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Flora Protection Act, 1952

Act 45 of 1952

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1952/45/eng@1998-12-01

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PDF created on 21 February 2024 at 17:05.

Collection last checked for updates: 1 December 1998.

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Flora Protection Act, 1952

Contents

1. Short title	1
2. Interpretation	1
3. Inclusion of plants in Schedule and establishment of indigenous flora reserves	1
4. Unlawful plucking, etc., of protected flora	2
5. Permits to pluck, cut or uproot protected indigenous flora	2
6. Prohibition of export	2
7. Unlawful plucking, etc., of indigenous plants in reserves	2
8. Unlawful sale of protected indigenous flora	3
9. Permits to sell protected indigenous flora	3
10. Cancellation of permits	3
11. Seizure of protected indigenous plants	3
12. Persons in possession of protected indigenous plants in reserves to give names and addresses	3
13. Presumptions	3
14. Penalties	4
Schedule	5

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Flora Protection Act, 1952

Act 45 of 1952

Commenced on 31 October 1952

[This is the version of this document at 1 December 1998.]

[Repealed by [Flora Protection Act, 2001 \(Act 5 of 2001\)](#) on 1 November 2001]

An Act to protect the indigenous flora of Swaziland.

1. Short title

This Act may be cited as the Flora Protection Act, 1952.

2. Interpretation

In this Act, unless the context otherwise requires—

“**land**” means with or without buildings thereon;

“**Minister**” means the Minister for Agriculture;

“**plant**” means any plant, shrub or tree, indigenous to Southern Africa, and includes the flower, bulb, tuber, stem or root or any part of such plant, shrub or tree;

“**owner**” when used in relation to land held by the Ngwenyama for the Swazi nation, means the Ngwenyama;

“**protected flora**” means any plant, shrub or tree included in the Schedule and includes the flower, bulb, tuber, stem or root or any other part of such plant, shrub or tree;

“**public road**” means—

- (a) any road established, proclaimed or recognised as such under the provisions of any law and includes bridges over which such road passes; and
- (b) any road or thoroughfare, however created which, before or after the commencement of this Act has been in the undisturbed use of the public or which the public has had the right to use during a period of not less than three years and includes bridges over which such road passes; and includes—
- (c) any street or thoroughfare and any other public place whatever open to use of the public for purposes of vehicular traffic;

“**sell**” includes offering or exposing for sale, being in possession for the purpose of sale, bartering, hawking and peddling.

3. Inclusion of plants in Schedule and establishment of indigenous flora reserves

The Minister may from time to time by notice in the *Gazette*—

- (a) include in, or delete from the Schedule the name of any species or kind of plant, shrub or tree indigenous to Southern Africa;
- (b) with effect from a date specified by him in each case, establish one or more indigenous floral reserves, at the same time defining the boundaries thereof;
- (c) extend the boundaries of any indigenous flora reserve, established in terms of (a) of this subsection, or alter such boundaries, or cancel any such reserve, with effect from a specified date.

4. Unlawful plucking, etc., of protected flora

- (1) Save as provided for in subsection (2) or (3) no person shall pluck, gather, cut, uproot, injure, break or destroy any protected flora.
- (2) The owner or occupier of land, or any person authorised by such owner may pluck, cut or uproot—
 - (a) protected flora which have been cultivated by such owner or occupier or on his specific instructions, on land specially set apart for such cultivation;
 - (b) or gather, injure, break or destroy protected flora on land which is *bona fide* required for purposes of farming or the erection of a building thereon;
- (3) The holder of a permit issued under [section 4\(1\)](#) may pluck, cut or uproot protected flora as prescribed in such permit.

5. Permits to pluck, cut or uproot protected indigenous flora

- (1) The Minister may issue a permit authorising the holder thereof to pluck, cut or uproot the species and quantities of protected flora specified in such permit, in a locality and during a period likewise specified, subject to such other provisions as may be prescribed in such permit:

Provided that—

- (a) when the plucking, cutting or uprooting will take place on land of which the applicant is not the owner such permit may only be issued if the written permission of the owner of such land has been obtained;
 - (b) the permit shall not be issued for plucking, cutting or uprooting protected flora on land along either side of a public road within an area of fifty yards in width measured from the centre of such road, unless the Minister or the person authorised by him finds that there are exceptional circumstances which justify the issue of such permit.
- (2) Any person contravening or failing to comply with any provision contained in a permit issued in terms of subsection (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 13](#).

