and such notification shall —

- (a) specify as nearly as possible the situation and extent of such land; and
- (b) declare that it is proposed to constitute such land a Park or Nature Reserve.

Lapse of notification of intention.

4. A notification of intention shall lapse at the end of such period as shall in each case be specified therein:

Provided that the Yang di-Pertua Negeri may by notice in the *Gazette* extend the operation of any notification of intention from time to time for such further period or periods as he may think fit.

Alienation of land, new buildings and cultivation prohibited after publication of notice.

5. During the interval between the publication of a notification of intention (such notification not having lapsed as provided in section 4) and the date fixed by the notification declaring a Park or Nature Reserve as in section 13, no land shall be alienated under the provisions of the Land Ordinance [*Cap. 68.*], no new house shall be built or plantation formed and no fresh clearing for a cultivation or for any other purpose shall be made and no hunting shall take place on or in any land mentioned in such notice:

Provided that the Minister may, with the recommendation of the Director, in his discretion authorise in writing the doing of any act which would otherwise be prohibited under this section.

Publication of notice.

6. At any time after the publication of a notification of intention, the District Officer or Collector of the district in which the land concerned is situated, shall publish in convenient places on such land, and elsewhere as he may deem expedient, a notice in Bahasa Malaysia and English language and in such other languages as the Yang di-Pertua Negeri may in any particular case direct —

- (a) specifying as nearly as possible the situation and extent of the land proposed as a Park or Nature Reserve ;
- (b) setting forth the provisions in substance of section 7;
- (c) explaining the consequences which, as hereinafter provided, will ensue on the declaration of such Park or Nature Reserve;
- (d) fixing the period of not less than three months from the date of publication of such notice, and requiring every person, who has any objection to the proposal or who claims to exercise any right or privilege which is being or has been exercised in or over any part of such land, either to present to such District Officer or Collector within such period a written notice specifying or to appear before him within such period stating, the nature of such objection, right or privilege.

Inquiry by District Officer or Collector.

7. (1) The District Officer or Collector shall —
- (a) take down in writing all statements made in response to his requirement under paragraph (d) of section 6;
 - (b) inquire into all objections raised and claims made in response to such requirement;
 - (c) inquire into the propriety of maintaining any right or conceding any privilege in and over the land which is being or has been exercised but in respect of which no claim is made.

(2) For the purpose of any inquiry under this section, the District Officer or Collector may exercise the same powers as are vested in a Magistrate's Court for compelling the attendance of witnesses and the production of documents.

Submission of fact of inquiry to Yang di-Pertua Negeri.

8. After complying with the provisions of section 7, the District Officer or Collector shall with all convenient speed forward to the Yang di-Pertua Negeri a statement of particulars of all rights, privileges, objections and opinion; and the Yang di-Pertua Negeri, after considering the views of the District Officer or Collector and after such further inquiry as the Yang di-Pertua Negeri may think necessary, shall make an order conceding, modifying or disallowing the exercise of such rights and privileges and admitting or rejecting such objections either wholly or in part, as shall seem right to him.

Board to regulate mode of exercising right and privilege.

9. (1) Every order made under section 8 conceding any right or privilege within a proposed Park or Nature Reserve shall prescribe, as far as possible, the quantity and nature of such right or privilege, and the exercise of such right or privilege shall be subject to the control of the Board and to such directions as the Board may give to regulate the mode in which such right or privilege may be exercised.

(2) In the event of any dispute either party may appeal to the Minister whose decision shall be final.

Acquisition of alienated land for inclusion in Park or Nature Reserve.

10. If the Yang di-Pertua Negeri considers it expedient to include in a Park or Nature Reserve any land leased or granted to, or otherwise lawfully occupied by any person, he may cause such land to be acquired as for a public purpose under the provisions of the Land Acquisition Ordinance [*Cap. 69.*], and may thereafter include such land within the limits of the Park or Nature Reserve.

Abandonment of proposal to reserve.

11. (1) The Yang di-Pertua Negeri may at any time before the publication of a declaration under section 13, withdraw a proposal to constitute any land a Park or Nature Reserve.

(2) When a withdrawal is made under subsection (1) a notice shall be published by the District Officer or Collector concerned in the same places and in the same manner in which the notice under section 6 or section 10 was published, announcing that the proposed declaration has been withdrawn.

(3) On the publication of a notice under subsection (2), the provisions of section 5 shall cease to apply to such land.

Conversion of forest reserve, game sanctuary and bird sanctuary.

12. The Yang di-Pertua Negeri may, with the advice of the Cabinet by notice in the Gazette, declare his intention to convert any forest reserve, game sanctuary or bird sanctuary or any other reserve or sanctuary declared under any written law, in whole or in part, to be a Park or Nature Reserve and such notice shall specify as nearly as possible the situation and extent of area, and he may at any time before the publication of declaration under section 13 withdraw such notice.

Declaration of Park or Nature Reserve.

13. (1) When any of the following events has occurred namely —

(a) the period fixed under paragraph (d) of section 6 has lapsed and all objections and claims, if any, made within such period have been disposed of by the Yang di-Pertua Negeri;

(b) all land, if any, to be included in the area proposed for declaration which the Yang di-Pertua Negeri has under the provisions of section 10 elected to acquire under the Land Acquisition Ordinance [Cap. 69.] has been vested in the State;

(c) the notice under section 12 has been published and has not been

withdrawn,

the Yang di-Pertua Negeri may, by declaration in the *Gazette* specifying the land which it is intended to constitute a Park or Nature Reserve mentioning the rights and privileges conceded in respect of such land and stating the special conditions, if any, governing the declaration thereof, declare such land to be a Park or Nature Reserve from a date fixed by such declaration.

(2) From the date fixed by such declaration such land as is mentioned therein, together with all the produce thereof, and things found therein, shall be a Park or Nature Reserve subject only to the rights and privileges mentioned and any special conditions stated in such declaration.

(3) When any land which is within any local authority area is declared to be a Park or Nature Reserve, it shall thereupon cease to be part of the local authority area and section 107 of the Local Government Ordinance 1961 [*Ord. No. 11/1961*] shall have no application thereto.

(4) When any land which is a forest reserve, game sanctuary or bird sanctuary is declared to be a Park or Nature Reserve it shall thereupon cease to be a forest reserve, game sanctuary or bird sanctuary as the case may be.

