
FAUNA CONSERVATION

14° and 15° Geo. VI., No. LXXVII.

No. 77 of 1950.¹

(Affected by Act No. 113 of 1965, s. 8.)

[As amended by Acts:

No. 38 of 1954, assented to 3rd December, 1954;

No. 73 of 1954,² assented to 14th January, 1955;

No. 45 of 1967,³ assented to 21st November, 1967;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to provide for the Conservation and Protection of Fauna.

[Assented to 5th January, 1951.]

BE it enacted by the King'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:—

1. This Act may be cited as the *Fauna Conservation Act, 1950-1967*. Short title.
Amended by
Act No. 45
of 1967, s. 1.
2. This Act shall come into operation on a day to be fixed by Proclamation¹. Commence-
ment.
3. The Game Act, 1912, and the Game Act Amendment Act, 1913, are repealed. Repeal.

¹ Proclaimed to come into operation on 1st July, 1952. See *Gazette*, 13/6/52, pp. 1497-8.

² Proclaimed to come into operation on 1st March, 1955. See *Gazette*, 18/2/55, p. 343.

³ Proclaimed to come into operation on 1st June, 1968. See *Gazette* 24/5/68, p. 1509, 39954/11/67

Severability.

4. This Act shall be construed so as not to exceed the legislative power of the State the intention being that, if any provision of this Act would, but for this section, be construed as being in excess of that power, it shall, to the extent to which it is not in excess of that power, be a valid enactment.

5. [*Repealed by No. 45 of 1967, s. 3.*]

Interpre-
tation.Amended by
No. 38 of 1954,
B. 2; No. 45
of 1967, s. 4.

6. In this Act, unless the context requires otherwise—

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

“close season” means, in relation to any of the fauna, the period of time during which that fauna is, subject to the provisions of this Act, protected from being taken;

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

“fauna” means the vertebrate fauna which is wild by nature and is ordinarily to be found in a condition of natural liberty in the whole or a part or parts of the State, and which is indigenous or introduced, and includes any kind, species, sex and individual member of the fauna, and also includes terrestrial or marine mammals, birds, reptiles and frogs, and also the whole or any part of the skin, plumage, body, eggs, nests, young and offspring of the fauna and further includes fauna which is bred or kept in captivity or confinement;

“honorary warden” means an honorary warden of fauna appointed pursuant to the provisions of this Act;

“illegal device” means any specified device declared to be an illegal device by the regulations and any specified device which is used in a manner other than that prescribed for its use by the regulations;

“illegal means” means any specified means declared to be an illegal means, and any specified means used in a manner other than that prescribed by the regulations;

“indigenous” means, in relation to fauna, such of the fauna as is indigenous to the State;

“introduced” means, in relation to fauna, such of the fauna as is indigenous to any place outside the State, but which occurs permanently, seasonally or occasionally within the State, whether as the result wholly or partly of introduction by man or by migration into the State;

“license” means a license issued pursuant to the provisions of this Act;

“Minister” means the Minister for Fisheries and Fauna;

“open season” means, in relation to any of the fauna, the period of time during which that fauna may, subject to the provisions of this Act, be taken;

“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;

“protected” means, in relation to any of the fauna, protected from being taken, and “protection” has a corresponding meaning;

“sanctuary” means an area of land—

vested in the Crown and which the Governor, subject to such conditions and limitations as he thinks fit, reserves to His Majesty or disposes of in such a manner as for the public interest may seem fit for the conservation of fauna, pursuant to the provisions of paragraph (g) of section 29 of the Land Act, 1933-1948¹; or

¹ Now Land Act, 1933-1967.

Fauna Conservation.

which is the subject of an agreement made between the Minister and the owner of the land for its use as a sanctuary;

“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;

“to sell” means to sell by wholesale or retail, or to barter or exchange, and includes to supply for profit, offer for sale, receive for sale, having possession for sale, expose for sale, send forward or deliver for sale, cause or suffer or allow to be sold, and to dispose or offer for disposal under hire purchase agreement, and derivatives and inflections have corresponding meanings;

“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 meaning;

“warden” means a warden of fauna appointed pursuant to the provisions of this Act but does not include an honorary warden.

Administra-
tion.
Amended by
No. 38 of 1954,
s. 3; No. 45 of
1967, s. 5.

7. (1) Subject to the direction and control of the Minister and the Director, this Act shall be administered by the Chief Warden of Fauna.

