

FAUNA PROTECTION.

No. 45 of 1967.

AN ACT to amend the Fauna Protection Act, 1950-1954.

[Assented to 21st November, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Fauna Protection Act Amendment Act, 1967.*

Vol. 9
Reprinted
Acts
approved
for reprint
19th April,
1956.

(2) In this Act the Fauna Protection Act, 1950-1954 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Fauna Conservation Act, 1950-1967.

2. This Act shall come into operation on a date to be fixed by proclamation. Commence-
ment.

3. Section five of the principal Act is repealed. S. 5
repealed.

4. Section six of the principal Act is amended— S. 6
amended.

(a) by substituting for the interpretation, “Committee” an interpretation as follows—

“Authority” means The Western Australian Wild Life Authority constituted under this Act; ;

(b) by adding after the interpretation, “close season” an interpretation as follows—

“Director” means the Director of Fisheries and Fauna referred to in section seven of this Act; ;

(c) by adding after the word, “includes” in line eight of the interpretation, “fauna” the words “terrestrial or marine”;

(d) by adding after the interpretation, “license” an interpretation as follows—

“Minister” means the Minister for Fisheries and Fauna; ;

(e) by adding after the interpretation, “open season” an interpretation as follows—

“processing establishment” means any land, building, tent or other structure of any kind or any vehicle, boat or other conveyance of any kind on or in which processing of fauna other than fish or whales is carried out for the purposes of sale; ;

(f) by adding after the interpretation, “sanctuary” interpretations as follow—

“the Fund” means The Fauna Conservation Trust Fund established under this Act;

“to process” in relation to any fauna other than fish or whales means to cut, skin, treat, freeze, can, cure, pack or preserve any part of the fauna and derivatives and inflections have corresponding meanings; ; and

- (g) by substituting for the interpretation, "to take" an interpretation as follows—

"to take" in relation to any fauna, includes to kill or capture any fauna by any means or to disturb or molest any fauna by any means or to use any method whatsoever to hunt or kill any fauna whether this results in killing or capturing any fauna or not; and also includes every attempt to take fauna and every act of assistance to another person to take fauna and derivatives and inflections have corresponding meanings; .

S. 7
amended.

5. Section seven of the principal Act is amended—

- (a) by adding after the word, "Minister" in line two of subsection (1), the words, "and the Director";

- (b) by adding after subsection (1) a subsection as follows—

(1a) The person for the time being holding the office of Director of Fisheries under the Fisheries Act, 1905, shall be the Director of Fisheries and Fauna for the purposes of this Act;

- (c) by repealing subsection (3); and

- (d) by adding after subsection (4) a subsection as follows—

(5) As soon as may be after the thirtieth day of June in each year the Director shall cause to be prepared a report containing—

- (a) statements relating to the proceedings and work of the Authority during the financial year then last preceding; and

- (b) any comments which the Director thinks desirable to make relating to the administration or operation of this Act.

Such annual reports shall be laid before both Houses of Parliament not later than the thirty-first day of October in each year.

6. The principal Act is amended by adding after section nine a section as follows—

S. 9A
added.

9A. (1) When the Authority is constituted pursuant to this Act—

Authority
to succeed
Committee.

(a) the members of the body corporate constituted under this Act and known as The Fauna Protection Advisory Committee of Western Australia shall go out of office; and

(b) the body corporate shall be preserved and continue in existence under and subject to the provisions of this Act under the name of The Western Australian Wild Life Authority but as so constituted and so that the corporate identity of the body corporate shall not be affected.

(2) A reference in a law of the State and in any document in force immediately before the coming into operation of the Fauna Protection Act Amendment Act, 1967, to The Fauna Protection Advisory Committee of Western Australia shall be read and taken to refer to The Western Australian Wild Life Authority.

7. Section ten of the principal Act is amended—

S. 10
amended.

(a) by substituting for the words, "a committee" in line two of subsection (1), the words, "an Authority".

