

REPUBLIC OF NAMIBIA

NATIONAL ASSEMBLY

**CONTROLLED WILDLIFE
PRODUCTS AND TRADE
AMENDMENT BILL**

(As read a First Time)

(Introduced by the Minister of Environment and Tourism)

EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

BILL

To amend the Controlled Wildlife Products and Trade Act, 2008, so as to increase the penalties for offences; and to provide for incidental matters.

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Amendment of section 1 of Act No. 9 of 2008

1. Section 4 of the Controlled Wildlife Products and Trade Act, 2008 (in this Act referred to as the “principal Act”) is amended by the insertion after the definition of “staff member” of the following definition -

“support” means aiding, abetting, inciting, inducing, instigating, instructing or commanding any other person to commit an offence under this Act;”.

Amendment of section 4 of Act

2. Section 4 of the principal Act is amended by -

(a) the addition of the following paragraph after paragraph (e) of subsection (1):

“(f) provides support associated with the commissioning of the acts mentioned in paragraphs (a) to (e);”;

(b) the substitution for subsection (2) of the following subsection:

“(2) A person who has contravened subsection (1) is -

(a) if he or she has only possessed the product as contemplated in subsection (1)(a), on conviction liable to a fine not exceeding [N\$20 000] N\$15 000 000 or imprisonment for a period not exceeding [five] 15 years, or to both such fine and such imprisonment; or

(b) if he or she has performed any action referred to in subsection (1)(b), (1)(c), (1)(d) or (1)(e), on conviction liable to a fine not exceeding [N\$200 000] N\$25 000 000 or to imprisonment for a period not exceeding [20] 25 years, or to both such fine and such imprisonment,

but if such person has been previously convicted of an offence referred to in paragraph (a) or (b), he or she is liable to a fine not exceeding N\$50 000 000 or to imprisonment for a period not exceeding 40 years, or to both such fine or such imprisonment.”; and

- (c) the addition after subsection (2) of the following subsection:

“(2A) Despite any law to the contrary -

- (a) a court that convicts a foreign national under this Act must by order declare the foreign national a prohibited immigrant; and
- (b) after the foreign national contemplated in paragraph (a) has -
 - (i) served his or her period of imprisonment;
 - (ii) paid a fine; or
 - (iii) paid and served both such fine and such period of imprisonment,

the Minister responsible for immigration must forthwith deport the foreign national in terms of the Immigration Control Act, 1993 (Act No. 7 of 1993).”.

Amendment of Section 8 of Act

3. Section 8 of the Principal Act is amended by the substitution for subsection (1) of the following subsection -

“(1) Subject to subsection (2) the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) and the Prevention of Organised Crime Act, 2004 (Act No. 29 of 2004), relating to the seizure and the forfeiture to the State of a thing relating to an offence, by a police officer or peace officer including provisions relating to the forfeiture, handling and storage of anything seized under that Act, as well as the provisions relating to rights of third parties when anything is declared forfeited, is applicable to anything seized under this Act and a reference in that Act to a peace officer or police officer is construed as a reference to an inspector.”.

Amendment of Section 9 of Act

4. Section 9 of the principal Act is amended by the substitution for subsection (2) of the following subsection -

“(2) Regulations made under subsection (1) may create offences with a penalty that does not exceed a fine of [N\$8 000] N\$100 000 or [two] 10 years imprisonment or both such fine and such imprisonment.”.

Amendment of Schedule 1

5. Schedule 1 of the principal Act is amended by the substitution for paragraph 1 of the following paragraph -

“1. Subject to paragraph 2 and 3 no person may possess, manufacture any object from, deal in, import into, or export from Namibia any tusk, horn, head, ear, trunk, skin, tail or foot or any part thereof, of any elephant or rhinoceros, or any part of any species or other specimen mentioned in Appendix I or Schedule 3 of the Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975) unless the action in question is authorised by a permit.”.

Short title

6. This Act is called the Controlled Wildlife Products and Trade Amendment Act, 2017.