(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.

(2) The Governor shall appoint a person to the office of Chief Warden of Fauna which office shall be subject to the provisions of the Public Service Act, 1904-1948¹, and the Minister shall appoint such other persons as wardens of fauna, honorary wardens of fauna, and officers as he thinks fit to carry out the provisions of this Act.

(3) [*Repealed by No. 45 of 1967, s. 5.*]

(4) Acceptance of or acting in the office of Chief Warden of Fauna, or of warden, honorary warden or officer, by a person shall not of itself render the provisions of the Public Service Act, 1904-1948¹, or the Superannuation Act, 1871-1947² or the Superannuation and Family Benefits Act, 1938-1947³, applicable to him or affect the application of those provisions to him if they applied to him at the time of the acceptance of or acting in the office.

(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.

8. The cost of the administration of this Act shall be paid out of moneys to be appropriated by Parliament for the purpose. Cost of administration.

9. This Act does not bind the Crown or any undertaking carried on by or on behalf of the Government of the State. Crown not bound.

¹ Now Public Service Act, 1904-1967.

² Now Superannuation Act, 1871-1967.

³ Now Superannuation and Family Benefits Act, 1938-1967.

Authority
to succeed
Committee.
Added by
No. 45 of
1967, s. 6.

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

- (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.

The Fauna
Protection
Advisory
Committee.
Amended by
No. 38 of 1954,
s. 4; No. 45 of
1967, s. 7.

10. (1) For the purposes referred to in the next succeeding section, there shall be an Authority constituted as provided in this section.

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

(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.
- (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.
- (3b) The Authority 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.
- (4) Meetings of the Authority shall be held at such times and places as it may decide, or be determined by the Minister, and the Authority may regulate its own procedure.
- (5) At all meetings of the Authority—
 - five members, of whom one shall be an *ex officio* member, shall constitute a quorum for the conduct of the business;
 - all matters shall be determined by a majority of the votes of the members present and where there is an equality of votes the question is to be determined in the negative;
 - each member, including the chairman, shall be entitled to one vote only on the determination of any matter.

Fauna Conservation.

(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.

(6) (a) If an appointed member of the Authority—

- (i) is absent without the consent of the Minister for more than three consecutive meetings of the Authority, notice of the convening of which has been given to him;
- (ii) becomes of unsound mind or is declared, pursuant to the provisions of the law for the time being relating to mental infirmity, incapable of managing his affairs;
- (iii) becomes bankrupt or avails himself as a debtor of any law for the relief of bankrupt debtors;
- (iv) is guilty of misbehaviour or incapacity in his office; or
- (v) resigns, or dies,

his office on the Authority shall become vacant.

(b) Where the office of an appointed member becomes vacant, otherwise than by effluxion of the term for which the occupant was appointed, the Governor may appoint a person to the vacant office for the remainder of the term, and at the expiration of that remainder, that person shall, subject to the last preceding paragraph, be eligible for re-appointment.

(7) Acceptance of or acting in the office of member of the Authority by a person shall not of itself render the provisions of the Public Service Act, 1904-1948¹, the Superannuation Act, 1871-1947², or the Superannuation and Family Benefits Act, 1938-1947³, applicable to him, or affect the application of

¹ Now Public Service Act, 1904-1967.

² Now Superannuation Act, 1871-1967.

³ Now Superannuation and Family Benefits Act, 1938-1967.

those provisions to him if they applied to him at the time of the acceptance of or acting in the office.

(8) Each member of the Authority shall be entitled to such remuneration for his services and allowances as the Minister may determine.

(9) The Authority shall cause to be kept minutes of its proceedings in such manner and form as the Minister may direct or approve.

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

(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.

11. (1) The Authority shall inquire into and report to the Minister on any matters referred to it by him or by the Chief Warden of Fauna in relation to the conservation of fauna in the State, and may advise the Minister and make such recommendations to him in relation thereto as it thinks fit.

Functions
of the
Committee.
Amended by
No. 45 of 1967,
s. 8.

(2) Without prejudice to the generality of the provisions of the last preceding subsection, the Authority shall inquire into and report to the Minister on the effect or likely effect on the conservation of the fauna of this State, of the importation into the State of the fauna of any place outside the State, when required by him or by the Chief Warden of Fauna, and may advise the Minister and make such recommendations to him in relation thereto as it thinks fit.