(b) by repealing and re-enacting subsection (2) as follows—

(2) The name of the Authority shall be The Western Australian Wild Life Authority. ;

(c) by repealing and re-enacting subsection (3) as follows—

(3) The Authority shall consist of eleven members including the Chairman of the Authority, of which members—

(a) four referred to in this section as *ex officio* members shall be the persons for the time being holding the office of—

(i) Director, who shall be the Chairman of the Authority;

(ii) Chief Warden of Fauna under this Act, who shall be the Deputy Chairman of the Authority and Chief Executive Officer thereof;

(iii) Chief Vermin Control Officer under the Vermin Act, 1918; and

(iv) Conservator of Forests under the Forests Act, 1918, or a person nominated by the Conservator as his deputy; and

(b) seven referred to in this section as the appointed members, who shall be appointed by the Minister and of whom—

(i) one shall be a botanist;

(ii) two shall be zoologists; and

(iii) four shall be persons who are not officers within the meaning of the Public Service Act, 1904 and of whom one at least has a wide practical knowledge of the native fauna of the State and one to represent country interests. ;

- (d) by adding a subsection as follows—
 (3a) Subject to subsection (6) of this section, each appointed member—
 (a) shall hold office as a member of the Authority for a term of three years; and
 (b) is eligible for re-appointment on the expiration of his term of office as member of the Authority. ;
- (e) by substituting for the passage, “(3a) The Committee” in line one of subsection (3a), the passage, “(3b) The Authority”;
- (f) by substituting for the word, “Committee” in lines one and three of subsection (4), the word, “Authority”;
- (g) by substituting for the word, “Committee” in line one of subsection (5), the word, “Authority”;
- (h) by substituting for the word, “three” in line two of subsection (5), the word, “five”;
- (i) by adding after subsection (5) a subsection as follows—
 (5a) Subject to the provisions of subsection (5) of this section, that relate to a quorum for the conduct of the business of the Authority, the exercise or performance of the functions or the powers of the Authority is not affected by reason only of there being any vacancy in the office of member of the Authority. ;
- (j) by substituting for the word, “Committee” in lines one and two, line five and in the last line of paragraph (a) of subsection (6), the word, “Authority”;
- (k) by repealing paragraphs (c), (d) and (e) of subsection (6);
- (l) by substituting for the word, “Committee” in line two of subsection (7), the word, “Authority”;
- (m) by substituting for the word, “Committee” in line one of subsection (8), the word, “Authority”;

- (n) by substituting for the word, "Committee" in line one of subsection (9) the word, "Authority";
- (o) by substituting for the word, "Committee" in line three of subsection (10), the word, "Authority"; and
- (p) by adding a subsection as follows—
 - (11) Where the Chairman of the Authority is unable for any reason to attend a meeting of the Authority, the person who is appointed under subsection (3) of this section to be deputy to the Chairman, shall act as Chairman of the Authority at that meeting and while so acting has all the powers, duties and rights of the Chairman in addition to those conferred or imposed by that subsection. .

S. 11
amended.

8. Section eleven of the principal Act is amended by substituting for the word, "Committee"—
- (a) in line one of subsection (1);
 - (b) in line three of subsection (2); and
 - (c) in lines six and twelve of subsection (3), the word, "Authority".

S. 12
amended.

9. Section twelve of the principal Act is amended by substituting for the word, "Committee" in line one, the word, "Authority".

S. 12A
added.

10. The principal Act is amended by adding after section twelve a section as follows—

Power
of Authority
to classify
sanctuaries.

- 12A. (1) If the appropriate written approval required by section twelve B of this Act is first obtained by the Authority, the Authority may, with the approval of the Minister, by notice published in the *Government Gazette*, classify or reclassify in accordance with this section any area of land or part thereof comprised in a sanctuary that is specified in the notice.

(2) Areas of land comprising the whole or part of a sanctuary may be classified or reclassified under subsection (1) of this section as follows:—

- (a) prohibited areas;
- (b) limited access areas;
- (c) shooting or hunting areas;
- (d) unlimited access areas;
- (e) such other classes of areas as the Authority thinks necessary for the purpose of giving effect to the objects of this Act.

