



ANNO SECUNDO

GEORGI VI REGIS.

A.D. 1938.

No. 2390.

An Act to amend the Animals and Birds Protection Act, 1919-1934.

[Assented to 22nd September, 1938.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Animals and Birds Protection Act Amendment Act, 1938". Short titles.

(2) The Animals and Birds Protection Act, 1919-1934, as amended by this Act, may be cited as the "Animals and Birds Protection Act, 1919-1938".

(3) The Animals and Birds Protection Act, 1919-1934, is hereinafter referred to as "the principal Act".

2. Section 3 of the principal Act is amended—

(a) by striking out the definition of "Crown lands" and by inserting therein the following definition :—

Amendment of
principal Act,
s. 3—
Interpretation.

"Crown lands" means all lands in the State except—

(a) lands lawfully granted, or contracted to be granted, in fee simple by or on behalf of the Crown ;

(b) lands subject to any agreement for sale or purchase, lease, or licence lawfully granted by or on behalf of the Crown,

and includes all lands which, having been granted or held under agreement or lease, have been or are surrendered and all lands which, having been lawfully held by any person for any estate

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or interest, have been or are lawfully forfeited to or resumed by, or by any means whatsoever have reverted to or revert to, or have been or are acquired by, the Crown :

(b) by inserting therein after the definition of " Crown lands " the following definition :—

" day " means a period of twenty-four hours commencing from midnight :

(c) by striking out the words " the Minister of Industry or other " in the definition of " Minister ".

Amendment of
principal Act,
s. 6—

3. Subsection (1) of section 6 of the principal Act is amended so as to read as follows :—

Protected
animals.

(1) All animals and birds which are not mentioned in the third or fourth schedule are hereby wholly protected.

Amendment of
principal Act,
s. 8—
Powers of
Governor.

4. Section 8 of the principal Act is amended—

(a) by striking out paragraph (a) of subsection (1) thereof and by inserting in lieu thereof the following paragraphs :—

(a) include any animal or bird in the third or fourth schedule :

(a1) transfer any animal or bird from the third or fourth schedule to the other of the said schedules :

(a2) remove any animal or bird from the third or fourth schedule :

(b) by inserting after paragraph (b) of subsection (1) thereof the following paragraph :—

(b1) prescribe either for the whole State or any specified portion thereof and subject to any conditions specified in the proclamation, a period to be specified in the proclamation during which any wholly protected or partly protected animal or bird shall cease to be protected within the area specified in the proclamation and may lawfully be taken :

(c) by inserting after the word " schedule " in the second line of paragraph (e) of subsection (1) thereof the words " or with respect to any animal or bird which is for the time being unprotected pursuant to any proclamation made under paragraph (b1) of this subsection " :

- (d) by striking out the proviso to paragraph (e) of subsection (1) thereof and by inserting in lieu thereof the following proviso :—

Provided that different maximum numbers may be fixed with respect to persons holding gun licences and persons holding game licences :

- 5.** Section 11 of the principal Act is amended by inserting therein after paragraph (b) thereof the following paragraph :—

Amendment of principal Act, s. 11—

- (b1) upon the application of any person holding any licence under this Act, cancel the licence and refund to that person such portion of the licence fee as the Minister thinks fit, but not exceeding such proportion of the fee as the unexpired portion of the term of the licence bears to the full term of the licence :

Powers of Minister.

- 6.** Section 12 of the principal Act is amended—

Amendment of principal Act, s. 12—

- (a) by inserting after the word “ he ” in the second and fifth lines of paragraph (b) thereof in each case the word “ reasonably ” ;
- (b) by inserting after the word “ he ” in the third and sixth lines of paragraph (c) thereof in each case the word “ reasonably ” ; and
- (c) by inserting therein after paragraph (c) thereof the following paragraph :—

Powers of inspectors.

- (c1) enter and search any premises, or search any vehicle, boat, vessel, or any box, receptacle, or package, or open any box, receptacle, or package containing, or which he reasonably suspects to contain, any article made from the feathers, carcass, or skin of any animal or bird taken in contravention of the provisions of this Act, and examine any such article :

- 7.** Section 13b of the principal Act is amended—

Amendment of principal Act, s. 13b—
Royalty.

