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Islamic Republic of Afghanistan

Environment Act

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CHAPTER ONE: GENERAL PROVISIONS

Article 1. *Rationale*

This Act has been promulgated to give effect to Article 15 of the Constitution of Afghanistan and provide for the management of issues relating to rehabilitation of the environment and the conservation and sustainable use of natural resources, living organisms and non-living organisms.

Article 2. *Purpose*

The primary purposes of this Act are to:

- (1) improve livelihoods and protect the health of humans, fauna and flora;
- (2) maintain ecological functions and evolutionary processes;
- (3) secure the needs and interests of present and future generations;
- (4) conserve natural and cultural heritage;
- (5) facilitate the reconstruction and sustainable development of the national economy.

Article 3. *Implementing agency*

The National Environmental Protection Agency, as an independent institutional entity, is responsible for coordinating and monitoring conservation and rehabilitation of the environment, and for implementing this Act.

Article 4. *Definitions*

The following expressions shall have the meanings hereby assigned to them.

1. “**adverse effect**” means any actual or potential effect on the environment that may in the present or in the future harm the environment or human health or that may lead to an impairment of the ability of people and communities to provide for their health, safety, and cultural and economic well-being.
2. “**affected persons**” means any natural or legal person who may be impacted positively or negatively by the implementation of a project, plan, policy or activity.

3. “**alien species**” means a species that does not occur naturally in Afghanistan.
4. “**best practicable environmental option**” means the best method for preventing or minimising adverse effects on the environment, having regard to, among other things:
 - the nature of the discharge and the sensitivity of the receiving environment to adverse effects;
 - the financial implications, and the effect on the environment, of that option when compared with other options;
 - the current state of technical knowledge and the likelihood that the option can be successfully applied.
5. “**biological diversity**” means the variability among living organisms from all sources including terrestrial and aquatic ecosystems and the ecological complexes of which they are a part, which includes diversity within species and between plants, trees and living organisms within ecosystems.
6. “**clinical waste**” means any waste produced by hospitals, clinics, nursing homes, doctor's offices, medical laboratories, medical research facilities and veterinarians which is infectious or potentially infectious.
7. “**discharge**” means the emission, deposit, disposal or introduction into the environment of a pollutant directly or indirectly from any point or non-point source, whether stationary or mobile and whether caused or permitted intentionally or unintentionally.
8. “**ecosystem**” means a dynamic complex of plant, fungi, animal and micro-organism communities and their non-living environment interacting as a functional unit.
9. “**endemic species**” means a species which occurs naturally in the wild only in Afghanistan, or a species which only breeds in the wild in Afghanistan.
10. “**environment**” means natural resources, interactions between the components of natural resources and between those components and humans or animals, and physical, aesthetic and cultural qualities that may affect the health and well-being of humans.
11. “**ex-situ conservation**” means the conservation of components of biological diversity outside their natural habitats.
12. “**favourable conservation status**” means that:
 - the species is maintaining itself on a long-term basis as a viable component of its ecosystem;
 - the distribution of the species is neither currently being reduced, nor is likely to be reduced, on a long-term basis;

- availability exists of sufficient habitat to maintain the population of the species on a long-term basis;
- the distribution and abundance of the species to the extent consistent with wise wildlife management;

13. “**unfavourable conservation status**” means that any of these conditions set forth in paragraph 12 of this sub-article are not met.

14. “**genetic resource**” means any material of plant, animal, microbial or other origin containing functional units of heredity of actual or potential value.

15. “**harvestable species**” means a species that may be taken for commercial, sport, hunting or subsistence purposes.

16. “**hazardous substance**” includes any pesticide, herbicide or other biocide, radioactive substance, chemical or other substance that alone or in combination with any other thing, is harmful to the health of living organisms.

17. “**hazardous waste**” means clinical waste and waste containing hazardous substances.

18. “**in-situ conservation**” means the conservation of ecosystems and natural habitats and the maintenance and recovery of species in their natural surroundings.

19. “**living organism**” means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids.

20. “**living modified organism**” means any living organism that possesses a novel combination of genetic material obtained through the use of modern technology.

21. “**natural resource**” means all components of ecosystems including land, water and atmosphere and includes all the populations, parts and genetic resources of flora, fauna and other living organisms as well as mineral and other non-living components that occur in them.

22. “**pollutant**” includes any substance, solid, liquid, gas, micro-organism, noise, vibration, heat, radiation, light or other energy, or thing, or combination of them that has or has the potential to have an adverse effect, and any thing deemed to be a pollutant under the provisions of this Act.

23. “**pollution**” means any direct or indirect alteration of the physical, thermal, chemical or biological properties of the environment caused by the discharge of hazardous substances or pollutants and which adversely affects any beneficial use or causes a contravention of any condition, limitation, or restriction to which an authorisation under this Act is subject.

24. “**protected area**” means a geographically defined area which is designated and regulated to achieve specific conservation objectives.

25. “**sustainable management**” means management of the use of natural resources to provide for the health, safety and social, cultural and economic well-being of people and communities taking into account the following:

- safeguarding the life-supporting capacity of natural resources and ecosystems;
- ensuring the maintenance of the life-supporting capacity and quality of natural resources and ecosystems to meet the reasonably foreseeable needs of future generations;
- avoiding the creation of adverse effects and, where adverse effects cannot be avoided, mitigates and remedies adverse effects.

26. “**taking**” means the hunting, killing, injuring, capturing, collecting, picking, uprooting, digging up, cutting, destruction or removal of any species of fauna or flora.

27. “**waste**” means any substance or thing that the holder discards or disposes of, or intends or is required to discard or dispose of, irrespective of its value to any person, and any substance or thing discarded in a public place or on vacant land not designated for such purposes.

28. “**water resource**” includes surface water, an aquifer, a river or spring, a natural channel in which water flows regularly or intermittently, and a wetland, lake or dam into which, or from which, water flows.

29. “**wildlife**” means plant, fungi, and animal species occurring within natural ecosystems and habitats with no, or only limited, human influence in their existence and reproduction.

30. “**person**” includes and natural and legal persons.

31. “**public body**” means an organisation that exercises public functions and includes the United Nations, the World Bank, the Asian Development Bank and bilateral donor agencies.

32. “**integrated environmental management**” means the application of tools that ensure the identification of likely adverse effects of human activity on the environment, identification of options for mitigating such effects, and strengthening the fundamental principles set out in Article 5 of this Act.

33. “**environmental impact assessment**” means the procedures used for evaluating the likely adverse or positive environmental and social impacts of proposed projects, plans, policies or activities in order to improve the quality and development impact of such projects by identifying ways of improving project selection, siting, planning, design and implementation.

34. “**integrated pollution control**” means the holistic system aimed at pollution prevention and minimisation at source, managing the impact of pollution and waste on the receiving environment and remediation of damaged and polluted environments.

35. “**specimen**” means any living or non-living specimen of flora or fauna.

36. “**trade**” means export, re-export or import.

37. “**licence**” means a formal written document issued to applicants by the National Environmental Protection Agency in relation to pollution control, waste management, hazardous wastes and other similar such activities regulated by this Act.

38. “**permit**” means a formal written document issued for the implementation of a project, plan or activity, the taking of a species mentioned in Article 50, the export of alien species, the re-introduction of indigenous species, the export of endangered species, and access to genetic resources granted to applicants in accordance with the provisions of this Act.

39. “**strict nature reserve**” means a natural area without permanent or significant habitation managed to conserve the natural condition of outstanding or representative ecosystems, geological or physiological features or species, retaining their main features, natural character and influence, and available primarily for scientific research or environmental monitoring, or large areas of unmodified or slightly modified land.

40. “**national park**” means a natural area managed mainly for ecosystem conservation and recreation purposes.

41. “**natural monument**” means an area managed mainly for conservation of specific features, and contains one or more specific natural or natural/ cultural features which are of outstanding or unique value because of their inherent rarity, representative or aesthetic qualities or cultural significance.