6. Prohibition of export

- (1) No person shall export or attempt to export from Swaziland any protected flora except upon, and subject to the conditions of, a permit issued by the Minister.
- (2) The Minister may at his entire discretion issue or refuse a permit for the exportation or removal of protected flora from Swaziland, and may insert in such permit such conditions as he considers desirable.
- (3) A permit issued in terms of this section shall be a personal one available for the use only of the person to whom and in whose name it is issued.
- (4) A person who contravenes the provisions of this section or any condition imposed in terms of subsection (2) shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 13](#).

7. Unlawful plucking, etc., of indigenous plants in reserves

No person shall pluck, gather, cut, uproot, injure, break or destroy any plant in a flora reserve established in terms of [section 2\(2\)](#) of this Act:

Provided that the owner of land falling within the boundaries of such reserve, or a person authorised by such owner, may pluck, gather, cut, uproot, injure, break or destroy those plants which do not come under the definition protected flora.

8. Unlawful sale of protected indigenous flora

No person shall sell any protected flora:

Provided that protected flora which have been cultivated by the owner or occupier of land or on his specific instructions, on land specially set apart for such cultivation, may be sold by such owner or occupier or by a person authorised in writing by him:

Provided further that the holder of a permit issued in terms of [section 9\(1\)](#) of this Act may sell protected flora as prescribed in such permit.

9. Permits to sell protected indigenous flora

- (1) The Minister may issue a permit authorising the holder thereof to sell protected flora.
- (2) Such permit shall specify the species or kinds of protected flora which may be sold by the holder, and the locality where and the period during which such protected flora may be sold, and other provisions which the Minister may prescribe.
- (3) A person contravening or failing to comply with any provision contained in a permit issued under subsection (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 14](#).

10. Cancellation of permits

The Minister may at any time cancel a permit issued in terms of [section 5\(1\)](#), [6\(2\)](#) or [9\(1\)](#) of this Act.

11. Seizure of protected indigenous plants

- (1) A member of the Swaziland Police of the rank of sub-inspector or upwards who entertains reasonable grounds of suspicion that any protected flora or plants in the possession of any person have been plucked, gathered, cut, uprooted, or sold unlawfully, may seize and impound such protected flora or plants.
- (2) If a person from whose possession protected flora or plants have been seized under subsection (1) is not within one month of the seizure convicted of an offence under this Act, he shall be entitled to recover possession of the seized articles, but no damages in respect of such seizure may be recovered by him in any court.

12. Persons in possession of protected indigenous plants in reserves to give names and addresses

- (1) Whenever a person is found in possession of protected flora or plants within the boundaries of a flora reserve, established under [section 3\(b\)](#), the owner of such land or any person appointed in writing by him or any police officer may call upon such person to furnish his full name and address.
- (2) Any person who when called upon under subsection (1) to furnish his name and address, fails or refuses to do so, or furnishes a false or incorrect name and address shall be guilty of an offence and liable on conviction to a fine not exceeding thirty emalangeni and in default of payment thereof imprisonment for a period not exceeding two months.

13. Presumptions

A person who has or had custody of or who is or has been in possession of or who handles, carries or conveys or who has handled, carried or conveyed, or who causes or who has caused to be handled, carried or conveyed any protected flora or plants shall, if there is a reasonable suspicion that such protected flora or plants have been plucked, gathered, cut or uprooted unlawfully, be deemed to have plucked, gathered, cut or uprooted such protected flora or plants in contravention of this Act, unless the contrary is proved.

14. Penalties

A person who contravenes or fails to comply with any provisions of this Act shall be guilty of an offence and shall, if no penalty is expressly provided in this Act for such contravention or failure, be liable, on conviction, to a fine not exceeding one hundred emalangeni or in default of payment thereof to imprisonment for a period not exceeding six months.