(3) The Authority may by publishing a notice of cancellation in the *Government Gazette*, cancel the classification or reclassification of any area under this section and thereupon the area ceases to be an area classified or reclassified under this section.

(4) Nothing in this section shall prejudice the operation of the Land Act, 1933.

11. The principal Act is amended by adding a section as follows—

S. 12B
added.

12B. A classification or reclassification of an area comprised in a sanctuary shall not be made under section twelve A of this Act, unless—

Requisite
approvals for
classification
of areas.

- (a) in the case of land of the kind firstly referred to in the interpretation "sanctuary" in section six of this Act, the Minister for the time being charged with the administration of the land or with the administration of the Act, if any, to which the land is subject, approves in writing, or if there is no such Minister, the Minister so approves; and
- (b) in the case of land of the kind secondly referred to in the interpretation, the occupier of the land approves in writing, and if the occupier is not the owner of the land, the owner has also approved in writing to the making of the classification.

S. 12C
added.

12. The principal Act is amended by adding a section as follows—

Erection of
notices.

12C. (1) The Authority or any person authorised by the Authority in that behalf may erect or cause to be erected at such places, within or on the boundaries of any sanctuary, notices of such form and construction as the Authority considers necessary or desirable for the purpose of indicating publicly—

- (a) that the land is a sanctuary;
- (b) the extent of the sanctuary;
- (c) that, if such is the case, the sanctuary or portion of it is classified or reclassified under section twelve A of this Act as a prohibited area, limited access area, shooting or hunting area, unlimited access area or other area, as the case may be; and
- (d) the liability of any person contravening this Act with respect thereto,

or any of those things, and may from time to time cause any such notice to be removed, demolished or erased.

(2) A person is not relieved of any liability for a contravention of any provision of this Act by reason of the fact that a notice is not erected at any place pursuant to this section.

(3) A person shall not destroy, damage, deface, obliterate, move or interfere with a notice erected under this section.

Penalty: One hundred dollars.

(4) Where on the conviction of a person for an offence against this section, it appears to the Court convicting the person that any injury to property has been occasioned by the act constituting the offence, the Court may by the conviction adjudge the person convicted, to pay in addition to any fine a reasonable sum as compensation for the injury, and that sum may be recovered as a fine under this Act and when recovered shall be paid to the Authority. .

"This Act"
includes
regulations.
S. 4 Act No.
30 of 1918.

13. The principal Act is amended by adding a section as follows—

S. 12D
added.

12D. (1) The Authority shall, in respect of each area of land of the kind firstly mentioned in the interpretation "sanctuary" in section six of this Act that is classified or reclassified pursuant to section twelve A of this Act, cause to be prepared a detailed written scheme of the operations that the Authority proposes to undertake on or in relation to the area for such period, not exceeding ten years, as is specified in the scheme.

Power
of Authority
to prepare
management
scheme.

(2) The object of the scheme shall be restoration of the natural environment, the protection and care of fauna, the propagation thereof and the promotion of the study of fauna to which the scheme relates.

(3) A scheme prepared for an area under subsection (1) of this section—

- (a) shall be submitted to the Minister for his written approval;
- (b) is subject to existing rights under concessions, leases and permits granted in respect of the area,

and if the scheme is so approved by the Minister it shall be the working plan for that area.

(4) No operations shall be undertaken on or in relation to any area of land in respect of which a working plan has been made in accordance with this section, unless those operations are in accordance with that plan.

(5) A working plan made under this section may, with the written approval of the Minister, be varied from time to time or cancelled and another plan substituted.

(6) A working plan made under this section may contain provisions for the Authority to carry out any work in connection with the improvement, development and maintenance of

any area of land to which the plan relates, and the prevention and control of fires.

(7) The Authority may, with the approval of the Minister, arrange with—

(a) the Minister administering any Government Department of the State; or

(b) any statutory corporation,

for the carrying out by that Department or statutory corporation of any work authorised under a working plan to be carried out by the Authority in accordance with the plan. .

S. 12E
added.

14. The principal Act is amended by adding a section as follows—

Power of
Authority to
grant permit
to enter
sanctuary.