42. “**habitat/ species management area**” means an area managed mainly for conservation through management intervention designed to ensure the maintenance of habitats and to meet the requirements of specific species.

43. “**protected landscape**” means an area of land managed mainly for landscape conservation and recreation where the interaction of people and nature over time has produced an area of distinct character with significant aesthetic, cultural or ecological value, and often with high biological diversity, the integrity of which needs to be protected and maintained in order to allow it to continue to evolve.

44. “**managed resource protected area**” means an area containing predominantly unmodified natural systems managed mainly for the sustainable use of natural ecosystems and to ensure long-term protection and maintenance of biological diversity, while providing at the same time a sustainable flow of natural products and services to meet community needs.

Article 5. *Fundamental Principles*

1. In achieving the purpose of this Act, the following fundamental principles shall be applied.

- (6) Nature as a whole warrants value and respect. The integrity of the Earth's ecological systems shall be maintained and restored. All forms of life are unique and are to be safeguarded independent of their value to humanity.
- (7) All elements of environment must be regulated, taking into account the principles of international law, the dictates of the public conscience and the fundamental values of humanity.
- (8) Peace, sustainable development, environmental protection, conservation, and respect for human rights and fundamental freedoms are interdependent.
- (9) The present generation should ensure that the health, diversity and productivity of the environment is maintained for the benefit of future generations.
- (10) The right to development must be fulfilled in a sustainable manner so as to meet developmental and environmental needs of present and future generations.
- (11) Adverse effects should be prevented and minimised through long-term integrated cross-sectoral planning and the coordination of government and non-government bodies.
- (12) Taking preventative measures to maintain and protect the environment is better than endeavouring to remedy or compensate for such harm.
- (13) Where irreversible adverse effects are likely to occur, a lack of scientific certainty shall not prevent or impair the implementation of precautionary measures to protect the environment.
- (14) The eradication of poverty is indispensable for sustainable development. Enhancing the quality of life and reducing disparities in standards of living are essential to a just society.
- (15) Persons who cause adverse effects, especially pollution, must bear the social and environmental costs of avoiding, mitigating and/ or remedying those adverse effects.
- (16) All members of society, including women, ethnic minorities and nomadic pastoralists, have a vital role to play in environmental conservation and management as it is recognized that such members of society have valuable contributions to make and that the conservation and rehabilitation of the environment contributes to their cultural, social and economic needs.
- (17) Local communities should be involved in decision-making processes and planning efforts regarding sustainable natural resource management and conservation and rehabilitation of the environment, where and when possible.

- (18) Where there are environmental issues of a regional or transboundary nature, the Islamic Republic of Afghanistan shall cooperate with other States to resolve these issues.

2. The following persons shall be bound by the principles listed in sub-article 1:

- (19) any person exercising powers or functions or making decisions under this Act;
- (20) any person exploiting natural resources for material gain;
- (21) any person exercising a public function or any other persons required to create or implement a policy, plan, guideline, procedure or legislation that is likely to affect the management of the natural resources of Afghanistan or the conservation and rehabilitation of its environment.

Article 6. *Rights and duties of the State*

The Islamic Republic of Afghanistan:

- (22) has sovereign rights over all biological and other natural resources in areas within the limits of its national jurisdiction;
- (23) is responsible for conserving the natural resources of the country and for using those resources in a sustainable manner, pursuant to the provisions of this Act;
- (24) has the duty, for the welfare of people, both present and future, to adopt and implement programmes aimed at maintaining and re-establishing essential ecological processes and natural resources, conserving and rehabilitating the environment, preventing and controlling pollution and ensuring that the benefits of the use of genetic resources are shared equitably;
- (25) has the duty to provide the public with information and opportunities to participate in making decisions affecting human health, the environment, and natural resources.

Article 7. *Rights and duties of persons*

Every person, pursuant to this Act, shall have the following rights and duties:

- (26) legally use natural resources in accordance with customary traditions and practices which encourage community-based sustainable natural resource management;
- (27) create and legally register civil society organizations which advocate sustainable management of natural resources and conservation and rehabilitation of the environment;
- (28) have access to information held by the State which relates to the implementation of this Act and any other law affecting or threatening the environment, now or in the future, provided that:

- the request is not unreasonable or formulated in too general a manner;
 - the information sought is not commercially confidential;
 - the granting of the information sought would not further endanger the protection of the environment;
 - the granting of the information would not endanger a person's right to personal privacy;
- (29) participate in meetings, demonstrations, protests, marches and referenda relating to sustainable use of natural resources and conservation and rehabilitation of the environment pursuant to this Act;
- (30) address for consideration to the Government of the Islamic Republic of Afghanistan and public bodies letters, complaints, declarations and proposals concerning sustainable use of natural resources and conservation and rehabilitation of the environment;
- (31) participate in environmental impact assessment processes;
- (32) refuse to undertake any work that would result in an imminent and serious threat to the environment or to human health;
- (33) appeal any decision made under this Act in terms of Articles 19 and 77 of this Act.

2. Every person must comply with the spirit and letter of this Act and any other law which seeks to encourage and regulate sustainable use of natural resources and conservation and rehabilitation of the environment.

Article 8. *Duty of care*

1. Every person who causes pollution of the environment must take reasonable measures to prevent such pollution continuing or recurring, or, if such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, such person must take measures to minimise and rectify such pollution or degradation of the environment.

2. Observance of the duty of care referred to in sub-article 1 does not automatically absolve any person who commits an offence in terms of any other Article of this Act from liability for that offence.

CHAPTER TWO: FUNCTIONS AND POWERS OF NATIONAL ENVIRONMENTAL PROTECTION AGENCY

Article 9. *Functions The National Environmental Protection Agency*

The National Environmental Protection Agency shall carry out the following functions:

- (34) maintain environmental integrity and promote the sustainable use of natural resources;
- (35) promote conservation and rehabilitation of the environment;
- (36) coordinate environmental affairs at the international, national and local levels;
- (37) develop and implement national environmental policies and strategies in order to integrate environmental issues and sustainable development approaches into the legal and regulatory frameworks;
- (38) provide environmental management services in the areas of environmental impact assessment, air and water quality management, waste management, pollution control, and permitting of related activities;
- (39) establish communication and outreach for environmental information to ensure improved awareness of environmental issues;
- (40) implement bilateral or multilateral environmental agreements to which Afghanistan is a Party;
- (41) implement the Convention on the Illegal Trade in Endangered Species of Fauna and Flora (CITES);
- (43) in cooperation with relevant ministries and public bodies and on a periodic basis, gather information, including baseline data, on national environmental conditions and on the changes affecting the environment, publish such information and assessment reports and evaluate and utilise it in environmental management and planning;
- (44) promote and manage the Islamic Republic of Afghanistan's accession to and ratification of bilateral and multilateral environmental agreements;
- (45) coordinate the preparation and implementation of a national programme for environmental monitoring and effectively utilise the data provided by that programme;
- (46) prepare every two years in relation to urban areas and every five years in relation to rural areas a State of the Environment report for the Islamic Republic of Afghanistan for submission to the President's Office;
- (47) prepare an interim State of the Environment report on emerging issues relevant to the environment in Afghanistan not less than every two years;
- (48) within a period of three years of promulgation of this Act, develop a national environmental action plan, which assesses the urgency and importance of actions that should be taken in the short, medium and long-term in order to prevent, eliminate and reduce adverse effects as described in the most recent State of the Environment report, and, in consultation with relevant ministries and institutions, determines a coordinated strategy and schedule for the implementation of those actions;
- (49) periodically compile and publish reports on significant environmental indicators;
- (50) on an annual basis, compile and publish a report that details the authorisations granted and activities undertaken by the National Environmental Protection Agency;
- (51) assess the effectiveness of the implementation of the Act and any regulations made under it in improving the sustainability of the use and management of natural resources and the effectiveness of measures for conservation and rehabilitation of the environment;

- (52) develop and implement plans for environmental training, environmental education and environmental awareness-raising in cooperation with relevant ministries and public bodies;
- (55) actively coordinate and cooperate with ministries, Provincial Councils and District and Village Councils, public bodies and the private sector on all issues related to sustainable use of natural resources and conservation and rehabilitation of the environment;
- (57) fulfil any other functions that may be assigned by the Council of Ministers.

