

TAMAN NEGARA NATIONAL PARK (PAHANG)

PAHANG

No. 2 OF 1939.

TAMAN NEGARA NATIONAL PARK

An Enactment to provide for the dedication and administration of certain land in Pahang as part of National Park.

[23rd June, 1939.]

Date of
commence-
ment.
Preamble.

WHEREAS the Sultan of Pahang, Kelantan and Trengganu have declare their desire jointly to commemorate the silver jubilee of the accession to the Throne of His Majesty King George by the dedication of certain lands situate in each of the said States which shall constitute together a National Park in perpetuity for the propagation protection and preservation of the indigenous fauna and flora of Malaya and which shall be known as the Taman Negara National Park:

AND WHEREAS it is expedient to make provision for the dedication and administration accordingly of so much of the land as is situate in the State of Pahang.

IT is hereby enacted by His Highness the Sultan by and with the advice and consent of the State Council as follows:

1. This Enactment may be cited as the Taman Negara National Park (Pahang) Enactment 1939.

Short title.

2. In this Enactment

“animal” means any vertebrate animal and the eggs and young of any vertebrate animals;

Definitions.

“National Park” means the State Park together with such other areas in Kelantan and Terengganu as may be constituted by Enactments in those States together to constitute the Taman Negara National Park;

“Officer in charge of the Park” means the officer appointed by the Trustees in accordance with the provisions of sub-section (i) of section 6 of this Enactment to be in charge of the State Park;

“Park official” includes all officers servants and other officials employed by the Trustees in exercise of powers conferred upon them under sub-section (i) of section 6 and by notification in the *Gazette* appointed by such Trustees to be Park officials;

“State Park” means those lands part of Taman Negara National Park which are situate in the State of Pahang and which are described in the First Schedule;

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“trap” means any contrivance or device or thing by means of which any animal can be captured;

“Trustees” means the persons referred to in sub-section (ii) of section 3 in whom the State Park is from time to time jointly vested;

“weapon” means any firearm or ammunition therefor or any other instrument capable of propelling a projectile or capable of being propelled or capable of being used in such a manner that any animal can be killed or injured thereby.

Establishment
of State Park.

3. (i) The State Park is hereby dedicated set aside and reserved in perpetuity in trust for the purposes of the propagation, protection and preservation of the indigenous fauna and flora of Malaya and of the preservation of objects and places of aesthetic historical or scientific interest and shall together with any contiguous lands dedicated set aside or reserved for similar purpose within the State of Kelantan and Trengganu constitute the Taman Negara National Park.

(ii) The State Park shall vest from time to time jointly in such persons as shall be fulfilling the duties and exercising the powers of the Sultan Pahang and the High Commissioner of the Federated Malay States respectively who shall hold and administer the said lands as Trustees for the purposes referred to in sub-section (i).

(iii) No modification of the area or boundaries of or of the title to the State Park shall be made save by an Enactment of the Ruler of Pahang in State Councilor as is in section 4 provided and no dealings in or dispositions of the lands constituting the State Park shall take place or be recognized registered or enforceable save as in section 5 provided.

(iv) For the purposes only of the provisions of section 250, 251, 252 and 255 of the Land Code the State Park shall be deemed to be land reserved for a public purpose:

Provided however that any warrant issued under section 251 of the Land Code in respect of any land within the State Park shall require any police officer to whom it is addressed to take possession of such land on behalf of the Trustees.

Amendment
of schedule

4. (i) The State Councilor the application of the Trustees may by Resolution amend the First Schedule in respect of the boundaries of the State Park as therein set out and described provided that such amendment is in the opinion of the Trustees necessary or desirable in order to secure greater ease of description or demarcation of the said boundaries or greater ease in the administration of the State Park and provided that such amendment does not result in any substantial decrease in the total area of the State Park.

(ii) Any amendment made under sub-section (i) shall take effect (unless the Resolution otherwise declares) on the date of the Resolution and shall be published in the *Gazette*.

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5. (i) The Trustees may lease or permit the leasing use or occupation of any land within the State Park subject to such conditions and restrictions as they think fit to impose and for the following purposes only:

Occupation of land within State Park.

- (a) the construction and maintenance of roads;
- (b) the construction and maintenance of railways and railway buildings;
- (c) the construction and maintenance of aerodromes;
- (d) the construction and maintenance of dams and reservoir;
- (e) the construction and maintenance of hotels rest houses dwelling houses buildings and works of public utility where the Trustees consider these to be necessary and in the interests of the development of the State Park in accordance with the purposes referred to in sub-section (i) of section 3;
- (f) mining in accordance with the provisions of section 7

(ii) Any land leased by the Trustees or in respect of which any lease use or occupation has been permitted by the Trustees under sub-section (i) shall continue to form part of the State Park and to be subject to the provisions of this Enactment and of any Rules made there under save in so far as may be set out in any condition or restriction imposed by the Trustees under the said sub-section.