(5) All land which is specified in a declaration shall, with effect from the date fixed by such declaration and by virtue thereof, vest in the Board for an estate in leasehold for a period of nine hundred and ninety-nine years free of all liabilities and encumbrances not mentioned in the declaration and without payment of any transfer duty, stamp duty, fee of office or other duty, tax or charge otherwise payable under written law in respect of any property or right and for the purposes of the law relating to the registration of title to the land such estate shall be deemed to have been granted under the provisions of such Land Ordinance [*Cap. 68.*].

(6) Any public officer or other person having a duty or power to make any entry in any register, or to issue any certificate, in respect of the transfer of any property or right shall, at the request in writing of the Board, make any such entry or issue any such certificate in favour of the Board as is necessary to give full force and effect to the provisions of subsection (5).

Concession, rescission and modification of rights, privileges and conditions.

14. The Yang di-Pertua Negeri may, by notification in the *Gazette* after such inquiry as he may deem necessary, rescind, modify or add to any right or privilege conceded or any condition governing the declaration of a Park or Nature Reserve and mentioned or stated in any such declaration.

Prohibition of transfer of rights and privileges.

15. Notwithstanding anything hereinbefore contained, no right or privilege conceded in a declaration shall be transferred by way of grant, sale, lease, charge or by way of inheritance, except with the authority of the Director of Lands and Surveys.

Acquisition of rights in a Park or Nature Reserve.

16. Subject to the provisions of this Enactment, no right of any description in respect of a Park or Nature Reserve or any part thereof or any produce therein shall be acquired except such as the Board, in the exercise of its powers under the provisions of this Enactment, may grant.

Constitution of Parks.

17. (1) There shall be constituted the following Parks —

	<i>Plan No.</i>
(a) Taman Kinabalu (75,370 ha.)	99197385
(b) Taman Tunku Abdul Rahman (4,929 ha.)	99197164 99197302
(c) Taman Pulau Penyu (1,740 ha.)	99197210
(d) Taman Pulau Tiga (15,864 ha.)	99197215

(e)	Taman Bukit Tawau (27,972 ha.)	99197280
(f)	Taman Banjaran Crocker (139, 919 ha.)	99194663
(g)	Taman Marin Tun Sakaran (35,000 ha.)	99197697

(2) The situation and extent of each Park are shown and delineated on Plan No. 99197388 deposited in the office of the Speaker of the Legislative Assembly, the Secretary of Natural Resources and the Director of Parks.

(3) The rights and privileges and conditions governing any of the Parks and existing at the time this Enactment comes into operation shall continue and shall be deemed to be conceded or stated as the case may be under section 8 and 13.

(4) The provisions of this Enactment shall apply to the Parks or Nature Reserves hereby constituted in the manner and to the same extent as Parks or Nature Reserves constituted under section 13.

Power to declare cessation of a Park or Nature Reserve.

18. The Yang di-Pertua Negeri may, with the advice of the Minister, by notification in the *Gazette*, declare his intention to rescind the constitution of a Park or Nature Reserve after a scientific research or investigation had been carried out to justify the degazettement of a portion or the whole of the said park or nature reserve or part thereof and such notification shall —

- (a) specify as nearly as possible the situation and extent of such land; and
- (b) declare that it is proposed that such land shall cease to be a Park or Nature Reserve.

Lapse of notification of intention.

19. A notification of intention shall lapse at the end of such period as shall in each case be specified therein:

Provided that the Yang di-Pertua Negeri may by notice in the *Gazette* extend the

operation of any notification of intention from time to time for such further period or periods as he may think fit.

Publication of notice.

20. At any time after the publication of a notification of intention, the District Officer or Collector of the district in which the land concerned is situated, shall publish in convenient places on such land, and elsewhere as he may deem expedient, a notice in Bahasa Malaysia and English language and in such other languages as the Yang di-Pertua Negeri may in any particular case direct —

- (a) specifying as nearly as possible the situation and extent of the land proposed to cease to be a Park or Nature Reserve;
- (b) setting forth the provisions in substance of section 21;
- (c) explaining the consequences which, as hereinafter provided, will ensue on the declaration that such land shall cease to be a Park or Nature Reserve;
- (d) fixing the period of not less than three months from the date of publication of such notice, and requiring every person who has any objection to the proposal either to present to such District Officer or Collector within such period a written notice specifying or to appear before him within such period stating the nature of such objection.

Inquiry by District Officer or Collector.

21. (1) The District Officer or Collector shall —

- (a) take down in writing all statements made in response to his requirement under paragraph (d) of section 20;
- (b) inquire into all objections raised in response to such requirement.

(2) For the purpose of any inquiry under this section, the District Officer or Collector may exercise the same powers as are vested in a Magistrate's Court for compelling the attendance of witnesses and the production of documents.

Submission of fact of inquiry to Yang di-Pertua Negeri.

22. After complying with the provisions of section 21, the District Officer or Collector shall with all convenient speed forward to the Yang di-Pertua Negeri a statement of particulars of all objections and opinion; and the Yang di-Pertua Negeri, after considering the views of the District Officer or Collector and after such further inquiry as the Yang di-Pertua Negeri may think necessary, shall make an order as shall seem right to him.

Power to declare cessation of a Park or Nature Reserves.

23. (1) The Yang di-Pertua Negeri, after consultation with the Board may, by notice in the *Gazette*, order that from a date to be fixed by such notice any Park or Nature Reserve or any portion thereof shall cease to be a Park or Nature Reserve.

(2) The Yang di-Pertua Negeri may give orders dealing with or in regard to the affairs of property of the Board as may be affected by or consequential on any order under subsection (1).

PART III

ESTABLISHMENT AND CONSTITUTION OF A BOARD OF TRUSTEES

Establishment of a Board of Trustees.

24. (1) As from the commencement of this Enactment there shall be constituted a Board to be called the Board of Trustees of the Sabah Parks which shall be a body corporate with perpetual succession, capable of suing and being sued in its corporate name and with power to purchase or otherwise acquire, hold and exchange or alienate or otherwise deal with in any lawful manner whatsoever, any property movable and immovable, and to enter into contracts and generally to do such acts and things as a body corporate may do by law and as are necessary for, or incidental to, the carrying out of its objects and the exercise of its powers as set out in this Enactment.

(2) The Board shall have a common seal which shall bear such device as the Board may approve and such seal may from time to time be broken, changed, altered and made anew by the Board as the Board may think fit.

Composition of Board.