Article 10. *Powers of the Director-General*

The Director-General of the National Environmental Protection Agency shall have the following powers:

- (58) **negotiate and enter into any agreement on behalf of the State relating to conservation and rehabilitation of the environment in accordance with this Act;**
- (59) **make regulations and issue directions for the implementation of the agreements referred to in sub-article 1 and agreements already entered into;**
- (60) **make regulations dealing with any matter which under the Act must be dealt with by regulation;**
- (61) **develop standards, criteria, codes of practice, guidelines and procedures relating to sustainable use of natural resources and conservation and rehabilitation of the environment in accordance with this Act;**
- (63) **propose and institute measures for the effective implementation of this Act, both alone and, where necessary, in cooperation with other ministries, Provincial Councils and District and Village Councils, public bodies, the private sector, civil society organisations and members of the public;**
- (65) **delegate in writing a power, function or duty vested in him or her under this Act to the holder of an office in the National Environmental Protection Agency;**
- (66) **monitor the implementation of the purposes of this Act and, in cases of non-compliance, address the matter in question through legal action;**
- (67) **hear any appeal lodged in accordance with Article 20 and Article 78 of this Act.**

Article 11. *Powers and duties of the Deputy Executive*

In regard to any application for a permit or licence under this Act, the National Environmental Protection Agency's Deputy Executive shall have the following powers:

- (70) refer applications to relevant committees for their consideration;
- (71) request further information from applicants;
- (72) issue, with or without conditions, authorisations in terms of this Act;
- (73) refuse to issue the authorisation, provided that written reasons for the decision are furnished to the applicant;
- (74) suspend, alter or revoke an authorisation issued in terms of this Act;
- (75) appoint inspectors in accordance with this Act;
- (76) exercise any power delegated to him or her by the Director-General.

Article 12. *Committee for Environmental Coordination*

1. The Committee for Environmental Coordination is hereby established in order to promote the integration and coordination of environmental issues and the fundamental principles set out in this Act. The Committee will be composed of representatives of all relevant ministries, national institutions, Provincial Councils and District and Village Councils, and civil society organisations.

2. The members of the Committee shall be appointed by the President on the recommendation of **the** Director-General of the **National Environmental Protection Agency**.

3. The functions of the Committee shall include the following:

- (77) mainstreaming environmental issues into the Government's national development framework;
- (78) coordinating existing and new activities in the environment sector;
- (79) identifying and coordinating technical assistance and other donor support that will assist the Government in addressing environment issues and priority needs;
- (80) investigating and making recommendations regarding the assignment and delegation of functions between relevant government institutions under this Act or any other law affecting the environment and regarding the practical working arrangements, including memoranda of understanding, between the relevant government institutions represented by members;

- (81) investigating and recommending the establishment of mechanisms for coordination of applications for permits, licences and similar authorisations required for activities under legal provisions concerned with the protection of the environment;
 - (82) making recommendations regarding the harmonisation of the environmental functions of all relevant ministries Provincial Councils and District and Village Councils national institutions and non-governmental organisations;
 - (83) making recommendations to coordinate environmental activities including cooperation on environmental impact assessment procedures;
 - (84) making recommendations aimed at securing compliance with the fundamental principles set out in Article 5 of this Act and national environmental norms and standards.
4. The Committee may co-opt persons to assist it in carrying out its functions and may invite persons to attend its meetings and to assist it in carrying out its functions.
 5. The Committee may establish *ad hoc* and permanent subcommittees to assist the Committee in the performance of its functions.
 6. The meeting procedures for the Committee shall be determined in regulations.

Article 13. *National Environmental Advisory Council*

1. The National Environmental Advisory Council is hereby established in order to advise **the National Environmental Protection Agency** on financial matters (including budgets and annual accounts), regulatory matters (including the development of policy, procedures and legislation) and environmental matters that are of national public importance.
2. The composition of the Council, which shall meet once a year, will be determined by the Director-General and may include governors, chairpersons of Provincial Councils and District and Village Councils, Islamic scholars and tribal elders.
3. **The Committee members shall be appointed by the President on the recommendation of the National Environmental Protection Agency and Director-General.**

Article 14. *Subnational Environmental Advisory Councils*

1. **Subnational Environmental Advisory Councils are hereby established in every province to make recommendations regarding financial matters,**

including budgets and annual accounts, and environmental issues that are of local public importance.

2. The Subnational Environmental Advisory Councils shall be composed of the provincial chairpersons, district chairpersons, sub-governors, Islamic scholars and tribal elders in each respective province and shall meet at least every six months under the chairpersonship of the governor of the relevant province.

3. The Councils shall report to the National Environmental Protection Agency on their activities.

CHAPTER THREE: MANAGEMENT OF ACTIVITIES AFFECTING THE ENVIRONMENT

Article 15. *Prohibited activities*

1. No person may undertake an activity or implement a project, plan or policy that is likely to have a significant adverse effect on the environment unless the provisions of Article 18 of this Act have been complied with.

2. No ministry or national authority may grant an authorisation for the execution of an activity or implementation of a project, plan or policy that is likely to have a significant adverse effect on the environment unless the provisions of Article 18 of this Act have been complied with.

Article 16. *Preliminary Assessment*

1. A person proposing to undertake a project, plan, policy or activity referred to in Article 15 of this Act shall submit to the National Environmental Protection Agency sufficient information to allow the National Environmental Protection Agency to determine the potential adverse effects and positive impacts of the project, plan, policy or activity, and the alternative means of carrying out the project, plan, policy or activity, on the environment.

2. After reviewing the brief and acting on the advice of the EIA Board of Experts established in terms of Article 22, the National Environmental Protection Agency may authorise the project, plan, policy or activity, with or without conditions, provided that the potential adverse effects of the project, plan, policy or activity on the environment are unlikely to be significant. If the National Environmental Protection Agency considers that the potential adverse effects on the environment are likely to be significant, require the proponent to submit to the National Environmental Protection Agency as prescribed an environmental impact statement or a comprehensive mitigation plan in accordance with this Act.

Article 18. Comprehensive mitigation plan

A comprehensive mitigation plan shall include:

- (85) a description of the mitigation measures that will be implemented in order to prevent, reduce or otherwise manage the environmental impacts of a project, plan, policy or activity;
- (86) how these measures will be implemented;
- (87) any other information prescribed by the National Environmental Protection Agency.

Article 19. Approval Procedure

1. If the National Environmental Protection Agency, acting on the advice of the EIA Board of Experts, considers that all the environmental impacts and concerns are adequately addressed by the environmental impact statement, the final record of opinion or the comprehensive mitigation plan, it shall grant a permit for the project, plan, policy or activity subject to whatever terms and conditions the National Environmental Protection Agency, acting on the advice of the EIA Board of Experts, considers appropriate to ensure that the significant adverse effects of the project, plan, policy or activity are effectively avoided, mitigated and remedied.

2. The National Environmental Protection Agency shall refuse to grant a permit in respect of a project, plan, policy or activity if the National Environmental Protection Agency, acting on the advice of the EIA Board of Experts, considers that the implementation of the project would bring about unacceptable significant adverse effects or that the mitigation measures may be inadequate to satisfactorily mitigate the significant adverse effects of the proposed project, plan, policy or activity, provided that the National Environmental Protection Agency must provide written reasons for the refusal.