- (a) by adding at the end of subsection (2) thereof the words “ In lieu of the receipt of the prescribed royalty, the collector may, in any case he thinks fit, accept an undertaking in writing to pay the prescribed royalty. ” ; and
- (b) by inserting after the word “ paid ” in the fourth line of subsection (3) thereof the words “ or undertaken to be paid ” .

Amendment of
s. 13d—
Penalties.

8. Section 13d of the principal Act is amended by striking out the word "payment" in the first line thereof and by inserting in lieu thereof the word "receipt".

Amendment of
principal Act,
s. 14—
Offences.

9. Section 14 of the principal Act is amended—

- (a) by striking out the words "not being the holder of a game licence under this Act" and the words "mentioned in the third schedule" in paragraph (b) of subsection (1) thereof;
- (b) by inserting before the word "exports" in paragraph (e) of subsection (1) thereof the words "without the consent of the chief inspector";
- (c) by striking out the proviso to paragraph (g) of subsection (1) thereof; and
- (d) by adding at the end thereof the following subsections :—

(3) It shall be a defence—

- (a) to any proceedings under paragraph (a) of subsection (1) if proof is given that at the time and place the animal or bird or eggs were taken the animal or bird was not a protected animal or bird, or that the animal or bird was taken pursuant to an authority granted under subsection (2) of section 20;
- (b) to any proceedings under paragraph (c) of subsection (1) wherein any person is charged with having in his possession or under his control the carcass, skin, eggs, or feathers of any animal or bird, if proof is given that at the time and place the animal or bird or eggs were taken, the animal or bird was not a protected animal or bird;
- (c) to any proceedings under paragraph (d) of subsection (1) if proof is given that at the time and place the animal or bird was taken the animal or bird was not a protected animal or bird, or, as the case may be, that the carcass or skin of the animal or the carcass, eggs, or feathers of the bird were sold pursuant to the consent of the Minister under subsection (3) of section 20, or, as the case may be, that the article was made from the skin or feathers of an animal or a bird which at the time and place it was taken was not a protected animal or bird;

(d) to any proceedings under paragraph (e) of subsection (1) if proof is given that at the time and place the animal or bird was taken, the animal or bird was not a protected animal or bird.

(4) In any proceedings under paragraph (c), (d), or (e) of subsection (1), wherein any person is charged with having in his possession or under his control the carcass or skin of any protected animal or bird, or with buying or selling the carcass or skin of or any article wholly or partially made from the skin of any protected animal or bird, or with exporting or keeping for export the carcass or skin of any protected animal or bird, it shall be a defence if proof is given that the carcass or skin has been branded with a brand showing that the prescribed royalty has been paid thereon pursuant to this Act, or if other proof is given that the prescribed royalty has been paid or undertaken to be paid pursuant to this Act in respect of the carcass or skin.

10. Section 20 of the principal Act is amended—

(a) by striking out paragraph (c) thereof ; and

(b) by adding at the end thereof the following subsections (the preceding portion of the said section being read as subsection (1) thereof) :—

(2) If the chief inspector is satisfied that damage or injury to any person's crops or property is being committed or is likely to be committed by any protected animals or birds, he may, by notice in writing, authorise the said person or any other persons named in the notice to destroy any specified number of animals or birds of the kind specified in the authority which are found upon the land upon which the crops or property is situated. Any such authority may be given upon such terms and conditions as the chief inspector thinks fit, and may be revoked by him at any time.

(3) It shall be lawful for any person to take any protected animal or bird in pursuance of any authority given pursuant to subsection (2), but the carcass or skin of any animal so taken, and the carcass, eggs, or feathers of any bird so taken shall be sold only if the consent in writing of the Minister to the sale is first obtained.

Amendment of
principal Act,
s. 20—
Exemptions.

Amendment of
principal Act,
s. 22—
Exemptions.

11. Section 22 of the principal Act is amended—

- (a) by striking out paragraph (a) thereof and by inserting in lieu thereof the following paragraph :—
 (a) shall render unlawful anything done by any person pursuant to a permit granted by the Minister or an authority granted by the chief inspector under this Act :
- (b) by striking out paragraph (c) thereof ; and
- (c) by adding at the end of paragraph (d) thereof the words
 “ Provided that if any animal or bird is taken for either of the said bodies by any person, such person at the time of taking has the written authority thereof to take the animal or bird ”.

Amendment of
principal Act—
Heading to
s. 23.