25. (1) The Board shall consist of the following members —
- (a) a Chairman;
 - (b) a Deputy Chairman;
 - (c) three *ex-officio* members, who shall be persons for the time being holding the offices of the Permanent Secretary to the Ministry responsible for Parks, the Secretary of Natural Resources and the Permanent Secretary of the Ministry of Finance;
 - (d) four other members;
 - (e) the person for the time being holding the office of the Director:

Provided that the Director shall not be entitled to vote at the meeting of the Board.

(2) The members as specified in paragraph (a), (b) and (d) of subsection (1) shall be appointed by the Yang di-Pertua Negeri.

(3) An *ex-officio* member may by instrument in writing addressed to the Chairman appoint another officer in the public service of the State as an alternate member who may attend on his behalf any meeting of the Board which such member is for any reason unable to attend and such alternate member when attending such meeting shall for all purposes be deemed to be a member of the Board.

(4) Subject to the provisions of section 28 of this Enactment, a member other than an *ex-officio* member and the Director, shall hold office for a period of three years from the date of his appointment, and shall be eligible for reappointment.

Resignation and revocation.

26. (1) A member, other than an *ex-officio* member and the Director, may at any time

resign his office by giving notice in writing to the Chairman.

(2) The appointment of a member may at any time be revoked by the Yang di-Pertua Negeri if he thinks it expedient to do so.

Disqualification from membership.

27. The following persons shall be disqualified from being appointed as, or if appointed, remaining a member —

- (a) a person who is of unsound mind or otherwise incapable of performing his duties or managing his affairs;
- (b) a person who is prohibited from being a director of a company under the provisions of any written law relating to companies;
- (c) a person who has been convicted of any offence involving fraud, dishonesty or moral turpitude; and
- (d) a bankrupt.

Vacation of office.

28. The office of a member, other than an *ex-officio* member and the Director, shall become vacant —

- (a) on his death;
- (b) if he is absent from three consecutive meetings of the Board without the special leave of the Chairman or leave of absence granted under this Enactment and the Board passes a resolution declaring his office vacant;
- (c) if he resigns his office;
- (d) if he becomes disqualified for membership under section 27 of this Enactment;
- (e) if his appointment is revoked by the Yang di-Pertua Negeri.

Leave of absence.

29. The Minister may grant to any member such leave of absence as the Minister may deem fit.

Casual vacancies and temporary membership.

30. (1) If the office of a member, other than an *ex-officio* member and the Director, becomes vacant, the Yang di-Pertua Negeri may appoint another suitably qualified person to fill such vacancy for so long only as the member in whose place he is appointed would have held office.

(2) Where any member, other than an *ex-officio* member and the Director, is prevented by illness, absence from the State or other like cause from performing his duties as a member the Yang di-Pertua Negeri may appoint any suitably qualified person to act as deputy for such member during such period as he is so prevented from performing his duties.

Remuneration of members of Board.

31. There may be paid to the members, or to such of them as the Minister may determine, such salaries, fees and allowance out of the Fund as the Minister may from time to time approve.

PART IV
PROCEDURE OF BOARD

Meetings.

32. (1) The Board shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Chairman may determine:

Provided that the Chairman shall not allow more than three months to elapse between such meetings.

(2) Where not less than three members, by notice in writing signed by them and addressed to the Chairman, request that a meeting of the Board be held for any purpose

specified in such notice the Chairman shall, within seven days of the receipt by him of such notice, convene a meeting accordingly.

Procedure of meetings.

33. (1) The quorum necessary for the transaction of the business of the Board shall be five.

(2) In the absence of the Chairman from any meeting of the Board, the Deputy Chairman shall preside thereat and, in the absence of both the Chairman and the Deputy Chairman, the members present shall elect one of their number to preside thereat.

(3) Questions arising at any meeting of the Board, shall be decided by the votes of the majority of those present and voting thereon and in the case of an equality of votes the Chairman or other person presiding at such meeting shall have a second or casting vote.

(4) Subject to the provisions of this Part, the Board shall have powers to make standing orders to regulate its own proceedings.

Members interested not to vote.

34. (1) Any member who has or acquires, directly or indirectly by himself, his partner or agent —

(a) any share or interest in any contract made with or work done for the Board or in any company or with any person or in respect of any undertaking with which the Board proposes to contract; or

(b) any beneficial interest in land proposed to be acquired, purchased, leased or otherwise dealt with by the Board or which he knows to be affected or to be likely to be affected by any project, scheme or enterprise approved or proposed to be approved by the Board,

shall, before taking part in any proceedings at a meeting of the Board, relating to or affecting directly or indirectly any such contract or land, inform the person presiding at such meeting of the nature and extent of such share or interest, and such information shall be recorded in the minutes of such meeting, and such member shall not vote upon any resolution or question

relating thereto, or to matters incidental thereto and if the person presiding at the meeting so requests, such member shall withdraw from the meeting during such deliberation or decision:

Provided that no member shall be deemed to have or acquire any share or interest in a contract with the Board by reason only that he has or acquires a share in any loan issued by the Board or in any security for the same:

Provided further that for the purpose of determining whether there is a quorum a member who attends the meeting shall be treated as being present notwithstanding that, under the provisions of this section, he may not vote or has withdrawn.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine of one thousand ringgit and imprisonment for six months.

Power to appoint committee.

35. (1) Subject to the provisions of this Enactment, the Board may, for any general or special purpose, appoint such committees as it thinks desirable.

(2) A committee may do all such things as may be necessary for the effective carrying out of its functions but shall be subject to the general directions of the Board.

(3) A committee shall consist of a Chairman and not more than five other persons.

(4) A committee may consist of persons who are not members of the Board.

(5) Member of a committee may be paid such remuneration or allowance as the Board may, with the approval of the Minister, determine.

Meetings of a committee.

36. (1) In the absence of the Chairman of a committee from any meeting of the committee such other member of the committee as may be elected by the members present shall preside over the meeting.

(2) The quorum for the meeting of a committee shall be three.

(3) Any question to be determined at any meeting of a committee shall be decided by the votes of the majority of those present and voting thereon, in case of an equality of votes the person presiding shall have a second or casting vote.

(4) A committee may invite to any of its meeting any person who can in its opinion contribute to its deliberations but such a person shall have no right to vote at the meeting.

(5) Subject to this section and the directions of the Board, a committee shall regulate its own procedure.

Delegation of powers.

37. (1) The Board may delegate to any committee, officer or servant of the Board, such of its functions as it may deem necessary or desirable.