3. The National Environmental Protection Agency may withdraw a permit granted if the proponent fails to comply with any of the terms and conditions to which the permit is subject.

4. A permit granted will lapse in the event that the proponent fails to undertake the activity or implement the project, plan or policy for which the permit was granted within three years of the date of which the permit was granted.

Article 20. Appeal procedure

1. Any person may within thirty (30) days of the granting or refusal of a permit, appeal the decision to the Director-General of the National Environmental Protection Agency.

2. The Director-General of the National Environmental Protection Agency shall review the appeal application and thereafter make an appropriate decision. Should the appellant wish to appeal the Director-General's final decision, the matter shall be referred to the relevant court.

Article 21. *Costs borne by proponent*

The costs incurred in preparing a preliminary assessment, an environmental impact statement, a final record of opinion or a comprehensive mitigation plan shall be borne by the proponent of the project, plan, policy or activity.

Article 22. *Public participation*

1. Affected persons may express their opinion on the proposed project, plan, policy or activity, the preliminary assessment, the environmental impact statement, the final record of opinion and the comprehensive mitigation plan, before the approval of the project, plan, policy or activity, and the proponent must demonstrate to the National Environmental Protection Agency that affected persons have had meaningful opportunities, through independent consultation and participation in public hearings, to express their opinions on these matters on a timely basis.

2. In regard to a proposed project, plan, policy or activity that is likely to have highly significant adverse effects on the environment, affected persons must be allowed the opportunity to participate at each of the phases referred to in sub-article 1 by the National Environmental Protection Agency and relevant institutions.

3. The National Environmental Protection Agency shall not reach a decision on any application for a permit until such time that the proponent has demonstrated to the satisfaction of the National Environmental Protection Agency that the proponent has distributed copies of the document to affected persons, informed the public that the document is being made available for public review by advertising the document and displaying a copy of it for inspection, and convened and recorded the proceedings of a public hearing.

4. After the National Environmental Protection Agency has reviewed the conditions set forth in sub-article 3, the National Environmental Protection Agency shall reach a decision and inform the public of that decision and make available any relevant documentation or information for public review.

Article 23. *EIA Board of Experts*

1. The National Environmental Protection Agency shall appoint an EIA Board of Experts to review, assess and consider applications and documents submitted by proponents for obtaining permits and make technical recommendations in regard to whether to issue permits, as well as the conditions that should be attached to any permit that is granted.

2. The EIA Board of Experts shall be composed of not more than eight appropriately technically qualified members.

3. On an application-by-application basis, the Director-General of the National Environmental Protection Agency may appoint not more than four additional appropriately technically qualified temporary members.

Article 24. *Interim environmental impact assessment measures*

A proponent of any project, plan, policy or activity that is likely to have a significant adverse affect on the environment shall apply international best environmental impact assessment practices in regard to such activities, in coordination with the National Environmental Protection Agency.

Article 26. *Regulations*

The National Environmental Protection Agency may make regulations and procedures for the improved administration of environmental impact assessments that prescribe:

- (88) categories of projects, plans, policies or activities that are deemed to have a significant adverse effect on the environment;
- (89) categories of projects, plans, policies or activities that are deemed not to have a significant adverse effect on the environment;
- (90) the participation generally of members of the public in the decision-making process;
- (91) the information to be included in a preliminary assessment, an environmental impact statement, a final record of opinion and a comprehensive mitigation plan;
- (92) administration fees for the costs of dealing with applications for permits;
- (94) any other matter necessary for the effective implementation of this Chapter.

Article 27. *Integrating environmental issues into development planning*

Planning for sustainable use, rehabilitation and conservation of biological diversity, forests, rangeland and other natural resources, prevention and control of pollution, and conservation and rehabilitation of the environment from adverse effects shall be an obligatory element of all national and local land use plans and natural resource management plans developed by all relevant ministries and national institutions.

Article 28. *Economic incentives and disincentives*

The National Environmental Protection Agency, in cooperation with the Ministry of Finance, relevant institutions and Provincial Councils and District and Village Councils, shall develop and implement measures providing for:

- (95) appropriate economic incentives to encourage prevention and control of pollution, and protection of the environment from adverse effects;
- (96) appropriate economic disincentives for engaging in activities which do not encourage sustainable use of natural resources, conservation of biological diversity, prevention and control of pollution, and protection of the environment from adverse effects, or leads to the use of technologies that are not environmentally sound;
- (97) the identification and amendment of policies and other measures which encourage unsustainable use of natural resources.

Article 29. *Valuation of natural resources*

The Ministry of Finance shall, in consultation and coordination with relevant ministries, specify in regulations the principles and methods to be used in assessing the value of natural resources, which principles and methods must take account of both market and non-market natural resource goods and services. (98) The results of valuation of natural resources and biological diversity shall be used to determine:

- (99) penalties and fines to be levied for unsustainable use of natural resources or other violations of this Act;
- (100) estimates of the costs and benefit associated with natural resources to be included in economic and development planning, appraisals and environmental impact assessments;
- (101) requirements and levels for environmental deposits and bonds, and performance-related deposits and bonds to prevent adverse effects;
- (102) compensation;
- (103) other cases as may be specified by the Ministry of Finance in consultation with the National Environmental Protection Agency and relevant ministries.

Article 30. *Allocation of financial resources*

Ministries and national institutions shall request the allocation of appropriate financial resources for implementation and enforcement of the provisions of this Act from the development and operational budgets, which requests shall be processed in accordance with relevant financial laws and regulations.

CHAPTER FOUR: INTEGRATED POLLUTION CONTROL

Article 31. *Prohibition against discharges*

1. Unless in possession of and in compliance with a valid pollution control licence issued in terms of Article 30, no person may discharge or cause or permit the discharge of a pollutant into the environment, whether land, air or water, if that discharge causes, or is likely to cause, a significant adverse effect on the environment or human health.
2. The granting of a licence in terms of Article 30 of this Act does not affect the applicant's duty to obtain any other authorisation required in order to undertake the activity or implement the project concerned, whether in terms of this Act or any other legislation
3. A person who discharges pollutants shall take all reasonable measures to ensure that the best practicable environmental option is adopted in relation to the discharge or emission and conservation of the environment.

Article 32. *Pollution control licences*

1. The national Environmental Protection Agency shall evaluate each application for a pollution control licence and shall do the following:
 - (104) grant a licence, with or without conditions, provided that the discharge of the pollutant that is the subject of the licence will not have significant adverse effects or that the likely significant adverse effects have been adequately mitigated; or
 - (105) refuse to grant a licence giving reasons for the refusal in writing to the applicant.
2. Provided that all necessary and relevant information required to make a decision was furnished at the time the application was lodged, the National Environmental Protection Agency must reach a decision in regard to sub-article 1 within thirty (30) days of the date of lodging of the application for a licence with the National Environmental Protection Agency.
3. Provided that reasonable grounds exist to do so, the National Environmental Protection Agency may amend, revoke or impose new conditions in a pollution control licence.
4. The period of validity of a pollution control licence may not exceed five years.

Article 33. *Reporting and containing discharges*

1. A person who discharges or causes or permits the discharge of a pollutant into the environment in a manner or amount that is unlawful or is likely to cause a significant adverse effect must immediately notify the National Environmental Protection Agency and at that person's own cost, take all practicable steps to contain the discharge and to avoid, mitigate

and remedy the adverse effects resulting from the discharge to the reasonable satisfaction of the National Environmental Protection Agency.

2. Any other person who becomes aware of a discharge referred to in sub-article 1 must also immediately notify the National Environmental Protection Agency of that discharge.

Article 34. Regulations

The National Environmental Protection Agency may make regulations and develop procedures as deemed necessary for the promotion of integrated pollution prevention and control.