12E. (1) Notwithstanding anything to the contrary contained in this Act, the Authority may grant a permit in writing to any person to enter and use the whole or any part of a sanctuary whether classified or not under section twelve A of this Act or other land under its control, subject to such terms and conditions as the Authority thinks fit and specifies in the permit.

"This Act"
includes
regulations.
See S. 4
Act No. 30
of 1918.

(2) Where the sanctuary comprises land of a kind firstly described in the interpretation "sanctuary" in section six of this Act, the consent of the occupier of the land and if the occupier is not the owner of the land, the consent also of the owner of the land, to grant the permit shall first be obtained.

(3) A person to whom a permit is granted under this section who contravenes or fails to comply with any term or condition specified in the permit commits an offence against this Act.

Penalty: Two hundred dollars. .

S. 15
amended.

15. Section fifteen of the principal Act is amended—

(a) by adding after the word, "seventeen" in line three of subsection (1), the passage, "
, seventeen A or seventeen B";

- (b) by adding after the subsection designation “(2)”, the paragraph designation “(a)”;
and
- (c) by adding to subsection (2) a paragraph as follows—

(b) Where the holder of a license contravenes or fails to comply with any conditions endorsed upon or attached to the license the Minister may, at any time and from time to time, by notice in writing given to the holder of a license, cancel the license or suspend it for such period as the Minister thinks fit. .

16. Section sixteen of the principal Act is ^{S. 16} amended—

- (a) by adding after the section number “16”, the subsection designation (1); and
- (b) by adding a subsection as follows—

(2) A person who fails to observe any of the restrictions placed on the taking or disposal or the taking and disposal of fauna pursuant to subsection (2) of section fourteen of this Act commits an offence against this Act. .

Contravening restrictions or taking or disposal, etc., of fauna an offence.

17. Section seventeen of the principal Act is ^{S. 17} amended—

- (a) by repealing paragraph (e) of subsection (2) and re-enacting it as follows—
 - (e) sell, or take for the purpose of sale, any fauna other than fauna that has been taken for the purposes of sale under the authority of a license granted by or under the Fisheries Act, 1905 or the Whaling Act, 1937 or a license or permit granted by or under any other Act; ;
- (b) by deleting the word, “or” between paragraphs (e) and (f) of subsection (2);
- (c) by substituting for the words, “animal or bird or species of animal or bird” in lines

two and three of paragraph (f) of subsection (2) the passage, "class, order, family, genus or species of any bird or other animal";

(d) by adding after the word, "fauna" being the last word of paragraph (f) of subsection (2), a passage as follows—

(g) process fauna, other than fauna that is processed pursuant to a license granted by or under the Fisheries Act, 1905 or the Whaling Act, 1937, for the purposes of sale;
or

(h) release from confinement any animal in any part of the State where it is not ordinarily found in a condition of natural liberty in that part or to keep any such animal in confinement for the purpose of so releasing it"; and

(e) by repealing and re-enacting subsection (3) as follows—

(3) A person who—

(a) uses any means or device prescribed by the regulations as an illegal means or device in the taking of fauna;

(b) permits or suffers any such illegal means or device to be used in the taking of fauna on land of which he is the occupier;
or

(c) permits or suffers any such illegal means or device to be on land of which he is the occupier,

commits an offence against this Act. .

S. 17A
added.

18. The principal Act is amended by adding after section seventeen a section as follows—

17A. After the expiration of three months from the date of the coming into operation of

License to
process
fauna and
processing
establish-
ments.

the Fauna Protection Act Amendment Act, 1967, a person shall not—

- (a) process fauna for the purposes of sale; or
- (b) carry on or cause to be carried on a processing establishment,

unless he is the holder of a current—

- (c) license issued by the Minister under section fifteen of this Act authorising him to do so;
- (d) license under the Fisheries Act, 1905, or the Whaling Act, 1937 authorising him to do so; or
- (e) certificate of exemption from the provisions of this section granted by the Minister.

Penalty: One hundred dollars, and in the case of a continuing offence a further penalty of not less than five dollars or more than twenty dollars for each day the offence continues after the Minister serves notice of the offence on the offender. .