(2) Any functions delegated under this section —

(a) may be so delegated subject to such conditions or restrictions as the Board may either generally or specially impose;

(b) shall be exercised by the committee, member, officer or servant concerned in the name and on behalf of the Board.

(3) No delegation made under this section shall preclude the Board itself from exercising or performing at any time any of the functions so delegated.

Power of Chairman to delegate.

38. (1) Subject to the provisions of this Enactment and of any regulations made thereunder, the Chairman may delegate in writing to any member, officer or servant of the Board the power and authority to carry out on his behalf such duties, powers or functions as he may determine.

(2) The Chairman may at the time of delegating any power or authority under subsection (1) to any member, officer or servant, or at any time thereafter give directions as to the manner in which such delegated power or authority is to be exercised and may at any time revoke, modify or increase such delegation.

Execution of documents, etc..

39. (1) The common seal of the Board shall be in the custody of the Chairman and shall not be used except in the presence of the Chairman or Deputy Chairman and one member and such use shall be authenticated by the signatures of such persons and such authentication shall be sufficient evidence that such seal was duly and properly fixed and that it is the lawful seal of the Board.

(2) All documents, other than those required by law to be under seal, to which the Board is a party may be signed on behalf of the Board by the Chairman or any member or by any officer or servant generally or specially authorised in that behalf by the Board.

Vacancy not to invalidate acts, etc..

40. (1) No act or proceeding of the Board or any committee thereof shall be questioned on account of any vacancy among the members or on account of the appointment of any member having been defective.

(2) Until the contrary is proved every meeting of the Board or any committee thereof shall be deemed to have been duly convened and held and all members present thereat shall be deemed to have been duly qualified.

(3) A statement in any document to the effect that any function has been delegated under this Part shall, unless the contrary is proved, be evidence that such delegation has been lawfully made.

PART V
ADMINISTRATION

Appointment of Director, officers and servants.

41. (1) Subject to section 42, the Board shall appoint —

(a) a Director of Parks whose powers, duties and functions shall include —

(i) the administration of this Enactment and any other regulations and

- orders made thereunder;
- (ii) the responsibility for and the coordination of all activities relating to Parks and Nature Reserves;
 - (iii) undertaking surveys, investigation and studies for the establishment of new Parks and Nature Reserves;
 - (iv) recommending to the Minister and the Board policies and regulations for the protection of the interest of Parks and the execution of powers under this Enactment;
 - (v) promoting, conducting and coordinating research in relation to any aspect of Parks and/or Nature Reserves;
 - (vi) publishing an annual report on activities of Parks during the following year and any such other report and information with respect to any aspect of Parks and Nature Reserves;
 - (vii) undertaking investigations and inspection to ensure compliance with this Enactment or the regulations made hereunder and investigating complaints relating to breaches of this Enactment or regulations made hereunder;
 - (viii) providing information and education to the public regarding Parks and Nature Reserves;
 - (ix) reporting to the Minister upon matters concerning the protection and improvements of Parks and Nature Reserves and upon any amendment he considers desirable to any law affecting Parks and Nature Reserves;
 - (x) promoting, encouraging, coordinating and carrying out systematic planning in Parks and Nature Reserves; and
 - (xi) appointing officers and servants with the approval of the Board; and
- (b) any number of officers and servants as may be considered necessary for

the purposes of this Enactment.

(2) Whenever the Director is prevented by illness, absence from the State, or other like cause from performing his duties as such, or when the office of Director is vacant, the Board may appoint one of its officers to perform the duties of Director during such period as the Director is so prevented from performing his duties or the said office is vacant.

(3) Subject to the approval of the Government, the Director and other officers and servants of the Board shall be engaged on such terms and conditions as the Board may think fit.

Honorary Park Rangers or Honorary Park Wardens.

41A. (1) The Director may from time to time, appoint suitable persons to be Honorary Park Rangers or Honorary Park Wardens to assist in carrying into effect the provisions of this Enactment.

(2) The appointment of an Honorary Park Ranger or Honorary Park Wardens shall be –

(a) notified in the *Gazette*; and

(b) made for a period of three years and such appointments may if thought fit, be renewed by the Director.

(3) The Director shall specify the duties and responsibilities of Honorary Park Rangers or Honorary Park Wardens.

(4) The Director may pay Honorary Park Rangers or Honorary Park Wardens such honorarium as may be approved by the Board.

Restriction on alterations in establishment.

42. The Board shall not, without the approval of the Government, make any addition to its established posts.

Director as chief executive officer.

43. (1) The Director shall be the chief executive officer responsible to the Board and shall perform such duties and exercise such powers as may be determined or delegated by the Board.

(2) Subject to the directions and control of the Board, all officers and servants of the Board shall be under the administrative control of the Director who may delegate such of his duties and powers as he may determine.

Officer or servant not to be interested in contracts.

44. (1) No person shall be eligible for employment as an officer or servant of the Board who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, for or on behalf of the Board.

(2) Any officer or servant of the Board who has or acquires any such share or interest shall be liable in the discretion of the Board to summary dismissal without notice.

(3) No officer or servant shall be deemed to have or acquired any such share or interest by reason only that —

- (a) he is or becomes a member of an incorporated company which owns land situated in Sabah or has a contract with or executes work for the Board; or
- (b) he has or acquires a share in any loan, issued by the Board or in any security for the same.

PART VI
FUNCTIONS OF THE BOARD

Functions of the Board.

45. (1) The functions of the Board shall be —

- (a) to initiate, co-ordinate and control the activities in respect of all Parks or

Nature Reserves in Sabah;

- (b) to make recommendations to the Government as to the methods, measures and policies to be adopted to facilitate the development of the Parks or Nature Reserves and, where approved by Government, to implement and assist in the implementation of the same; and
- (c) to control, manage and administer the Fund.