Article 35. General prohibition and duty of care in relation to waste management

1. No person may collect, transport, sort, recover, store, dispose of or otherwise manage waste in a manner that results in a significant adverse effect.
2. Every person who imports, produces, collects, recovers, transports, keeps, treats or disposes of waste shall take all reasonable measures to prevent a significant adverse effect on the environment from occurring.
3. The owner or occupier of every premises upon which hazardous waste is produced shall ensure that all hazardous waste is separated from other waste, and is stored in separate containers pending disposal, in accordance with the requirements of the National Environmental Protection Agency as set out in regulations, published guidelines or licence conditions.
4. A person shall not dispose of waste in such a manner that it becomes litter or is likely to become litter.

Article 36. Waste management licences

1. Unless in possession of a valid waste management licence issued by the National Environmental Protection Agency, no person may construct, own or operate a landfill site, incinerator or other facility at which waste is permanently disposed of or is stored indefinitely.
2. The National Environmental Protection Agency shall evaluate each application for a licence and shall do the following:
 - (106) grant a licence if the National Environmental Protection Agency is satisfied that the applicant has sufficient expertise to undertake the activity in question in accordance with the law and in a manner that will not have significant adverse effects; or
 - (107) refuse to grant a licence giving reasons for the refusal in writing to the applicant.
3. The National Environmental Protection Agency shall reach a decision in regard to sub-article 2 within thirty (30) days of the date of lodging of the application for a licence with the National Environmental Protection Agency.

4. If there are reasonable grounds to do so, and those grounds are communicated to the licence holder in writing, the National Environmental Protection Agency may amend, revoke or impose new conditions in an existing waste management licence.

Article 37. ***Hazardous waste management licences***

1. Every owner or occupier of any land or premises on which hazardous waste is kept, treated or disposed of shall make a written application to the National Environmental Protection Agency for a hazardous waste management licence, which shall at least include details of:

- (108) the chemical composition, nature and volume of the waste which is being, or will be, produced;
- (109) the industrial process, trade or activity giving rise to the waste;
- (110) the way in which the applicant proposes to keep, treat or dispose of the hazardous waste, including storage and handling procedures;
- (111) the precautions which will be taken to avoid any adverse effects on the environment being caused by the hazardous waste.

2. The National Environmental Protection Agency shall evaluate each application for a licence under this Article in the following manner:

- (112) grant a hazardous waste management licence, with or without conditions, if satisfied that the proposed method of keeping, treating and disposing of the hazardous waste will not cause any adverse effects; or
- (113) refuse to grant a licence giving reasons for the refusal in writing to the applicant.

3. The National Environmental Protection Agency must reach a decision in regard to sub-article 2 within thirty (30) days of the date of lodging of the application for a licence.

4. The National Environmental Protection Agency may amend, alter or revoke a hazardous waste management licence or impose additional conditions if the National Environmental Protection Agency considers that the amendments are necessary to avoid or mitigate any adverse effects.

5. A hazardous waste management licence shall remain in effect for a maximum period of five years, provided that the holder of the licence shall notify the National Environmental Protection Agency of any significant change in the volume or nature of the waste during the licence period and upon such notification the National Environmental Protection Agency may alter the licence as necessary to ensure that the waste is kept, treated, and disposed of without causing any adverse effects.

Article 38. *Import, export and trade in waste*

No person shall import, export, transit or trade in waste without the written authorisation of the National Environmental Protection Agency.

CHAPTER FIVE: ENVIRONMENTAL CONSIDERATIONS RELEVANT TO WATER RESOURCE CONSERVATION AND MANAGEMENT**Article 39. *Management of water resources***

1. All persons, for the purpose of protection, conservation, development, use, control and management of water resources, must take into account the following:

- (114) protecting aquatic and associated ecosystems and their biological diversity;
- (115) reducing and preventing pollution and degradation of water resources.

2. When preparing water resource management plans, ministries and other national institutions shall at least take the following into account:

- (118) provisions for integrated watershed management;
- (119) regulation of sustainable abstraction of groundwater;
- (120) regulation of the use of surface water for agricultural, industrial, mining, and urban purposes;
- (121) measures to protect human health and ecosystems;
- (122) measures to protect wetlands and their associated ecosystems;
- (123) any other provision necessary for the sustainable use and management of water resources.

Article 40. *Preventing and remedying effects of pollution of water resources*

An owner of land, a person in control of land or a person who occupies or uses the land on which any activity or process is performed or undertaken which causes or is likely to cause significant pollution of a water resource, must take the following measures to prevent any such pollution from occurring:

- (124) cease, modify or control any act or process causing the pollution;
- (125) comply with any prescribed waste standard or pollution management practice;
- (126) contain or prevent the movement of pollutants;
- (127) eliminate any source of the pollution;
- (128) remedy the effects of the pollution;
- (129) remedy the effects of any disturbance to the bed and banks of a watercourse.

CHAPTER SIX: BIODIVERSITY AND NATURAL RESOURCE CONSERVATION AND MANAGEMENT

National biodiversity strategy

Article 41. *National biodiversity strategy*

1. The National Environmental Protection Agency, in consultation with relevant ministries, shall prepare a national biodiversity strategy and action plan, that addresses both *in-situ* and *ex-situ* conservation, within two years of the entry into force of this Act.
2. The National Environmental Protection Agency shall ensure that measures identified in the national biodiversity strategy and action plan are included in national development planning, and the national biodiversity strategy and action plan is updated not less than every five years.

Article 42. *Planning*

1. Natural resources, whether inside or outside protected areas, shall be managed to ensure their sustainable use and conservation.
2. The National Environmental Protection Agency, in coordination with relevant ministries, shall develop rehabilitation plans for degraded ecosystems identified through the planning process established by this Chapter, which plans shall be incorporated into natural resource management plans and protected area management plans.
3. Activities which may result in unsustainable use of natural resources must not be undertaken without the prior written authorisation of the National Environmental Protection Agency, relevant ministries or Provincial Councils and District and Village Councils, as appropriate.

Protected areas management**Article 43. *National protected areas system***

The national protected areas system of the Islamic Republic of Afghanistan is hereby established for the following objectives:

- (133) conserve the natural and cultural heritage;
- (134) preserve present and future sustainable development options by conserving, and where necessary restoring, representative ecosystems, habitats, and natural and cultural features and integrating their management into local and national land use plans;
- (135) ensure sustainable use of natural resources by involving local communities in all activities related to protected areas, including designating and delimiting areas, developing integrated management plans, and managing protected areas.

Article 44. *Planning*

1. The National Environmental Protection Agency shall develop a comprehensive plan for the national protected areas system which shall, at a minimum, include:

- (1) the objectives of the system plan;
- (2) the contribution of each existing protected area towards achieving the objectives provided for in sub-article 1;
- (3) an identification of gaps in coverage of representative ecosystems and habitats in the system;
- (4) provision of an action plan for implementing and further developing the system.

2. The National Environmental Protection Agency shall cooperate with relevant ministries, Provincial Councils and District and Village Councils and local communities to develop a management plan for each protected area which shall, at a minimum, include:

- (136) management objectives for the protected area;
- (137) management authority, including coordination mechanisms for planning processes;
- (138) identification of activities permitted within the protected area;
- (139) identification of activities appropriate for surrounding areas;
- (140) identification of provisions for controlling tourism and related services;
- (141) identification of provisions for maintaining traditional natural resource rights;
- (142) identification of provisions for sharing benefits from management of the area;

(143) identification of any other provisions specific to the area in question.

3. Within a protected area and in accordance with the provisions of the management plan for that area, any activity may be restricted or prohibited by the National Environmental Protection Agency, provided that any such restriction and prohibition shall be made known in an appropriate manner to local communities and other stakeholders.

4. The National Environmental Protection Agency shall include in its annual budget the funds required for the administration of the national protected areas system as required in terms of this Article.

Article 45. *Categories of protected areas*

1. The following categories of protected areas are established:

(144) strict nature reserve;

(145) national park;

(146) natural monument;

(147) habitat/ species management area;

(148) protected landscape;

(149) managed resource protected area.