(3) At least thirty days before making to the Minister any report or recommendation relating to an inquiry under this section into any proposed

new sanctuary, and, in relation to any other inquiry under this section, whenever directed by the Minister so to do, the Authority shall refer the subject matter of the inquiry to the local authority in whose district the matter may have effect for any information and advice the local authority may be able to offer and shall advise the local authority of the general nature of any report, advice or recommendation which the Authority may then intend to submit to the Minister.

Research.
Repeated and
re-enacted
by No. 38
of 1954, s. 5.
Amended by
No. 45 of
1967, s. 9.

12. The Authority 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.

Power
of Authority
to classify
sanctuaries.
Added by
No. 45 of
1967, s. 10.

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.

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.
Added by No. 45 of 1967, s. 11.

- (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.

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—

Erection of notices.
Added by No. 45 of 1967, s. 12.

- (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.

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

(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.

Power of Authority to prepare management scheme. Added by No. 45 of 1967, s. 13.

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.

(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.

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.

Power of Authority to grant permit to enter sanctuary. Added by No. 45 of 1967, s. 14.

(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.

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

(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.

Agreements
for sanctu-
aries.

13. The Minister may enter into agreements with the owners of areas of land for the use of the land as a sanctuary for the conservation and protection of fauna.

Protection of
fauna.
Amended by
No. 38 of 1954,
s. 6.

14. (1) Except to the extent which the Governor declares by Proclamation pursuant to the provisions of this section all fauna is wholly protected throughout the whole of the State at all times.

(2) (a) The Governor may from time to time declare—

that any of the fauna is not protected or is protected to such extent for such period of time throughout the whole or such part or parts of the State as he shall think fit,

and for these purposes may from time to time by Proclamation declare—

a close season or an open season in respect of any of the fauna and place such restrictions on either the taking or disposal or the taking and disposal of the fauna as he considers advisable.

(b) The Governor may from time to time, by Proclamation, vary the provisions and operation of a Proclamation promulgated pursuant to the power conferred upon him by this section by cancelling those provisions and that operation wholly or in part absolutely, or by cancelling those provisions and that operation wholly or in part, and substituting other provisions and their operation for those so cancelled.

(c) A declaration promulgated by Proclamation pursuant to the provisions of this section shall, by virtue of this section, have the force of law while in operation.

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

Licenses.
Amended by
No. 38 of
1954, s. 7;
No. 45 of
1967, s. 15.

(2) (a) The Minister may renew the period of operation of a license from time to time, or transfer the authority it confers from one person to another, or, where its operation relates to any place, may transfer that operation to another place of the same kind.

(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.

(3) (a) The Minister may delegate all or any of the powers conferred upon him, with the exception of this power of delegation, to the Chief Warden of Fauna, or to any warden.

(b) Where the exercise of the power is dependent upon the opinion, belief, satisfaction or other state of mind of the Minister in relation to any matter, the power, when delegated, may be exercised by the delegate upon his opinion, belief, satisfaction or state of mind in relation to the matter.

(c) Every delegation pursuant to the provisions of this section shall be revocable at will, and no delegation shall prevent the Minister from exercising the power.

(4) No person shall be entitled to a grant, renewal or transfer of a license as of right.

(5) A grant, renewal or transfer of a license may be authorised subject to such conditions as, having regard to the conservation of fauna, the Minister considers fit, which conditions shall be endorsed upon or attached to the license when granted, renewed or transferred, as the case may be; and may be added to, cancelled, suspended and otherwise varied by the Minister from time to time during the operation of the license.

Taking of protected fauna an offence.
Amended by No. 45 of 1967, s. 16.

16. (1) A person who infringes the protection conferred by subsection (1) or declared pursuant to subsection (2) of section fourteen of this Act, by taking fauna while protected, otherwise than by—

the authority of a license issued pursuant to the provisions of section fifteen of this Act; or

the authority of the provisions of paragraph (c) of subsection (2) of the next succeeding section, or of section twenty-three,

commits an offence against this Act.

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

(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.

Certain dealings in fauna prohibited unless by authority of license.
Amended by No. 38 of 1954, s. 8; No. 45 of 1967, s. 17.

17. (1) This section applies to fauna whether protected or not protected.