(2) The Board, subject to the special conditions stated in the declaration, shall have power to do all things expedient or reasonably necessary or incidental to the discharge of its functions and in particular but without prejudice to the generality of the foregoing —

- (a) to provide and maintain adequate and efficient services and facilities at all Parks or Nature Reserves constituted under the provisions of this Enactment;
- (b) to promote the use, improvement and development of the Parks or Nature Reserves;
- (c) to take such steps as will ensure the security and well being of the animal and vegetation in a Park or Nature Reserve and the preservation of such Park or Nature Reserve, the natural features and the animal and vegetation therein in their natural state;
- (d) to reserve or set aside any portions of a Park or Nature Reserve as breeding places for animals and as nurseries for vegetation;
- (e) to provide such accommodation, amenities, facilities and services as are likely to attract visitors to the Parks or Nature Reserves and are not prejudicial to the proper care, control and management thereof;
- (f) to levy fees or to collect dues from persons utilizing the accommodations, amenities, facilities or services provided under this Enactment;
- (g) to carry out all activities, particularly for the development of commercial and industrial enterprises, the carrying on whereof appears to it to be requisite, advantageous or convenient for or in connection with the

discharges of its duty including the development of tourists accommodation and facilities, bio-prospecting, tree plantation, tissue culture and marketing of products, research and training; and

- (h) to promote the carrying on of any such activities bodies or persons and for that purpose to establish or expand or promote the establishment or expansion of other bodies to carry on any such activities either under the control or partial control of the Board, or independently, and to give assistance to such bodies or to other bodies or persons appearing to the Board to have facilities for the carrying on any of such activities, including financial assistance by taking up of share or loan capital or by loan or otherwise.

PART VII
FINANCIAL PROVISION

Parks Fund.

46. (1) There shall be established a Fund to be known as the "Parks Fund" which shall consist of such contributions or gifts or bequests of moneys as may be made thereto or any money raised or received by the Board in the exercise of its powers hereunder (including moneys paid for the compounding of offences and fees) and of such money as may be provided for by the Legislative Assembly, together with –

- (a) such additions or accumulations as may be made or accrue thereto;
- (b) any investment from time to time representing the same or any of them;
and
- (c) the interest and income derived from any such investment.

(2) Notwithstanding the provisions of subsection (1), it shall be lawful for the Board to accept gifts or bequests which do not consist of money but, unless such course is lawfully precluded by the terms of any such gifts or bequests, it shall be the duty of the Board to convert the same into money and to pay the same into the Fund.

(3) It shall be the duty of the Board in the absence of any lawful condition or

direction to the contrary to pay into the Fund all income derived from any property vested in it, whether forming part of the Fund or not, and any moneys derived from the sale of any property vested in the Board.

(4) Any moneys forming part of the Fund may, from time to time and as occasion requires, be invested by the Board in any form of investment authorised by law for the investment of trust funds in Sabah or Malaysia including the deposit of the same in the Government Treasury or in any bank or as the Minister of Finance may in his discretion from time to time approve, and the Board may from time to time, with the like approval, realize any investment and reinvest such proceeds or any part thereof.

(5) The Board may apply the income of the Fund for any of the purposes of this Enactment and, with the approval of the Minister of Finance, may apply for the like purpose any moneys forming part thereof or realized by the sale of any investment forming part thereof:

Provided that, in the case of any moneys provided for any specified purpose, such moneys shall be applied only in such manner as may be authorised by any trust condition, resolution or other method by which such provision is made.

(6) It is hereby declared that the expression "the purposes of this Enactment" shall include the discharge of any debt incurred by the Board in the discharge of its duties and the satisfaction of any claim made against the Board, whether in legal proceedings or otherwise.

(7) The duty to convert into money imposed by subsection (2) shall not apply to any animal or vegetation or to any property which the Minister of Finance, for any reason which he may deem sufficient, may authorise the Board to retain its original form.

Board to keep accounts, etc..

47. (1) The Board shall, before the first day of January in each year, cause to be prepared and submitted to the Minister of Finance for his approval detailed estimates of revenue and expenditure of the Fund for the ensuing year, and when approved such estimates shall be laid by the Minister of Finance before the Legislative Assembly.

(2) When additional financial provision is required during the course of any year, supplementary estimates thereof shall be submitted in the same manner for approval by the

Minister of Finance and shall be laid before the Legislative Assembly.

(3) The Board shall cause to be kept accurate accounts of all monies received into and disbursed from the Fund.

(4) The accounts of the Fund shall be examined and reported upon annually by the Auditor-General or such other auditor as the Minister of Finance may appoint, and the expenses of, and incidental to, the audit shall be paid by the Fund.

(5) The Board shall, when required by the auditor, produce and lay before him all books and accounts of the Fund with all vouchers in support thereof, and all books and writings in its possession or control relating thereto, and the auditors shall be entitled to require such information and explanation as he may deem necessary for the performance of his duties as auditor.

(6) As soon as may be after the close of each financial year, the Board shall cause to be prepared in such manner and containing such particulars as the Minister of Finance may from time to time require, a statement of the accounts of the Fund for such year and such statement shall be approved by the Board, signed by the Chairman, and submitted to the auditor of the Board who shall furnish a report thereon to the Board.

(7) Upon the receipt of the report of the auditor under subsection (6) the Board shall transmit it, together with the statement of accounts to which it relates and the report of the operations of the Board for that financial year concerned, to the Minister of Finance who shall publish the same in such manner as he may think fit and shall lay all such documents before the Legislative Assembly.

PART VIII

CONTROL OF PARKS OR NATURE RESERVES

Prohibition of certain acts except with permission of Board, etc..

48. (1) Without prejudice to any right or privilege lawfully acquired before the commencement of this Enactment and to the provisions of any law relating to mining or prospecting for minerals in any Park, no person, other than a person acting for or in accordance with the written permission of the Board, or the Director, or any Park Officer

authorised by the Director in that behalf, shall —

- (a) cut, fell, damage, remove, injure, destroy or set fire to any tree or protected plant in a Park or Nature Reserve; or
- (b) cut, damage, remove, injure, destroy or bomb any coral (whether living or dead) in a Park or Nature Reserve ; or
- (c) convey into a Park or Nature Reserve or, being within the confines thereof, be in possession of any weapon, explosive, trap, poison or noxious substance, boat, tractor, logging truck, heavy machineries or vehicles for moving logs or earth, chain saw, apparatus or tools for collecting specimen of plant or animal; or
- (d) within a Park or Nature Reserve, hunt, kill, injure, capture or disturb any animal other than coral (whether living or dead) or take or destroy any egg or nest; or
- (e) cut, damage, injure or destroy or set fire to any vegetation (other than trees and protected plants) or any object of geological, prehistorical, archaeological, historical or other scientific interest in a Park or Nature Reserve; or
- (f) introduce any animal, or permit or cause any domestic animal to enter or stray into a Park or Nature Reserve or introduce any vegetation into a Park or Nature Reserve; or
- (g) remove from a Park or Nature Reserve any animal or vegetation whether alive or dead; or
- (h) remove from a Park or Nature Reserve any mineral or object of geological, prehistorical, archaeological, historical or other scientific interest; or
- (i) destroy or deface any object, whether animate or inanimate, in a Park or Nature Reserve; or
- (j) erect or attempt to erect any building in a Park or Nature Reserve; or