In addition to such penalty the court may—

- (1) order that any protected flora in respect of which the offence was committed be forfeited to the Government;
- (2) cancel a permit issued to the person in terms of section 5(1), 6(2) or 9(1).

Schedule

Common name	Swazi name	Scientific name
Stapeliads	—	<i>Riocreuxia spp.</i>
	—	<i>Ceropegia spp.</i>
	—	<i>Brachystelma spp.</i>
	—	<i>Caralluma spp.</i>
	—	<i>Huernia spp.</i>
	—	<i>Stapelia spp.</i>
	—	<i>Duvalia spp.</i>
	—	<i>Stultitia spp.</i>
Cape Primrose	—	<i>Streptocarpus spp.</i>
Barberton Daisy	—	<i>Gerbera jamesonii Bolus</i>
Yellowwood	Umsonti	<i>Podocarpus spp.</i>
African Beech	Siqalaba	<i>Faurea saligna</i>
Sandkiaat	Umvangatana	<i>Albizia versicolor</i>
Fever Tree	Umhlafutfo	<i>Acacia xanthophloea</i>
Tree Fuschia	vovovo	<i>Schotia brachypetalata</i>
Pod Mahogany	Umkholikholi	<i>Azelia cuanzensis</i>
Tree Wisteria	Umhohlo	<i>Bolusanthus speciosus</i>
Kiaat	Umvangati	<i>Pterocarpus angolensis</i>

Mountain Mahogany	Umkholikholi	<i>Entandrophragma caudatum</i>
Sneezewood	Umthathe	<i>Ptaeroxylon obliquum</i>
Lebombo Ironwood	Ubukhunku	<i>Androstachys johnsonii</i>
Tambotie	Umtfombotsi	<i>Spirostachys africana</i>
Wild Plum	Umgwenya	<i>Harpephyllum caffrum</i>
Winged atalaya	—	<i>Atalaya alata</i>
Red Ivory	Umneyi	<i>Rhamnus zeyheri</i>
Leadwood	Umpulumbu	
	Umbondotendlovu	<i>Combretum imberbe</i>
Sausage Tree	Umvongothi	<i>Kigelia pinnata</i>
African Teak	Umhlume	<i>Adina microcephala</i>
Tree Ferns	Inkhomankhoma	<i>Cyathea spp.</i>
Maidenhair Fern	—	<i>Adiantum capillusveneris Linn.</i>
Cycads	Gebeleweni	<i>Encephalartos spp.</i>
	isitshubho	<i>Stangeria eriopus</i>
	umtsokwane	<i>Zantedeschia spp.</i>
Arum Lilies	—	
Red Hot Pokers	—	<i>Kniphofia spp.</i>
Aloes	—	<i>Aloe spp.</i>
Haworthias	—	<i>Haworthia spp.</i>
Paint-brush or Pincushions	—	<i>Haemanthus spp.</i>

Clivias	—	<i>Clivia spp.</i>
Nerinas	—	<i>Nerine spp.</i>
Cyrtanthus or Fire Lilies	—	<i>Cyrtanthus spp.</i>
Gladioli	—	<i>Gladiolus spp.</i>
Watsonias	—	<i>Watsonia spp.</i>
Stone Plants	—	<i>Lithops spp.</i> <i>Frithia spp.</i>
Water Lilies	—	<i>Nymphaea spp.</i>
—	Likhatsato	<i>Alepidea spp.</i>
—	—	<i>Chironia transvaalensis</i>
Summer flowering Impala Lily	—	<i>Adenium swazicum</i>
Impala Lily	—	<i>Adenium multiflorum</i>
—	Sikumbyambya	<i>Pachypodium saundersii</i>
—	—	<i>Plectranthus floribundus</i>
—	Umkhunku	<i>Erythrophleum guineense</i>
Wild Olive	Umnquma	<i>Olea spp.</i>
	Sitimane	<i>Linociera foveolata</i>
	—	<i>Pleurostyliia capensis</i>
	—	<i>Drypetes spp.</i>
	—	<i>Mumusops spp</i>

Torchwood	—	<i>Balanites maughamii</i>
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[Amended G.N.146/1974; G.N.32/1975]