2. The categories set out in sub-article 1 shall apply equally to terrestrial and aquatic ecosystems, and to areas that include both terrestrial and aquatic components.

3. The National Environmental Protection Agency shall, in consultation with relevant ministries and Provincial Councils and District and Village Councils, prepare guidelines for the management of each category of protected area.

4. Existing protected areas shall be re-categorised in terms of this Article, and re-designated in terms of this Act.

Article 46. *Habitats of protected species*

1. Habitats of protected species listed in accordance with Article 50 of this Act shall be designated as species management areas as provided for in Article 43 of this Act.

2. The National Environmental Protection Agency shall prepare management plans for species management areas in conjunction with species recovery plans, as provided for in Article 53 of this Act.

3. Destruction of habitats of protected species by any person, including the State, is prohibited, and offenders shall be duly prosecuted.

Article 47. *Designating protected areas*

1. Protected areas shall be selected and delimited in consultation with the local communities involved.

2. The National Environmental Protection Agency shall, in coordination with relevant ministries and Provincial Councils and District and Village Councils, conduct all surveys and studies required to prepare a proposal for designating a protected area, which proposal shall include at least the following:

- (150) justification for establishment of the area and the category of protection proposed, which takes into account the objectives for the national protected areas system and includes an evaluation of the advantages and disadvantages of establishing the protected area;
- (151) a physical survey of the proposed protected area;
- (152) a socio-economic impact survey of the local human population with a description of traditional uses of natural resources in the area proposed for designation and the potential effect of each category of protection provided in Article 43 of this Act;
- (153) a report on collaboration with Provincial Councils and District and Village Councils and local communities in determining the boundaries and category of the area proposed for designation;
- (154) comments received from Provincial Councils and District and Village Councils and local communities concerning the proposed designation of the protected area and the category of protection to be declared;
- (155) a description of any compensatory measures that may need to be taken as a result of establishment of the area.

3. Nationally protected areas shall be established by law.

Article 48. *Declassifying protected areas*

1. Any proposal for declassifying a protected area shall be prepared by the ministry or Provincial Council or District and Village Council proposing declassification, in consultation with the National Environmental Protection Agency and shall include at least the following:

- (156) justification for declassifying the protected area;

- (157) an environmental impact assessment which describes the impact of declassifying the protected area on the ecosystems, species and human communities affected by the area;
- (158) a description of any mitigation measures that may need to be taken as a result of declassifying the protected area; and
- (159) a compilation of comments from Provincial Councils and District and Village Councils and local communities.

2. Nationally protected areas may be declassified only by law.

3. Any proposal for declassifying a protected area shall be accompanied by a proposal for classifying a compensating new area similar to the one proposed for declassification in terms of its representative ecosystems, habitats, and/or natural and cultural features. Such a proposal shall include all of the elements set out in Article 46 of this Act.

Management of natural resources outside of protected areas**Article 49. *Restoration of indigenous vegetation***

In order to control and prevent desertification, indigenous vegetation shall be restored by the Ministry of Agriculture, Animal Husbandry and Food, in cooperation with the National Environmental Protection Agency and Provincial Councils and District and Village Councils, by means of programmes of reforestation, afforestation and revegetation and the adoption of measures to provide for its sustainable use, which programmes shall take into account the following criteria:

- (160) giving priority to indigenous species for reforestation, afforestation and revegetation;
- (161) prohibiting burning of vegetation cover, unless fire is required for the maintenance of particular ecosystems or species;
- (162) prohibiting grazing in areas that are undergoing restoration of indigenous vegetation or other vegetation, until such time that the vegetation can withstand grazing pressures;
- (164) giving priority to conservation of riverine vegetation.

Article 50. *Rangeland management*

1. Grazing of livestock shall be managed and controlled by the Ministry of Agriculture, Animal Husbandry and Food in cooperation with the National Environmental Protection Agency and Provincial Councils and District and Village Councils to minimise impact on, and optimise use of, vegetation cover by means of:

- (165) identifying, delimiting and including in land use and natural resource management plans, as provided for in Article 25 of this Act, areas appropriate for use by pastoralists;
- (166) designating corridors for nomadic pastoralists, along traditional routes as far as possible, and integrating such corridors into land use and natural resource management plans as provided for in Article 25 of this Act;
- (167) improving and establishing wells and related services at both ends of corridors designated for nomadic pastoralists.

2. Affected local communities and nomadic pastoralists shall be consulted in relation to any decisions made under sub-article 1, which decisions must also take account of customary traditions and practices that are not inconsistent with this Act.

Sustainable use and conservation of species

Article 51. *Planning*

Species management shall be an integral part of land use planning and natural resource management planning, and of management plans for protected areas and habitats.

Article 52. *Listing of species*

1. The National Environmental Protection Agency, with the assistance of academic institutions and relevant ministries, shall prepare lists of harvestable and protected species occurring in the country, and update such lists as appropriate.
2. A species must be listed as a protected species if it has an unfavourable conservation status or is a species whose occurrence in the country has been newly discovered.
3. Protected species shall remain so listed until such time as their conservation status has been proven to be favourable.
4. The lists described in sub-article 1 shall include species information compiled in the process of preparing the natural resource management plan provided for in Article 25 of this Act, which lists shall be made available for comment by Provincial Councils and District and Village Councils and local communities.

Article 53. *Taking of harvestable species*

1. Taking into account the principles of unit management, rational management and ecological management, the National Environmental Protection Agency shall prepare management plans for harvestable species listed pursuant to Article 50 of this Act, which plans shall include provisions for conservation of the habitats of the species.
2. Taking of harvestable species shall be allowed on the basis of permits or management agreements conditioned upon maintaining favourable conservation status of the species.

Article 54. *Taking of protected species*

1. Taking of all species listed as protected as provided in Article 50 of this Act is prohibited, except by prior authorisation in the form of a permit issued by the National Environmental Protection Agency in terms of sub-article 2.

2. Permits to take protected species may be granted only for the following purposes and provided that the taking of a protected species will not be detrimental to the survival of the species concerned:

- (168) captive breeding;
- (169) artificial propagation; or
- (170) scientific or educational purposes.

Article 55. *Recovery plans*

1. The National Environmental Protection Agency, in coordination with relevant ministries and Provincial Councils and District and Village Councils, shall develop recovery plans for species listed as protected as provided in Article 50 of this Act.
2. Recovery plans for protected species shall be prepared together with the management plans for their habitats, as provided in Article 44 of this Act.
3. Species recovery plans shall apply to the entire population of the protected species.

Article 56. *Alien species and living modified organisms*

1. The import into Afghanistan of alien species and of living modified organisms is prohibited without a permit issued by the National Environmental Protection Agency or the Ministry of Agriculture, Animal Husbandry and Food.
2. No permit for the introduction of an alien species or of a living modified organism shall be issued unless the environmental impact statement indicates that there is a reasonable certainty that no harm to indigenous natural resources or human health will result from the proposed introduction.
3. Sub-articles 1 and 2 of this Article shall apply equally to introductions of alien species and living modified organisms into the country and to introductions from one ecosystem to another within the country.
4. The introduction of alien species and living modified organisms into protected areas is prohibited.
5. The National Environmental Protection Agency, in cooperation with academic institutions and relevant ministries, shall prepare a list of species known to create negative environmental impacts whose introduction may be strictly prohibited.
6. Applicable quarantine and phytosanitary provisions shall govern introductions of domestic animals and domestic plants.

7. The National Environmental Protection Agency, in coordination national universities, relevant ministries and Provincial Councils and District and Village Councils, shall prepare eradication plans for the removal of harmful or potentially harmful alien species which have already been introduced or which may be introduced accidentally in violation of this Act.