- (k) clear or break up any land in a Park or Nature Reserve; or
- (l) damage, set fire or destroy any vegetation in a Park area or Nature Reserve as a result of any activity carried out from outside the Park area or Nature Reserve; or
- (m) spreads, discharge or causes the discharge of oil, chemical, poison, or other toxic or waste matters including solid waste capable of harming vegetation and/or animals in or adjacent to rivers, lakes and water in or flowing into a Park or Nature Reserve; or
- (n) obstructs or diverts any rivers, pools or other bodies of water in or flowing into a Park or Nature Reserve; or
- (o) recording or take any film or video recording or take still photographs for commercial purposes within the Park or Nature Reserve; or
- (p) enter any area of the Park or Nature Reserve except areas developed for public usage by the Park; or
- (q) carry out any research and/or collecting scientific or social and cultural data, with or without the collection of specimen of any sort.

(2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence and shall be liable, on conviction, in the case of an offence under paragraph (a) or (b) of subsection (1), to imprisonment for a term not exceeding five years, or to a fine not exceeding five hundred thousand ringgit, or both, and in the case of an offence under paragraph (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), or (q) of subsection (1), to imprisonment for a term not exceeding one year, or to a fine not exceeding fifty thousand ringgit, or both, and in the case of a second or subsequent offence, under paragraph (a) or (b) of subsection (1), to imprisonment for a term not exceeding seven years, or to a fine not exceeding seven hundred fifty thousand ringgit, or both, and in the case of an offence under paragraph (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), or (q) to imprisonment for a term not exceeding five years, or to a fine not exceeding one hundred thousand ringgit, or both.

(3) Any abetment of an offence under subsection (1) if convicted shall be punishable under subsection (2).

Power of Director.

49. Notwithstanding any other provisions of this Enactment, the Director or any Park Officer authorised by the Director may kill, capture or authorise the killing or capture of any animal in any part of any Park or Nature Reserve in any manner if he considers such killing or capture necessary in the interest of public safety, the protection of property, for scientific research, for the better preservation of the environment or other fauna, except that rhinoceros and orang utan may only be killed in the defence of human life.

Trophies deemed property of the Board.

50. (1) All trophies or vegetation found or taken within a Park or Nature Reserve shall be Park trophies or Park vegetation and the property of the Board.

(2) Any person who by any means, obtain possession of a Park trophy or Park vegetation shall forthwith make a report thereof to the nearest available Park Officer and shall if so required hand the trophy or Park vegetation over to such officer.

(3) Any person who —

(a) fails to make a report required by subsection (2) of this section; or

(b) is unlawfully in possession of or who unlawfully deals in any Park trophy or Park vegetation,

shall be guilty of an offence.

Power of inspection of Director, Trustee or Park Officer.

51. (1) If the Director or any Trustee or any Park Officer authorised by the Director in that behalf has reasonable grounds for believing that any person has committed an offence against this Enactment he may whether within or without the Park boundary —

(a) require such person to produce for inspection any animal, trophy, mineral

or vegetation in such person's possession, or any firearms or other weapon, trap, net, or other instrument, material or thing whatsoever in relation to or in connection with which an offence appears to the Director, such Trustee or Park Officer to have been committed or any permit required to be kept by such person under the provision of this Enactment;

- (b) enter and search, with or without assistance, any land, building, tent, vehicle or boat in the occupation or possession of such person and open and search any baggage or any other thing in the possession of such person:

Provided that no dwelling-house shall be entered without a warrant;

- (c) seize and detain any animal, trophy, mineral or vegetation which appears to the Director, such Trustee or such Park Officer to be the subject of an offence against this Enactment, or any vehicle, boat, firearms or other weapon, trap, net or instrument, material, note book, book, map, plan, report or any other document or thing whatsoever in relation to or in connection with which such offence appears to the Director, such Trustee or Park Officer to have been committed whether or not it is in the immediate possession of any person and if any apparent means of hunting cannot be removed from its locations, it may be rendered inoperative by the Director such Trustee or Park Officer.

(2) Where any property is seized or detained under subsection (1) of this section the person making the seizure or detention not being the Director shall forthwith report such seizure to the Director and deliver such seizure of the same to the Director or Park Officer authorised in writing by the Director.

(3) All things seized under this Enactment shall be liable to forfeiture, such seized items shall be delivered to the Director or any authorised officer.

(4) Where anything seized cannot for practical reason be produced before a Magistrate, such thing seized shall be kept in the custody of the Director, until a direction is given by the Magistrate.

(5) The Director or Park Officer authorised in writing by the Director shall forthwith –

- (a) except where the seizure is made in the presence of the owner, his agent or servant, as the case may be, give notice in writing of such seizure and the grounds thereof to the owner of such thing –
 - (i) if known, either by delivering such notice to him personally or by post at his place of abode or last known address; or
 - (ii) if unknown, by publishing such notice in any manner as he thinks fit.

(6) An order for forfeiture or for the release of anything liable to forfeiture under this Enactment shall be made by the Court before which the prosecution has been held.

(7) An order for forfeiture of the thing seized believed to have been used in the commission of the offence shall be made by the Court upon prove that an offence has been committed.

(8) If there is no prosecution with regard to anything seized under this Enactment, such thing shall be taken and deemed to be forfeited at the expiration of one calendar month from the date the seizure is published in the local newspaper unless a claim is made within one month of the publication.

(9) On receipt of such claim under subsection (8) the Director shall refer the claim to a Magistrate for his decision.

(10) The Magistrate to whom such reference is made under subsection (9) shall –

- (i) issue a summons requiring the person asserting that he is the owner of the thing seized to appear before him and shall proceed to hear the enquiry under the provision of this Enactment. If the claim is dismissed the Court shall return the thing seized to the Director for disposal.
- (ii) the Director upon receipt of the Court order shall dispose off such thing seized by way of sale. Proceeds from the sale shall be deposited in the Parks Fund; or
- (iii) if upon due service of such summons being proved the person failed to

attend court, the Magistrate shall proceed to dispose off the thing seized to the Director without any further enquiry.

(11) Notwithstanding anything in this section, if anything seized under this Enactment is subject to speedy and natural decay or deterioration, the Director or any authorised Officer may disposed off the seized items in a manner he deems fit. If the disposal is by way of sale the proceeds of such a sale, shall be deposited in the Parks Fund until the final determination of the case.