(iii) Save by virtue of any right conferred by or acquired under or in respect of any lease or permission under sub-section (i) or as otherwise in this Enactment provided no person other than a Park official may reside on enter use or occupy any land within and forming part of the State Park without the permission of the Trustees so to do.

6. (i) The Trustees shall have full powers to administer the State Park and may for that purpose employ and appoint either by name or office an officer to be known as the Officer in charge of the Park and such other officers servants and Park officials as they may consider necessary.

Trustees of administer State Park.

(ii) The appointment as a Park official of any person employed by Trustees shall be notified in the *Gazette*.

(iii) Every officer servant or official employed by the Trustees shall for the purpose of the Panel Code be deemed to be a public servant and shall within the State Park have all the power of a police constable as defined in the Criminal Procedure Code or any other written law force.

7. (i) The State Park shall not for the purpose of the Mining Enactment or of the Land Code or of any other Enactment be deemed to be State land nor shall any mining or prospecting operations be normally carried on within the State Park.

General prohibition of mining within State Park.

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(ii) Notwithstanding anything contained in sub-section (i) if at any time the Trustees have reason to believe that in a particular portion of the State Park a mineral deposit exists of such richness that it would be contrary to the interests to the State that it should be mind the Trustees may take such steps as may be necessary to consent to the issue under the Mining Enactment of licenses to prospect such portion of the State Park and if necessary for the issue thereafter of mining certificates or mining leases in respect of the portion of the State Park or any part of such portion of the State Park.

(iii) For the purposes of sub-section (ii) and in respect of any portion of the State Park which is to be prospected that Trustees shall be deemed to be the proprietors and lawful occupiers of alienated land and in respect of any land in respect of which any mining certificate or mining lease is to be issued it shall be lawful for the Trustees by writing under their hands to surrender such land to the State and any land so surrendered shall then be deemed to be State land.

Provided that upon the termination of any rights granted over any land within the State Park by any mining document of title (or by any renewal thereof) by reason of forfeiture efflux ion of time or otherwise such land shall automatically re-vest in the Trustees to be held by them under this Enactment and as part of the State Park.

(iv) When any mining document of title is issued in respect of any land within the State Park the Trustees shall grant in respect of any other portion of the State Park such right of passage licenses or other facilities as may be necessary for the practical exercise of the rights granted by such mining document of title.

(v) Notwithstanding anything in any other Enactment contained no mining certificate or mining lease shall be issued in respect of any land surrendered under sub-section (iii) unless such mining certificate or mining lease includes such reasonable conditions as the Trustees may require to be included therein order to allow them such rights of entry into and control of such land as may be consistent with such land being used for mining purpose and as may be necessary in order that the Trustees may carry out the general objects of this Enactment in respect of such land and of the State Park generally.

Acts
prohibited
within the
State Park

8. Subject to the provisions of this Enactment and to any Rules made hereunder, no person other than a Park official acting in the performance of this duty shall

- (a) convey into the State Park or within the confines of the State Park be in possession of any weapon explosive trap net birdlime poison or other thing intended or calculated to cause injury to any animal within the State Park;

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- (b) convey into the State Park or within the confines of the State Park be in possession of any implement or tool intended or calculated for the provisions of this Enactment or of any Rule made thereunder ;
- (c) introduce any animal into the State Park or permit any domestic animal to stray into the State Park;
- (d) within the State Park disturb or take the nest of any animal or kill injure capture or molest any animal:
Provided that any dangerous animal may be killed in defense of human life or prevent the infliction of personal injury;
- (e) remove from the State Park any live animal or any part of any dead animal other than an animal lawfully introduced into the State Park;
- (f) within the State Park cut destroy or damage any tree or plant or clear break up dig or cultivate any land;
- (g) remove from the State Park any tree or plant or any part of any tree or plant.

9. (i) No person shall within the State Park willfully or negligently destroy damage or deface any abject of zoological botanical geological ethnological or other scientific or aesthetic interest or value.

Other offences.

(ii) No person shall destroy damage deface or remove any notice boundary mark or other thing whatsoever the property of the Trustees.

(iii) No person shall use occupy any building vehicle boat or other thing the property of the Trustees except in accordance with any permission granted by a Park official competent to grant such permission or otherwise in accordance with the provisions of this Enactment.

10. (i) The trustees may make Rules for the better carrying into effect of the purpose of this Enactment.

Rules.

(ii) In particular and without prejudice to the generality of the foregoing power such Rules may.