Article 57. *Re-introductions of indigenous species*

Re-introductions of indigenous species shall be subject to a permit issued by the Director-General of the National Environmental Protection Agency or the Ministry of Agriculture, Animal Husbandry and Food and provided that the re-introduction of an indigenous species into an ecosystem, including into a protected area, will not be detrimental to the receiving ecosystem.

Article 58. *Ex-situ conservation of species*

1. The National Environmental Protection Agency, in coordination with academic institutions, relevant ministries and international institutions, shall devise appropriate plans to establish facilities for *ex-situ* conservation of natural resources, on the basis of the requirements identified in the national biodiversity strategy to be prepared in accordance with Article 39 of this Act.

2. Priority shall be given to *ex-situ* conservation of endemic species and to genetic resources for which Afghanistan is the country of origin.

Species trade

Article 59. *International trade*

1. All trade in specimens of species listed in Appendices I, II, and III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) shall be carried out in accordance with the provisions of that Convention.

2. The State shall confiscate any specimens, containers, equipment or vehicles involved in illegal trade of species listed in Appendix I of CITES.

Article 60. *Import*

1. No person shall import any specimen of any species of fauna or flora listed under Article 50 of this Act without prior authorisation in the form of a valid permit.

2. The National Environmental Protection Agency may, on written application, on payment of any prescribed fees and presentation of a valid export permit or re-export certificate, issue an import permit provided that:

(171) import will be for purposes which are not detrimental to the survival of the species involved or any indigenous species;

(173) the recipient of a living specimen is suitably equipped to house and care for it;

(174) The species in question is not listed in Appendix I of the Convention on Illegal Trade in Endangered Species of Fauna and Flora (CITES).

Article 61. *Export*

1. No person shall export or re-export any specimen of any species of fauna or flora listed under Article 50 without prior authorisation in the form of a valid permit or certificate issued by the management authority established in terms of the Convention on Illegal Trade in Endangered Species of Illegal Fauna and Flora (CITES).

2. The National Environmental Protection Agency or the Ministry of Agriculture, Animal Husbandry and Food may, on written application and payment of prescribed fees, issue an export permit or re-export certificate in terms of this Act provided that:

(175) the scientific authority has advised that such export will not be detrimental to the survival of the species;

(176) the exporter holds a valid permit proving that the specimen was lawfully obtained or imported into the country;

(177) any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health.

Article 62. *Domestic possession and trade*

1. No person shall possess, transport, sell, offer for sale or purchase any specimen of any species listed under Article 50 or product made from any specimen of any species listed under Article 50 which has been illegally imported, taken from the wild, or otherwise not lawfully acquired without a valid permit.

2. An authorisation referred to in sub-article 1 shall not be granted with respect to any species whose trade is prohibited pursuant to any international conventions.
3. A possessor or trader shall hold a valid permit proving that a specimen was lawfully obtained or imported into the country.

Access to genetic resources

Article 63. *Scope*

1. The provisions set out in Article 61 to Article 66 of this Act shall apply to all genetic resources of all living organisms, except for human beings, whether in *in-situ* or *ex-situ* conditions, and to the traditional knowledge associated with those resources.
2. Exchanges of genetic resources among local communities or groups for traditional, non-commercial purposes are exempt from the provisions of Article 61 to Article 66 of this Act .

Article 64. *Permitting requirements*

1. Access to genetic resources shall be subject to prior authorisation in the form of an access permit granted by the National Environmental Protection Agency.
2. On written application in accordance with Article 63 and payment of any prescribed fee, the National Environmental Protection Agency may issue an access permit, provided that the National Environmental Protection Agency has determined that such access will not be detrimental to the survival of the species or the ecosystem to which access is sought.
3. Access to genetic resources in *in-situ* conditions shall be subject to the environmental impact assessment processes set out in Chapter 3 of this Act.

Article 65. *Application for access*

1. The application for access to genetic resources shall contain the following information:
 - (178) identification of and background information on the applicant;
 - (179) description of the species or organisms to which access is sought;
 - (180) description of intended use of genetic resources for which access is sought;
2. For access to genetic resources in *in-situ* conditions, the following information in addition to that set out in sub-article 1 shall be required:
 - (181) identification of the site(s) in question;

- (182) description of proposed activities, including collection methods and volume of samples required; and
 - (183) results of the environmental impact assessment, including conservation status of the species or organisms to which access is sought;
3. For access to genetic resources in *ex-situ* conditions, the following information in addition to that set out in sub-article 1 shall be required:
- (184) identification of the institution(s) in question;
 - (185) attachment of a material transfer agreement.
4. The National Environmental Protection Agency may request any other information which may be required for the National Environmental Protection Agency to make an informed decision on authorising access.

Article 66. *Consent to access*

1. Where access is sought to resources located on privately-owned land, the following shall be taken into account:
- (186) the consent of the owner to such access shall be required;
 - (187) the conditions attached to the access permit issued in terms of Article 62 of this Act shall include provisions for equitable sharing of benefits with the owner.
2. Where access is sought to resources located on land used by nomadic pastoralists or other communities or groups with traditional interests in that land:
- (188) the consent of the group or community to such access shall be required;
 - (189) the conditions attached to the access permit issued in terms of Article 62 of this Act shall include provisions for sharing of benefits with the group or community.
3. Where access is sought to resources located in a protected area, all prohibitions and restrictions on activities as established in the management plan for that protected area shall apply.
4. The National Environmental Protection Agency shall not issue an access permit in relation to resources located on land referred to in this Article unless the National Environmental Protection Agency is satisfied that the applicant has made full disclosure of all material information relating to the project to the person or persons involved, and on the basis of that information has obtained the consent of the person or persons involved, and that a fair and equitable benefit-sharing agreement has been signed between the applicant and relevant person or persons.

Article 67. Access permit

1. The access permit referred to in Article 62 shall reflect the terms mutually agreed between the applicant and the National Environmental Protection Agency and shall contain at least the following:

- (190) description of the species or organisms, including their sex and developmental stage;
- (191) description of the sites where collection is permitted;
- (192) the number and volume of samples which may be collected;
- (193) the time period for which access is granted;
- (194) consent of any group or community involved;
- (195) restrictions on future use of the genetic resources subject to the permit;
- (196) restrictions on third party use of the genetic resources subject to the permit;
- (197) requirements for sharing of benefits resulting from use of the genetic resources subject to the permit;
- (198) provisions guaranteeing the participation of Afghan nationals and national institutions in any research carried out with the genetic resources;
- (199) requirements for technology transfer;
- (200) reporting requirements;
- (201) any other conditions which the National Environmental Protection Agency may consider appropriate.

2. The access permit shall constitute the authorisation to collect the natural resources containing the genetic resources to which the permit applies, in the locations and quantities specified in the permit.

Article 68. Certificate of origin

1. The National Environmental Protection Agency, in cooperation with line ministries and national institutions and Provincial Councils and Village and District Councils, shall monitor compliance with the terms of each access permit.

2. When the National Environmental Protection Agency is satisfied that permit terms embodying the conditions established in Article 65 of this Act have been satisfied, the National Environmental Protection Agency shall issue a certificate of origin for the genetic resource to which access is granted.

3. A certificate of origin shall be required for export from Afghanistan of any genetic resource.
4. A certificate of origin, or equivalent proof of origin, shall be required for import of any genetic resource into Afghanistan.

CHAPTER SEVEN: ENVIRONMENTAL INFORMATION, EDUCATION AND TRAINING, AND RESEARCH

Article 69. *Information*

1. Data on the status of natural resources, the environment and environmental health in Afghanistan shall be compiled and synthesised by the National Environmental Protection Agency in consultation with relevant ministries and national institutions.
2. In order to manage data on discharges to the environment, the National Environmental Protection Agency shall establish a database that, subject to Article 7(3) of this Act, may be accessed by members of the public and which shall be used to educate the public and encourage pollution prevention and control.
3. The National Environmental Protection Agency shall coordinate with relevant ministries and Provincial Councils and District and Village Councils to prepare and carry out public awareness campaigns to inform and educate the public about the value of natural resources, and means to sustainably use and conserve them, and on environmental health, including pollution prevention and control, and on the means to promote them.
4. The National Environmental Protection Agency shall coordinate international exchange of information on natural resources in Afghanistan and their sustainable use and conservation, on the environment and on environmental health, including pollution prevention and control, and on the means to promote them.