19. The principal Act is amended by adding a section as follows— S. 17B added.

17B. (1) The Minister, in respect of any species of wild duck, goose and quail or other prescribed species of game for which, in any specified part or parts of the State, an open season has been proclaimed pursuant to section fourteen of this Act, may, by notice published in the *Government Gazette*— Regulation of the taking of certain species of game.

- (a) declare that species to be a game species in that part or those parts;
- (b) limit the number of the species that may be taken by any one person in any stipulated period or periods of time;
- (c) limit the number of the species that may be in the possession of any one person;

- (d) specify such other conditions (if any) as he thinks fit to impose, respecting the taking during that open season of the species.
- (2) A person—
- (a) shall not take any species of wild duck, goose or quail or other prescribed species of game to which a notice published pursuant to subsection (1) of this section relates; or
 - (b) shall not be in possession of any such species of wild duck, goose, quail or other prescribed species of game, otherwise than in terms of the notice and pursuant to a license granted to him for the purpose.

Penalty: One hundred dollars.

(3) The Minister may, at any time before the expiration of the open season, in like manner vary any notification given under subsection (1) of this section or revoke it and issue another notification in its stead. .

S. 17C
added.

20. The principal Act is amended by adding a section as follows—

Establish-
ment of
Fauna Con-
servation
Trust Fund.

17C. (1) For the purposes of this Act there shall be established a fund to be called "The Fauna Conservation Trust Fund" and that Fund shall be administered and controlled by the Minister.

(2) Any moneys from time to time belonging to the Fund shall be deposited in an account to be called "The Fauna Conservation Trust Fund Account" which shall be kept at the Treasury.

(3) The Fund shall consist of—

- (a) the money received as fees for licenses required under section seventeen B of this Act;

- (b) any money that is paid or payable to the Fund, by way of gift, bequest or otherwise for the purposes of this Act;
- (c) the proceeds of any gifts other than money, made for or towards the carrying out of the purposes of this Act; and
- (d) the income derived from the investment of any money forming part of the Fund. .

21. The principal Act is amended by adding a section as follows—

S. 17D added.

17D. When any money forming part of the Fund is not immediately required for the purposes of this Act, the Minister may invest it in any investments authorised by law as those in which trust funds may be invested. .

Power of Minister to invest moneys from Fund.

22. The principal Act is amended by adding a section as follows—

S. 17E added.

17E. (1) The Minister may use and apply, except as provided in this section, money in the Fund for all or any of the purposes of research relating to fauna conservation and for any other purposes relating to the conservation of fauna that are recommended by the Authority to the Minister.

Application of money in Fund.

(2) Where any gift or bequest has been made for the purposes of this Act upon conditions, the Minister shall use or apply money representing that gift or bequest in accordance with those conditions. .

23. The principal Act is amended by adding a section as follows—

S. 17F added.

17F. (1) The Minister shall cause to be kept true and regular accounts—

Accounts.

- (a) of money paid into and belonging to the Fund; and
- (b) of money paid out of the Fund and the person to whom and the purposes for which it has been paid.

(2) The Minister shall cause the accounts to be balanced at each thirtieth day of June.

(3) The Auditor General appointed under the Audit Act, 1904—

- (a) has in respect of the accounts the powers conferred on him under that Act;
- (b) shall arrange for the audit of the accounts; and
- (c) shall, as soon as practicable after the completion of each audit prepare and deliver to the Minister a report of the audit of the accounts. .

S. 20
amended.

24. Section twenty of the principal Act is amended—

- (a) by adding after the word, "Force" in line twelve of paragraph (a) of subsection (2), the words, "or in the case of fauna to any person appointed in writing by the Minister for the purpose"; and
- (b) by adding after the word, "Force" in line twenty-two of paragraph (b) of subsection (2), the words, "or in the case of fauna to any person appointed in writing by the Minister for the purpose".