(2) Unless by the authority of a license which is in operation, no person shall—

- (a) commence or carry on the business of conducting a farm for the purpose of breeding or raising any kind of indigenous fauna or, for the purpose of stocking the farm, take any kind of indigenous fauna;
- (b) commence or keep an establishment for the breeding or holding of fauna for gain or reward;
- (c) bring into the State from any place outside the State any of the live vertebrate fauna which is wild by nature and is ordinarily found in a condition of natural liberty in that place, or the eggs, source of reproduction, young or offspring of that fauna;
- (d) export fauna from the State;
- (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.

- (f) bring into the State from any place outside the State, any prescribed class, order, family, genus or species of any bird or other animal, whose habits or nature might in the opinion of the Minister become or threaten to become injurious to fauna;
 - (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.
- (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.

17A. After the expiration of three months from the date of the coming into operation of the Fauna Protection Act Amendment Act, 1967, a person shall not—

- (a) process fauna for the purposes of sale; or

License to process fauna and processing establishments.
Added by No. 45 of 1967, s. 18.

- (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.

Regulation
of the taking
of certain
species of
game.
Added by
No. 45 of
1967, s. 19.

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*—

- (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.

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.

Establishment of Fauna Conservation Trust Fund. Added by No. 45 of 1967, s. 20.

(2) Any moneys from time to time belonging to the Fund shall be deposited in the 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.

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. Added by No. 45 of 1967, s. 21.

Application
of money
in Fund.
Added by
No. 45 of
1967, s. 22.

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.

(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.

Accounts.
Added by
No. 45 of
1967, s. 23.

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

Royalty on
skins.
Amended by
No. 38 of
1954, s. 9.

18. (1) (a) Subject to the provisions of paragraph (b) of this section skins of indigenous fauna taken in the State are charged with payment of royalty at the rates prescribed by the regulations, which rates may be uniform or vary according to the kind of fauna from which the skin is taken, unless by the regulations the skin is exempt from payment of royalty.

(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.

(2) Where a person removes the skin of indigenous fauna which he has taken for the purpose of selling the skin for profit, he shall pay the prescribed royalty in respect of the skin unless exempted pursuant to the provisions of the regulations or the notice referred to in paragraph (b) of subsection (1) of this section.

(3) A person who buys or sells skins of indigenous fauna, whether as principal or agent, shall, unless the skins are exempted from payment of royalty, or royalty has, at the time of the buying or selling, been paid, be liable for payment of the prescribed royalty thereon.

(4) Officers appointed and authorised to receive royalty pursuant to the provisions of this Act shall, on receipt of royalty, brand or cause to be branded in manner prescribed, each skin in respect of which the royalty is paid, as evidence of the payment.

(5) Skins of prescribed fauna intended for export and exempt from payment of royalty shall be branded by the officer so authorised with a prescribed brand.

(6) By virtue of this section an officer so authorised may seize and take control of any skin upon which royalty is payable but has not been paid and may retain the skin until the royalty is paid.

(7) The Minister, by virtue of this subsection, may sue for and recover royalty payable pursuant to the provisions of this section, in a court of competent jurisdiction, and may apply for, and if the court sees fit, obtain an order for the sale of such skin, and where a skin is sold pursuant to an order of the court, the proceeds of the sale shall,

after payment of the costs of the sale and proceedings before the court, be appropriated to payment of the royalty, and any balance of the proceeds then remaining shall be applied as the court directs.

(8) A person who evades, or attempts to evade, payment of royalty payable by him pursuant to the provisions of this section, commits an offence against this Act.

Wardens.
Amended by
No. 38 of
1954, s. 10.

19. For the purposes of this Act, the following persons shall be wardens:—

- (a) The person for the time being occupying or acting in the office of Chief Warden of Fauna;
- (b) persons appointed to the office of warden pursuant to the provisions of subsection (2) of section seven of this Act and for the time being occupying or acting in that office;
- (c) all members of the Police Force;
- (d) each person who, for the time being, occupies or acts in the office of Chief Inspector of Fisheries, or the office of inspector, pursuant to the provisions of the Fisheries Act, 1905-1949¹;
- (e) each person who, for the time being, occupies or acts in the office of forest officer pursuant to the provisions of the Forests Act, 1918-1931²;
- (f) a person, who for the time being is a member of the Committee.

Authority of
Wardens.
Amended by
No. 38 of
1954, s. 11;
No. 45 of
1967, s. 24.

20. (1) The Chief Warden of Fauna shall issue to a warden a certificate of authority authorising the warden to do all things which he is required or authorised to do by the provisions of this Act and the regulations, and all courts and persons acting judicially shall take judicial notice of the certificate and the authority conferred by it.

