

FAUNA PROTECTION.

3° Elizabeth II., No. XXXVIII.

No. 38 of 1954.

AN ACT to amend the Fauna Protection Act, 1950.

[Assented to 3rd December, 1954.]

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, 1954*.

(2) In this Act the Fauna Protection Act, 1950, Act No. 77 of 1950, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Fauna Protection Act, 1950-1954.

S. 6
amended.

2. Section six of the principal Act is amended by—

- (a) adding after the word "fauna" in the last line of the interpretation "fauna" the words "and further includes fauna which is bred or kept in captivity or confinement";

- (b) adding after the word "retail" in line one of the interpretation "to sell" the words "or to barter or exchange".

3. Subsection (2) of section seven of the principal Act is amended by substituting for the words "shall also" in line four the words "the Minister shall". S. 7
amended.

4. Section ten of the principal Act is amended by— S. 10
amended.

- (a) adding a subsection as follows:—

(3a) The Committee is a body corporate with perpetual succession and a common seal and may sue and be sued and may purchase, take, hold, sell, lease, charge, mortgage and otherwise dispose of real and personal property. ;

- (b) adding after the word "present" in line six of subsection (5) the words "and where there is an equality of votes the question is to be determined in the negative";

- (c) adding after the word "three" in line two of subparagraph (i) of paragraph (a) of subsection (6) the word "consecutive";

- (d) adding the following paragraphs to subsection (6):—

(c) The Minister may, in respect of each member of the Committee, appoint a person to be deputy to that member.

(d) A person appointed as a deputy to a member has in the event of the absence of the member all the powers, duties and rights of that member during his absence.

(e) No appointment of and no act done in that capacity by a deputy shall be questioned on the ground that the occasion for his appointment had not arisen or had ceased. ;

(e) substituting for the word "travelling" in line two of subsection (8) the words "remuneration for his services and";

(f) adding a subsection as follows:—

(10) The Minister may from time to time with the concurrence of the Public Service Commissioner appoint a person to be secretary to the Committee.

S. 12
repealed and
re-enacted.

5. Section twelve of the principal Act is repealed and re-enacted as follows:—

Research.

12. The Committee may with the approval of the Minister carry out or cause to be carried out such research into the conservation and protection of fauna as it thinks fit.

S. 14
amended.

6. Paragraph (a) of subsection (2) of section fourteen of the principal Act is amended by substituting for the words "or the maximum number of the fauna which one person may take during any specified period of time" in the last three lines of the paragraph the words "and place such restrictions on either the taking or disposal or the taking and disposal of the fauna as he considers advisable".

S. 15
amended.

7. Subsection (1) of section fifteen of the principal Act is repealed and re-enacted as follows:—

(1) The Minister may, in addition to any license required under the provisions of section seventeen of this Act, issue such licenses as are prescribed.

S. 17
amended.

8. Subsection (2) of section seventeen of the principal Act is amended by adding a paragraph as follows:—

(f) bring into the State from any place outside the State, any prescribed animal or bird or species of animal or bird, whose habits or

nature might in the opinion of the Minister become or threaten to become injurious to fauna.

9. Section eighteen of the principal Act is amended by— S. 18
amended.

(a) substituting for the words "Skins" in line one of subsection (1), the paragraph designation and words "(a) Subject to the provisions of paragraph (b) of this section skins";

(b) adding the following paragraphs to subsection (1):—

(b) The Minister may from time to time and for such period as he thinks fit, by notice published in the *Gazette* exempt from the payment of royalty skins taken from a specified part of the State by a specified class or classes of persons.

(c) The Minister may from time to time cancel the notice or vary it by way of addition, substitution or otherwise. ;

(c) adding after the word "regulations" in the last line of subsection (2) the words "or the notice referred to in paragraph (b) of subsection (1) of this section".

10. Section nineteen of the principal Act is amended by adding a paragraph as follows:— S. 19
amended.

(f) a person, who for the time being is a member of the Committee.