S. 26
amended.

25. Subsection (1) of section twenty-six of the principal Act is amended by substituting for the words, "fifty pounds" in line five, the words, "four hundred dollars in the case of a contravention or failure to comply with a provision of the Act and of two hundred dollars in the case of a contravention or failure to comply with a provision of a regulation".

S. 28
amended.

26. Section twenty-eight of the principal Act is amended—

- (a) by adding after the section number, "28." the subsection designation, "(1)";

- (b) by substituting for the word, "Committee" in line three of paragraph (a) the word, "Authority";
- (c) by adding after paragraph (a) the following paragraphs—
 - (aa) prohibiting or restricting any right of entry to a sanctuary, including the exclusion therefrom or from any prescribed portion thereof, of any persons or classes of persons, and prohibiting or restricting access to a sanctuary by means of any or all animals or vehicles or aircraft;
 - (ab) prohibiting or restricting the taking for any purpose of any fauna in a sanctuary, the taking, destruction or disturbance of the eggs or spawn of any fauna, the taking for any purpose of or interference with vegetation of any description in a sanctuary, the introduction or liberation in a sanctuary of any living creature or the eggs or spawn of any living creature, or the introduction or planting in a sanctuary of any vegetation of any description or the spores or seeds of any vegetation of any description;
 - (ac) prohibiting or restricting of the burning or clearing by any means whatsoever of any trees, shrubs, grasses or other plant life in a sanctuary or in any prescribed portion thereof, either generally or for such period or by such persons or classes of persons, as may be prescribed;
 - (ad) prohibiting or restricting any sport or camping or any other prescribed form of relaxation in a sanctuary or in any specified portion thereof, either generally or for such period or by any persons or classes of persons, as may be prescribed;

- (ae) prohibiting or restricting the lighting of fires or the doing of anything likely to cause a fire in a sanctuary or in any prescribed portion thereof, either generally or for such period and by such persons or classes of persons, as may be prescribed;
- (af) prohibiting or restricting the use in a sanctuary or portion thereof of any launch, boat, canoe or other type of boat of whatsoever kind and whether propelled by mechanical power or not and the use of vehicles in a sanctuary or in any prescribed portion thereof and by any persons or classes of persons, as may be prescribed;
- (ag) prohibiting the wilful disturbance of any fauna in a sanctuary by noise in the vicinity or otherwise;
- (ah) prohibiting or restricting the use of firearms or explosives in a sanctuary or in any portion thereof, either generally or in respect of any type of firearms or explosives or by any persons or classes of persons or during any periods, as may be prescribed;
- (ai) prohibiting or restricting the taking or keeping of domestic animals or domestic birds into or in a sanctuary or any portion thereof either generally or in respect of any species of domestic animal or domestic bird or in respect of possession thereof by any persons or classes of persons, as may be prescribed;
- (aj) prohibiting the depositing of rubbish and leaving litter in a sanctuary and prohibiting or restricting the erection of any shed, cottage, building or any structure whatsoever in a sanctuary or the depositing therein

of any property and providing for the removal and disposal of the rubbish, litter, shed, cottage, building, structure or property and the cost of the removal and disposal and providing for the disposal of the proceeds thereof;

- (ak) prohibiting or restricting the control of the cutting, construction or maintenance of private roads, tracks, tramways or other means of communication in a sanctuary; ;
- (d) by adding after the word, "live" in line two of paragraph (c), the words, "or dead";
- (e) by adding after the word, "the" in line three of paragraph (g), the words, "minimum and";
- (f) by substituting for the words, "fifty pounds" in lines one and two of paragraph (h) the words, "two hundred dollars";
- (g) by adding after the word, "Act" being the last word in paragraph (i), the passage as follows—
 - " ;
- (j) prescribing the maximum number of any species of fauna that a person may take during any period or periods of time in an open season and the maximum number that a person may have under his control or in his possession or keep in any cool store or any freezing chamber or other premises at any one time"; and
- (h) by adding a subsection as follows—

(2) Regulations may be made to apply or to have operation throughout the State or any prescribed part or parts of

the State, may be of general or specially limited application according to time, place, purposes or circumstances, and may be general or restricted to any prescribed class or subject matter. .
