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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;
 - comparison of financial and environmental implications of one option 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 of ecosystems**” 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 at present and in the future;
 - the distribution and abundance of the species to the extent consistent with wise standards of 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 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.

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