No costs, damages etc. on seizure.

51A. No person shall in any proceedings before any court in respect of the seizure of anything seized in the exercise or purported exercise of the powers conferred under this Enactment be entitled to costs or to any damages or other relief other than an order for the return of such thing or the payment of their value unless such seizure was made *mala fide*.

Power of arrest.

52. The Director or any Park Officer authorised by the Director in that behalf may arrest without warrant any person reasonably suspected of committing any offence against this Enactment or regulation made hereunder and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law:

Provided that no person shall be arrested or detained without warrant unless reasonable grounds exist for believing that, except by the arrest of such person, he could not be found or made answerable to justice without undue delay, trouble or expense.

Offence.

53. (1) Any person who —

- (a) hunts, or is found in circumstances showing that it is his intention to hunt, any animal or bird or disturbs or removes the nest or eggs of any animal or bird in a Park or Nature Reserve; or
- (b) collects any vegetation or any mineral or is found in circumstances showing that it is his intention to collect vegetation or minerals in a Park or

Nature Reserve; or

- (c) without reasonable excuse, fails to produce anything which he may be required to produce under the powers conferred by section 51; or
- (d) resists, threatens or obstructs the Director, any Trustee or Park Officer in the performance of their duties,

shall be guilty of an offence.

(2) The Director or any Park Officer authorised by the Director in that behalf may stop and detain any person whom he sees doing an act for which a permit is required under the provisions of this Enactment for the purpose of requiring such person to produce such permit, and if such person fails to produce such permit he shall be guilty of an offence.

Power to prosecute.

54. Any person authorised in writing by the Public Prosecutor pursuant to section 377 of the Criminal Procedure Code may conduct prosecuting for offences under this Enactment or the rules made thereunder.

Forfeiture and disqualification.

55. (1) Where any person is convicted of an offence against this Enactment, or, in default of a conviction, where no person has within one months of a seizure of anything mentioned in paragraph (c) of section 51 of this Enactment appeared to answer a charge preferred against him in relation thereto, a court may order that any animal, meat, trophy, vehicle, boat, machinery, tool, firearm or other weapon, trap, net or other instrument, material or thing whatsoever in relation to or in connection with which the offence has been committed shall be forfeited to and become the property of the Board.

(2) Any conviction of the holder of any licence or permit issued under this Enactment for any offence against the provisions of this Enactment shall, unless the Court otherwise directs, have the effect of cancelling any such licence or permit with effect from the date of such conviction.

(3) Where any person is convicted of a second or subsequent offence against this

Enactment the Court may direct that such person be disqualified from holding any licence or permit for a period not exceeding three years from the date of such conviction, and any person who whilst so disqualified obtains or attempts to obtain any licence or permit shall be guilty of an offence.

(4) Where any person is convicted of an offence against this Enactment in respect of any pitfall, game pit or similar excavation or any device fixed to the ground which such person has made for the purpose of hunting, the Court may, in addition to or in lieu of any other punishment, order that such pitfall, game pit, excavation or device shall be destroyed or obliterated in such manner as the Court may specify, and any expenditure incurred on account of such order shall be recoverable from such person as a civil debt.

Power of Director to compound offences.

56. (1) The Director or any Park Officer duly authorised by him in writing in that behalf may in his discretion compound any offence against this Enactment except an offence for contravening section 48(1)(a) or 48(1)(b) or against any regulation made thereunder, by collecting from the person reasonably suspected of having committed the same, a sum not exceeding three thousand ringgit as the Director or the Park Officer may determine.

(2) The Director or any Park Officer duly authorised by the Director in writing making an offer of composition of any offence may require the payment of the sum so determined to be made forthwith or specify a period within which the payment is to be made as he may deem reasonable and on such payment being made shall give a receipt to the person making such payment and shall pay such sum into the Fund.

(3) The payment forthwith, or within such period as the Director or any Park Officer duly authorised by the Director may specify, of the sum so determined shall operate as a bar to any or any further penal proceeding in respect of such offence, in respect of which such composition was offered against the person making such payment.

(4) No offence against this Enactment or against any regulation made thereunder in respect of which a prosecution is actually pending shall be compounded under this section otherwise than with the consent of the Court before which such prosecution is pending.

(5) Any abetment of any offence against this Enactment or against any regulation

made thereunder or any attempt to commit such offence (when such attempt is itself an offence) may be compounded in accordance with subsections (1), (2), (3) and (4) of this section.

PART IX
GENERAL

Protection against legal proceedings.

57. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any Trustee or against any officer or servant appointed by the Board in respect of any act done or statement made *bona fide* in pursuance or execution or intended execution of this Enactment.

(2) Where a person is exempted from liability by reason only of the provision of this section the Board is liable to the extent that it would be if such person were a servant or agent of the Board.

Penalties.

58. (1) Any person guilty of an offence under this Enactment for which no other penalty is provided shall be liable, on conviction, in the case of a first offence, to imprisonment not exceeding one year and to a fine not exceeding twenty thousand ringgit, or both, and, in the case of a second or subsequent offence, to imprisonment not exceeding two years and to a fine not exceeding forty thousand ringgit, or both.

(2) Any domestic animal found within a Park or Nature Reserve, except a domestic animal in the lawful possession or custody of an officer or servant of the Board or introduced into a Park or Nature Reserve in accordance with the provisions of this Enactment may be destroyed.

(3) Any vegetation introduced into a Park or Nature Reserve in contravention of the provisions of this Enactment may, by order of the Board, or the Director, be destroyed.

Protection and Reward of Informers.

58A. (1) The identification of an informer under this Enactment shall not be disclosed in any Court proceeding.

(2) No information received from an informer under this Enactment shall be admitted in evidence in any civil or criminal proceeding whatsoever, and no witness shall be obliged or permitted to disclose the name or address of any informer, or state any matter which might lead to his discovery.

(3) If any book, document or paper which is in evidence or liable to inspection in any civil or criminal proceeding whatsoever contains any entry in which any informer is named or described or which might lead to his discovery, the Court before which the proceeding is held shall cause all such passages to be concealed from view or to be obliterated so far as is necessary to protect the informer from discovery, but no further.

(4) The Director may order such reward as he may deem fit to be paid to any informer for services rendered in connection with any offence or seizure made under this Enactment.

Right of Director and Park Officer to Enter and Pass Through Land.