¹ Now Fisheries Act, 1905-1967.

² Now Forests Act, 1918-1964.

(2) A warden who is not a member of the Police Force and who finds a person committing an offence against this Act 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 may, without warrant other than the provisions of this section—

(a) take possession and control of—

any weapon, instrument, illegal device or other thing or means which the warden, on reasonable grounds, believes has been used, is being used, or is about to be used, by the offender in the commission of the offence;

any fauna which the warden on reasonable grounds believes to be involved in the commission of the offence,

and deliver them into the custody of a member of the Police Force or in the case of fauna to any person appointed in writing by the Minister for the purpose to be dealt with according to law;

(b) stop, detain and search any vehicle, vessel or conveyance 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 in which the warden, on reasonable grounds, suspects there is any fauna taken, or any weapon, instrument, illegal device or other thing or means used or about to be used, in the commission of an offence against this Act or the regulations, and to seize the fauna, weapon, instrument, illegal device or other thing or means found and deliver it into the

Cf. Police Act, 1892 (55 Vict., No. 27), s. 49.

custody of a member of the Police Force or in the case of fauna to any person appointed in writing by the Minister for the purpose to be dealt with according to law;

Cf. Police Act, 1892 (55 Vict., No. 27), s. 50.

- (c) where the warden, on reasonable grounds suspects a person is committing or has committed an offence against this Act or the regulations,

require the person to give to him the person's name and address and may detain the person if, when required to do so, he does not give to the warden his name and address, or gives to the warden a false name and address, until he can be delivered to a member of the Police Force, or the warden may take him into custody himself, to be dealt with according to law pursuant to section fifty of the Police Act, 1892, as if he had been so required and had not given his name and address, or had given a false name and address to an officer or constable of the Police Force.

(3) (a) If it appears to a justice of the peace on complaint made on oath that there are reasonable grounds for suspecting that there is in any of the premises excepted under paragraph (b) of subsection (2) of this section—

- (i) anything with respect to which an offence has been or is suspected, on reasonable grounds, to have been committed; or
- (ii) anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of an offence, or
- (iii) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing an offence,

he may issue his warrant directing the warden named therein, or all wardens, to search the premises and to seize the thing found and to take it before a justice to be dealt with according to law.

(b) The warrant is to be executed by day, unless the justice of the peace, by the warrant, has authorised it to be executed by night, in which case it may be so executed.

(4) In respect of fauna reasonably suspected of having been taken otherwise than as authorised by or pursuant to the provisions of this Act, the provisions of section sixty-nine of the Police Act, 1892, relating to things reasonably suspected of being unlawfully obtained shall apply.

(5) As regards a warden who is a member of the Police Force, the provisions of this Act relating to wardens are not in derogation of but are in addition to those of other Acts relating to members of the Police Force.

21. (1) The Chief Warden of Fauna shall issue to an honorary warden a certificate of authority authorising the honorary warden to do all things which he is required or authorised to do pursuant to the provisions of this Act.

Honorary wardens.
Amended by No. 38 of 1954, s. 12.

(2) The powers and duties of an honorary warden shall be those prescribed by the regulations.

22. (1) The property in fauna, until lawfully taken is, by virtue of this Act, vested in the Crown.

Property in fauna.

(2) The provisions of the last preceding subsection do not entitle any person to compensation.

23. (1) Notwithstanding any other provisions of this act, a person—

Exemption in certain cases.
Amended by No. 38 of 1954, s. 13.

who is a native according to the interpretation, "Native" in section two of the Native Administration Act, 1905-1947¹,

may take fauna—

upon Crown land or upon any other land, not being a sanctuary, but where occupied, with the consent of the occupier of that land,

¹ Now Native Welfare Act, 1963, section 4.

sufficient only for food for himself and his family, but not for sale—

and the Governor may, if he is satisfied that any of the privileges conferred by this section upon the native has been or is being abused or that any species of fauna which is being taken under the authority of this section is likely to become unduly depleted, by regulation curtail the privileges in such manner and for such period and in such part or parts of the State as he thinks proper.

(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.

Protection of officers.

24. (1) No matter or thing done by the Minister, any member of the Committee, the Chief Warden of Fauna, a warden of fauna, an honorary warden, an officer, in good faith in or about the exercise of any of the powers conferred upon and exercisable by those persons, shall subject them, or any of them, to any liability in respect thereof.