- (a) delegate to any Park official any of the powers and duties of the Trustees (including the power of further delegation

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- (b) prescribe the condition under which the State Park may be used;
- (c) prohibit the doing of any particular act within the State Park;
- (d) prescribe the fees payable in respect of any particular use of the State Park or of any thing done under this Enactment;
- (e) prescribe in respect of any contravention of any Rule penalties not exceeding imprisonment for six month or fine of five hundred dollars or in the case of a continuing offence a fine of fifty dollars for every day on which the offence has been committed;
- (f) provide for the seizure and for the forfeiture after conviction of any animal or other thing by means of which or in respect of which any offence has been committed;

(iii) Such Rules shall not take effect and come into force until they have been confirmed or amended by Resolution of the State Council and have thereafter been published in the *Gazette*.

Penalty. **11.** Any person contravening offending against or not complying with any provision of this Enactment or any Rule in respect of which no specific penalty has been prescribed shall be liable to a fine of five hundred dollars or to imprisonment for six months.

Trial and composition of offences. **12.** Any charge for an offence against this Enactment or against any Rule made there under may be tried by a Court of a Magistrate of the First Class: Provided that the Trustees or any Park official to whom they may delegate such power may in their or his discretion compound any such offence for any sum not exceeding the sum of twenty-five dollars.

Arrest. **13.** (i) Any member of the police force or any Park official generally or specially authorized by the Trustees so to do may within the State Park or within two miles from the nearest point on any boundary thereof arrest any person found committing any offence against this Enactment or against any Rule made there under or whom he may reasonably suspect to have committed such an offence and shall as soon after such arrest as is practicable take or send such person before a magistrate or to a police station there to be deal with according to law:

Provide that at the request of any person so arrested such person may in the first instance be taken before any Park official to whom under section 12 power to compound offences

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has been delegated and if any offence committed is thereupon compounded and the composition is paid or secured to the satisfaction of the said Park official the person so arrested shall be released from such arrest

(ii) So long as provisions to the like effect exist in the law of the State of Kelantan or of the State of Terengganu respectively if any person is known or reasonably suspected to have done in any part of the Taman Negara National Park lying within the State of Kelantan or within the State of Terengganu respectively any act which if it had been done in the State of Pahang would have constituted an offence against this Enactment or against any Rule made there under and such person is found within or immediately on his arrest has been brought into the State of Pahang such person may be dealt with in all respect as if such act had in fact been done within the State of Pahang.

(iii) So long as provisions to the like effect exist in the law of the State of Kelantan or of the State of Terengganu respectively any person who has done within the State of Pahang any act which constitutes any offence against this Enactment or against any Rule made there under and who is found within or immediately on his arrest has been taken into the State of Kelantan or the State of Terengganu respectively may within that State be dealt with in all respects as if such person had in fact done such act within such State.

(iv) A notification in the *Gazette* that the President satisfied that provisions to the like effect with sub-section (ii) and (iii) exist in the law of the State of Terengganu or of the State of Kelantan respectively shall until cancelled be conclusive evidence that such provisions exist as aforesaid.

Power of search.

14. Any member of the police force or any Park Official generally or specially authorized by the Trustees so to do may within the State Park or within two miles from any point on the boundary thereof if he suspects that any baggage equipment package container tent vehicle boat craft or place and seize any thing therein which he requires as evidence that any such offence has been committed.

15. Nothing in this Enactment shall prevent

Exemptions.

- (a) any Government officer from entering or being in the State Park or from carrying arms therein in the execution of the duties of his office; or
- (b) any person from traveling through in or over the State Park on any public road therein or in public railway train or in any aircraft provided

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that such person does not leave the public road or the railway line or the precincts of any railway station or (except while being conveyed by any air craft) the precincts of any aerodrome within the State Park; or

- (c) the use of the State Park subject to any conditions that may be imposed by the Officer in charge of the Park by any member of any of the aboriginal tribes specified in the Second Schedule to this Enactment.

Privileges

16. (i) If any time it is established to the satisfaction of the Trustees that any person or community or description of persons, living on or near the borders of the State Park had been, immediately before the coming into force of this Enactment, habitually in the enjoyment of any privilege of way, of fishing, of collecting produce, or otherwise, claimed by such person or persons in or in respect of any part of the State Park, it shall be lawful for the Trustees by notification in the *Gazette* to authorize the continued enjoyment of the privilege so claimed, for such period of time, and subject to such conditions, as to the Trustees shall seem fit.

(ii) The granting of any such authority shall establish, in the person or persons to whom it is granted, no right in the nature of property, nor shall it be evidence that any such right was previously in existence, and any such authority may at any time by notification in the *Gazette* be varied or revoked by the Trustees, at their absolute discretion, and such variation or revocation shall in no case give rise to any claim, compensation or otherwise.