58B. The Director or any Park Officer may enter into or pass through any private land with or without workmen and equipment for the purpose of administration of this Enactment.

Endangering Park Area or Nature Reserve Area by Fire.

58C. It is an offence for any person who kindle, keep or carry any fire, or leave any fire burning outside or within a Park area or Nature Reserve in such a manner as to endanger Park area or Nature Reserve area or any Park produce therein and if found guilty shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand ringgit or to both.

Evidence and Presumption.

58D. (1) Any person found to be in possession of any animal, meat or animal product from a freshly killed animal within a Park area or Nature Reserve shall be presumed to have

poached such animal.

(2) If any person is found in possession of any animal, meat or animal product from a freshly killed animal outside the Park area or Nature Reserve, but is within reasonable distance outside the Park area or Nature Reserve, it shall be presumed that such animal, meat or animal product came from the Park area or Nature Reserve unless the contrary is proven.

(3) If a person is found in possession of any protected plant within a Park area or Nature Reserve, he shall be presumed, until the contrary is proven, that he harvested such protected plants within the Park area or Nature Reserve.

(4) If any person is found in possession of any Park trophy or Park vegetation, he shall be presumed, until the contrary is proven, to have obtained the Park trophy or Park vegetation and harvested such vegetation from within a Park area or Nature Reserve.

(5) Where any animal, animal product or vegetation is found in any vehicle or boat, any person who is in any way associated with such vehicle or boat, except a vehicle or boat which at the relevant time is being used as a carrier for members of the public and not for hire or charter, shall be presumed, until the contrary is proven, to be in custody and control of the animal, animal product or vegetation.

(6) Any person who is found in a Park or Nature Reserve doing an act which requires a permit under this Enactment shall be presumed, until the contrary is proven, to have done such an act without permit.

(7) Location plotted on a map from coordinates recorded on land or sea with the use of Global Positioning System equipment or any other scientific instrument to measure coordinates is presumed to be, until the contrary is proven, the correct location.

(8) Any person who builds an access road or trail inside a Park area or Nature Reserve shall be deemed to have encroached upon and trespassed in a Park area or Nature Reserve.

(9) If any type of tool or equipment used for the purpose of poaching or collecting any type of vegetation is found inside a Park area or Nature Reserve, the person whose land is adjacent to the park area or Nature Reserve is presumed to have conveyed such tool or

equipment unless the contrary is proved.

(10) If any commercial timber is found in a logged-over area it shall be deemed that the commercial timber is derived from the Park area or Nature Reserve, unless the contrary is proven.

(11) If any tree from a Park area or Nature Reserve is found to have been felled and is found in the custody or control of any person whose land is adjacent to the Park area or Nature Reserve, it shall be presumed that the felled timber comes from the Park area or Nature Reserve unless the contrary is proven.

(12) For the purpose of the above said provisions such thing found in the license area or logged-over area or in the alienated land, shall be deemed to have been used for the purpose of illegal felling in the Park area or Nature Reserve, unless the contrary is proven.

Power of the Board to make regulations.

59. (1) The Board may, with the approval of the Minister, make regulations generally for carrying out the provisions of this Enactment and, in particular but without prejudice to the generality of the foregoing such regulations may provide for —

- (a) the powers and duties of the Director, the Park or Nature Reserve servants and agents appointed by the Board in regard to —
 - (i) the exclusion of members of the public from a Park or Nature Reserve, or any part thereof;
 - (ii) the killing, capturing or impounding of any animal within a Park or Nature Reserve;
 - (iii) the burning and cutting of vegetation within a Park or Nature Reserve; and
 - (iv) the disposal of animal, vegetation, mineral or other products of the Park or Nature Reserve;
- (b) the conditions subject to which permission to enter a Park or Nature Reserve may be granted, and the periods or times during which a Park or

Nature Reserve or any part thereof shall be open to the public;

- (c) the conditions under which the services or attendance of officers or servants of the Board or the services or attendance of any person licensed by the Board, may be obtained by any person entering, passing through or sojourning within a Park or Nature Reserve and the fees to be paid in respect of such services or attendance;
- (d) the fees to be paid for permission to enter or reside in a Park or Nature Reserve for the admission of vehicles or boats and for photography and cinematography within a Park or Nature Reserve, or for any other purpose connected with the use and enjoyment of a Park or Nature Reserve;
- (e) the protection and preservation of a Park or Nature Reserve and the animal and vegetation and property therein;
- (f) the regulation of traffic in and over a Park or Nature Reserve, the carriage of passengers, goods and weapons in a Park or Nature Reserve and the points by which the persons may enter, and the route by which they may pass through or over a Park or Nature Reserve; and
- (g) any matter which under this Enactment is required or permitted to be prescribed or which is necessary or expedient to be prescribed to give effect to this Enactment.

(2) Any regulations made under subsection (1) may provide that any breach thereof shall be an offence and may prescribe for any such breach a fine not exceeding fifteen thousand ringgit.

Power of Minister to give directions.

60. (1) The Minister may give to the Board such directions not inconsistent with the provisions of the Enactment as he may deem fit as to the exercise and performance by the Board of its powers, duties and functions under the Enactment and the Board shall give effect to all such directions.

(2) The Board shall furnish the Minister with such informations with respect to its

property and the activities as he may from time to time require.

Amendment of Schedule.

60A. The Minister may, by order published in the *Gazette*, amend, add to or revoke the Schedule.

Repeal and saving.

61. The National Parks Enactment 1977 [*En. No. 13/1977.*] is hereby repealed:

Provided that the National Parks Fund established shall be deemed to be the Parks Fund and any appointment made under the Enactment hereby repealed shall be deemed to be an appointment under this Enactment and shall continue to have effect unless and until revoked, cancelled or otherwise annulled in accordance with the provisions of this Enactment and that anything done or omitted to be done under any power or duty vested or placed upon any person under the Enactment hereby repealed and not having been completed shall be deemed to have been done or omitted under this Enactment and may be continued thereunder unless such thing shall be prohibited or disallowed by or contrary to the provisions of this Enactment.

SCHEDULE
(Section 2)

1. All species of *Rafflesia* spp.
2. *Nepenthes rajah*.
3. *Nepenthes villosa*.
4. *Nepenthes burbidgeae*.
5. *Nepenthes edwardsiana*.
6. *Nepenthes lowii*.
7. All species of *Paphiopedilum* spp.
8. *Aquilaria* spp. (Gaharu)