(2) [*Repealed by No. 73 of 1954, ss. 5 and 8.*]

Certain offences.
Amended by
No. 38 of
1954, s. 14;
No. 113 of
1965, s. 8.

25. (1) No person shall—

- (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) without lawful excuse have in his possession a license issued under this Act, or any thing resembling such a license and calculated to deceive;
- (c) refuse to produce any license issued to him pursuant to the provisions of this Act when required to do so by a warden;
- (d) refuse to state his name or address when lawfully required to do so by a warden;

- (e) state a false name or address to a warden when lawfully required by a warden to give his name and address;
- (f) use abusive language to a warden;
- (g) fail to observe the conditions of any license issued to him pursuant to the provisions of this Act.

(2) That the provisions of the last preceding subsection relate to a warden, does not preclude the making of regulations containing similar provisions relating to an honorary warden.

(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 one hundred dollars 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.

26. (1) Any person who contravenes or who fails to comply with any provisions of this Act or the regulations is guilty of an offence against this Act and is liable, if no other penalty be prescribed, to a maximum penalty of 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, and any license issued pursuant to the provisions of this Act and held by him may be cancelled.

Offences.
Amended by
No. 45 of
1967, s. 25.

(2) All proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions.

(3) Any person may make and prosecute a complaint pursuant to the provisions of the Justices Act, 1902-1948¹, in respect of an offence alleged to be committed against this Act or the regulations.

¹ Now Justices Act, 1902-1967.

Forfeiture.

27. (1) Where any fauna, weapon, instrument, illegal means or device, or thing, which is seized by a warden pursuant to the powers conferred upon him by this or any other Act, is involved in the commission of an offence against this Act or the regulations, it may, on conviction of the offender—

if the court of petty sessions convicting the offender so orders,

be forfeited to the Crown and shall, after the expiration of the time limited for appeal, be destroyed or otherwise dealt with in such manner as the Minister directs.

(2) A person who feels aggrieved as complainant, defendant, or otherwise, may, without prejudice to any other right of appeal he may have, appeal against the forfeiture ordered pursuant to the provisions of the last preceding paragraph in the manner prescribed in the Justices Act, 1902-1948¹.

(3) The provisions of this section do not apply to skins seized for non-payment of royalty pursuant to the provisions of this Act, nor to any vehicle, vessel or aircraft.

Illegal devices, etc. found may be forfeited. Added by No. 38 of 1954, s. 15.

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.

¹ Now Justices Act, 1902-1967.

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, 1902-1948¹, sell or dispose of all illegal devices or fauna forfeited under the provisions of section twenty-seven A of this Act.

Power to seize forfeited articles. Added by No. 38 of 1954, s. 15.

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.

Proof of exemption upon person pleading it. Added by No. 38 of 1954, s. 15.

28. (1) The Governor may make regulations prescribing all forms, fees, and matters which by this Act are required or permitted to be prescribed, or are convenient for carrying into or facilitating the operation of the provisions of this Act, and, in particular and without prejudice to the generality of this power, may make regulations—

Regulations. Amended by No 38 of 1954, s. 16; No. 45 of 1967, s. 26.

- (a) providing for the protection of fauna in sanctuaries and for the control of sanctuaries by the Authority or by such other persons as the Governor may from time to time appoint for the purpose;
- (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

¹ Now Justices Act, 1902-1967.

Fauna Conservation.

of any vegetation of any description or the spores or seeds of any vegetation 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;
- (b) limiting the number of shooters in any one locality at any one time and licensing shooting and hunting parties and regulating the same;
- (c) controlling and regulating the sale or disposal of live or dead fauna for gain or reward;
- (d) prescribing the conditions under which fauna may be kept in captivity;
- (e) prescribing the particulars to be recorded and kept available for inspection by wardens, collectors and officers and the manner in which the particulars are to be recorded, and prescribing the matters to be recorded in returns and the times and manner of furnishing returns to the Minister;
- (f) prescribing matters relating to research which the Minister causes to be carried out, into the conservation of fauna, and, without limiting the generality of the foregoing provisions of this paragraph, prohibiting all such acts, matters and

things as do or are likely to hinder or obstruct or otherwise adversely affect the carrying out of that research;

- (g) prescribing the licenses required under and for the purposes of the provisions of this Act, and the minimum and 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 two hundred dollars, 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;
- (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.

(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.