Article 70. *Education and training*

The National Environmental Protection Agency shall coordinate with relevant ministries, national authorities and national academic and technical institutions to:

- (202) incorporate principles of natural resource management and conservation and of promotion of environmental health, including pollution prevention and control, into school and university curricula;
- (203) establish training programmes for professionals and technical experts in natural resource-related disciplines in the natural and social science fields, giving priority to needs identified in the national biodiversity strategy and action plan to be prepared as provided for in Article 39 of this Act;

- (204) establish training programmes for professionals and technical experts in environmental conservation disciplines in the natural and social science fields;
- (205) create awareness and conduct training programmes regarding implementation of this Act and regulations made under it.

Article 71. *Research*

1. The National Environmental Protection Agency shall promote national research programmes that contribute to environmental sustainability and the sustainable use and conservation of natural resources and promote environmental health and shall cooperate in international programmes to conduct research and develop methods for sustainably using and conserving such resources.

2. The National Environmental Protection Agency shall coordinate with national academic institutions and relevant ministries, to ensure that research programmes are relevant to the purposes of this Act and to those identified in the national biodiversity strategy and action plan and in national and local land use and natural resource management plans.

CHAPTER EIGHT: COMPLIANCE AND ENFORCEMENT

Article 72. *Appointment of inspectors*

1. In accordance with relevant regulations and procedures, the National Environmental Protection Agency may appoint as inspectors such number of appropriately qualified persons for the purposes of ensuring compliance with the Act and its regulations.

2. Inspectors referred to in sub-article 1 shall have the following powers:

- (206) to enter a premises, after showing identification and except in relation to a dwelling;
- (207) to stop any vehicle that the inspector reasonably believes is being operated in contravention of this Act or discharging or has discharged a pollutant in contravention of this Act.
- (211) to take samples, photographs and record or copy any information in order to carry out the tests and inspections required;
- (1) to require the production of any document, record or other thing that is required to be kept under this Act and remove it for the purpose of making copies, provided that a receipt is provided before removal;

- (2) to seize and take copies of any documents which may constitute evidence of the commission of an offence under this Act;
- (3) to make reasonable enquiries of any person, whether orally or in writing;
- (4) to require any person to afford the inspector such facilities and assistance to enable the inspector to exercise any of the powers conferred on the inspector under this Act.

Article 74. ***Abatement order***

1. Where an activity that is not authorised in terms of this Act and may result in a significant adverse effect, the National Environmental Protection Agency may order the abatement of that activity by serving a signed abatement order on the person causing or permitting the activity.

2. An abatement order referred to in sub-article 1 must address at least the following:

- (5) the nature of the condition, practice or activity in question;
- (6) the date by which abatement must occur;
- (7) the remedial and environmental restoration action required.

Article 75. ***Compliance order***

1. Where the National Environmental Protection Agency has reasonable grounds to believe that any condition of a licence, permit or authorisation issued under this Act has been breached, the National Environmental Protection Agency may serve a compliance order on the holder of the authorisation in question:

- (8) requiring that person to remedy the breach within the specified period; or
- (9) suspending the licence with immediate effect if this is considered necessary to prevent or mitigate an immediate risk of significant adverse effects to the environment or to human health occurring.

2. Where the measures set out in sub-article 1 are not complied with, the National Environmental Protection Agency may:

- (10) take the necessary steps to remedy the breach and recover the cost from the licence, permit or authorisation holder;
- (11) alter the conditions of the licence, permit or authorisation;
- (12) revoke the licence, permit or authorisation; or

- (13) refer the matter to the relevant authority for prosecution.

Article 76. Offences and penalties

1. The holder of a licence, permit or authorisation shall be tried by a court of law if he or she commits any of the following offences:

(15) breach of the conditions of a licence, permit, authorisation or order issued or made under this Act; the offender shall be sentenced to a mid-term imprisonment, or a fine payment, or both, as appropriate;

(16) failure to comply with an abatement or compliance order; the offender shall be sentenced to a six month imprisonment, or payment of a cash fine equivalent to the damage caused;

(17) making a statement that is false or misleading in one of the following instances:

- for the purposes of obtaining an authorisation under this Act; or
- obstructing an inspector in the exercise or performance of powers or duties under this Act

the offender shall be sentenced to a three month imprisonment, or payment of a cash fine of 10,000 Afghanis, or both, as appropriate.

2. The National Environmental Protection Agency may require offenders under this Act to pay cash fine payments, the conditions and procedures of which shall be determined in regulations.

Article 78. Legal action

1. Legal action may be initiated by any person affected by damage or threatened by potential harm to natural resources or the environment or by violations of this Act and any regulations adopted pursuant to it, on that person's own behalf or on behalf of that person and other affected persons having similar or common interests in the proceedings.

2. Any person who intentionally or negligently commits any act or is responsible for an omission which damages, degrades, or threatens natural resources or the environment shall be liable for the costs of restoration and remediation.

Article 79. Personal liability

If any of the offences set out in Article 73 are committed by a corporation, the corporation and every director or officer of the corporation shall be liable; and shall be sentenced to mid-term imprisonment, payment of a fine or both, as appropriate.

Article 80. *Immunity*

If a recognised official of the State exercises his or her duties and causes adverse effects on a person, no legal action or criminal prosecution or civil action or proceeding may be initiated against him or her. The relevant agency shall be liable for paying the appropriate compensation.

Article 82. *Administrative appeal*

1. A person who has an interest that is or may be adversely affected by any decision made or direction given under this Act may appeal that decision or direction by delivering an appeal application in the manner prescribed by regulation to the Director-General of the National Environmental Protection Agency.

2. An appeal application must at least contain the following:

- (1) name, address and, if appropriate, telephone number and email address of the applicant;
- (3) set out or adequately identify the decision or direction that is being appealed;
- (4) set out the grounds for appeal and state briefly the facts on which the applicant relies.

3. The Director-General of the National Environmental Protection Agency must consider the application, reach a final decision and communicate that decision to the applicant within thirty (30) days of the date on which the appeal was validly lodged.

CHAPTER NINE: MISCELLANEOUS ORDERS**Article 83. *Regulations and procedures***

The National Environmental Protection Agency may prepare regulations and make procedures and guidelines to promote the implementation of this Act.

Article 84. *Incorporating environmental issues into the legislation of other sectors*

1. Relevant line ministries and institutions, in cooperation with the National Environmental Protection Agency, shall take appropriate measures for the management of environmental issues in relevant sub-sectors, including forestry, rangelands, biodiversity, protected areas, national parks, public health and other sectors in accordance with relevant laws and regulations.

2. If legislation is yet to be developed in the sub-sectors referred to in sub-article 1, the relevant line ministries shall incorporate environmental considerations into their legislation.

Article 88. *Supremacy of the Act*

Where there is an inconsistency between the provisions of this Act and any other law that affects the environment, other than the Constitution of Afghanistan, 1382, this Act shall prevail.

Article 89. *Authorisations relating to mineral exploitation and exploration*

Holders of permits and authorisations and related documents authorising mineral exploitation and exploration that may affect the environment, shall not initiate activities prior to receiving written authorisation from the National Environmental Protection Agency.

Article 90. *Commencement*

This Act will come into operation on the date of signature by the President, after which it will be published in the Official Gazette. With the commencement of this Act, the Law for the Protection of Nature, published in the Official Gazette No. 795 dated 12 Shawal, 1421 shall be repealed.