11. Section twenty of the principal Act is amended by— S. 20
amended.

(a) substituting for the word "Minister" in line one of subsection (1) the words, "Chief Warden of Fauna";

- (b) adding after the word "Act" in line three of subsection (2) the words "or the regulations or who on reasonable grounds suspects that an offence against this Act or the regulations has been committed or is about to be committed";
- (c) adding after the word "conveyance" in line two of paragraph (b) of subsection (2) the words "or enter upon and search any land not being a dwelling house or enclosed garden or curtilage of a dwelling house, or enter and search any hut, tent, caravan or other erection, which is not a permanent residence, or enter and search any shop, warehouse, factory, bond store office or any other premises of whatever description or enter into or upon and search any lake, river, pond, lagoon or other water whether natural or artificially constructed;
- (d) adding after the word, "regulations" in the last line of paragraph (b) of subsection (2) the words "and to seize the fauna, weapon, instrument, illegal device or other thing or means found and deliver it into the custody of a member of the Police Force to be dealt with according to law;
- (e) substituting for the words "any house, vessel or place" in lines three and four of paragraph (a) of subsection (3) the words "any of the premises excepted under paragraph (b) of subsection (2) of this section";
- (f) substituting for the words "house, vessel or place" in lines seventeen and eighteen of paragraph (a) of subsection (3) the word "premises".

S. 21
amended.

12. Subsection (1) of section twenty-one of the principal Act is amended by substituting for the word "Minister" in line one the words "Chief Warden of Fauna".

13. Section twenty-three of the principal Act is amended by— S. 23
amended.

- (a) adding after the section number “23” in line one the figure “1” in brackets thus—(1);
- (b) adding after the word “abused” in line fourteen the words “or that any species of fauna which is being taken under the authority of this section is likely to become unduly depleted”;
- (c) adding a subsection as follows:—

(2) The Chief Warden of Fauna may issue a certificate to the native authorising him to sell the skins of kangaroos which he has lawfully taken for food under the provisions of this section.

14. Section twenty-five of the principal Act is amended by— S. 25
amended.

- (a) repealing and re-enacting paragraph (a) of subsection (1) as follows:—
 - (a) wilfully mislead, hinder, assault, resist or obstruct, incite or encourage any other person to mislead, hinder, assault, resist or obstruct, any person in any particular likely to affect the discharge of that person’s duty pursuant to the provisions of this Act;
- (b) adding a subsection as follows:—

(3) Where a person is convicted of the offence of assaulting a person in contravention of the provisions of paragraph (a) of subsection (1) of this section, the Justices before whom the complaint is heard, may, in addition to imposing any penalty, order a sum of money sufficient but not exceeding the sum of fifty pounds to cover any damage or injury sustained by the person assaulted to be paid by the

defendant to that person, which such sum may be recovered in the like manner as a penalty under this Act may be recovered.

15. The following sections are added to the principal Act:—

Ss. 27A-
27C added.

Illegal
devices etc.
found may
be forfeited.

27A. (1) Subject to the provisions of section twenty-seven of this Act, when and as often as any illegal device or any fauna is found by a warden or honorary warden, and the owner thereof cannot be found, he shall give notice of the finding in the prescribed form, and thereafter shall cause the illegal device or fauna so found to be taken before a justice, who may, if satisfied that there are reasonable grounds for believing that the illegal device had been or was intended to be used or the fauna had been taken or consigned for sale in contravention of this Act or regulations or proclamation made under this Act, condemn the same as forfeited to Her Majesty and thereupon it is forfeited accordingly.

(2) A person making a claim to ownership of any illegal device or fauna so found may appear before the justice before whom the illegal device or fauna is taken and he may make such proper representations to the justice as he may think fit.

Power to
seize
forfeited
articles.

27B. The Chief Warden of Fauna may, with the approval of the Minister, in manner prescribed and after the expiration of the time limited for appeal by the Justices Act, 1902-1948, sell or dispose of all illegal devices or fauna forfeited under the provisions of section twenty-seven A of this Act.

27C. Where the defendant or person charged with an offence against this Act, pleads in answer to the charge any exemption contained in this Act, the proof thereof is upon the defendant or person charged.

16. The following paragraphs are added to section twenty-eight of the principal Act—

S. 28
amended.

- (g) prescribing the licenses required under and for the purposes of the provisions of this Act, and the maximum fees payable for any license, enabling the differentiation of fees payable in respect of any particular kind of license;
- (h) providing penalties, not exceeding fifty pounds, for the breach of any regulation and providing for the manner of the sale or disposal of any instrument, weapon, illegal device, or other things forfeited to Her Majesty in accordance with the provisions of section twenty-seven A of this Act;
- (i) prescribing the animals or birds or the species of animals or birds which may be prohibited from being brought into the State under the provisions of section seventeen of this Act.