12. The heading to section 23 is amended by striking out the passage “ for Sport ”.

Amendment of
principal Act,
s. 25—

13. Section 25 of the principal Act is amended by inserting after subsection (1) thereof the following subsection :—

Persons selling
certain animals
or birds.

(1a) Any person who sells the carcass or skin of any animal or bird of any of the kinds mentioned in the third schedule or the eggs of any such bird, shall be guilty of an offence against this Act unless he satisfies the court that he is—

- (a) the holder of a game licence ; or
- (b) the holder of a consent to sell such carcass, skin, or eggs granted by the Minister under subsection (3) of section 20 ; or
- (c) the holder of a licence under the Hide, Skin, and Wool Dealers Act, 1915-1935.

Amendment of
principal Act,
s. 26—
Licences.

14. Section 26 of the principal Act is amended—

- (a) by adding at the end of subsection (2) thereof the following proviso :—

Provided further that if any licence is issued after the thirtieth day of June in any year one-half only of the prescribed fee shall be payable.

- (b) by inserting therein after subsection (2) thereof the following subsection :—

(2a) If application is made by any person who is the holder of a current licence, a licence of the same kind may be issued to that person at any time within fourteen days before the expiry of the current licence. In such case the licence so issued shall commence from the expiry of the current licence and shall, for the purposes of subsection (2) be deemed to be issued upon the date of the expiry of the current licence.

15. Section 33 of the principal Act is amended—

Amendment of
principal Act,
s. 33—
Penalties.

- (a) by striking out the word "two" in paragraph (b) thereof and by inserting in lieu thereof the word "five"; and
- (b) by striking out the word "twenty" in paragraph (b) thereof and by inserting in lieu thereof the word "thirty";
- (c) by striking out the passage "subdivision (a), (c), (d), or (e)" in paragraph (c) thereof and by inserting in lieu thereof the passage "subdivision (a), (b), (c), (d), (e), (k), or (l)";
- (d) by inserting after the word "held" in the fifth line of paragraph (c) thereof the word "imported,"; and
- (e) by inserting after the word "animal" in the seventh line thereof the words "or a prohibited animal or bird".

16. The principal Act is amended by inserting therein after section 38 thereof the following section :—

Amendment of
principal Act—
Revocation of
certain procla-
mations.

39. All proclamations made before the passing of the Animals and Birds Protection Act Amendment Act, 1938, pursuant to the powers conferred by paragraph (a) of subsection (1) of section 8 (as enacted before the passing of the said Act) are hereby revoked.

17. The second schedule to the principal Act is hereby repealed.

Repeal of
second
schedule.

18. The third schedule to the principal Act is amended so as to read as follows :—

Amendment of
principal Act—

THIRD SCHEDULE.

Third schedule.

Part I.—Animals Partly Protected.

Kind of Animal.	Close Season.
Deer (fallow <i>Cervus dama</i>)	From 1st July to 31st December
Kangaroos (<i>Macropus</i>) all species except white kangaroos	(a) From 1st March to 31st July within that portion of Eyre Peninsula south of 33° parallel of latitude : (b) From 1st October to 31st March within all the State not comprised within that portion of Eyre Peninsula south of the 33° parallel of latitude

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Part I.—Animals Partly Protected—continued.

Kind of Animal.	Close Season.
Wallaby (<i>Macropus</i>) all species except rock and toolach	From 1st October to 31st March
Wombats (<i>Phascalomys</i>) all species	From 1st July to 31st December

Part II.—Birds Partly Protected.

Kind of Bird.	Close Season.
Bald coot (<i>Porphyrio spp.</i>) .	1st July to 13th February
Ducks (all species)	1st July to 13th February
Emu (<i>Dromaius novae-hollandiae</i>)	1st September to 30th April
Greenshank (<i>Tringa nebularia</i>)	1st March to 30th September
Maned goose (<i>Chenonetta jubata</i>)	1st July to 13th February
Mutton bird (<i>Puffinus spp.</i>)	1st September to 31st March
Pelican (<i>Pelecanus conspicillatus</i>)	1st September to 31st March
Quail (all species)	1st August to 13th February
Silver gull (<i>Larus novae-hollandiae</i>), except those found within the portion of the Hundred of Menzies bounded as follows:—	1st September to 31st March

Commencing at a point on low-water mark being the intersection of a line being the production northerly of the western boundary of section 6; thence easterly, southerly, and south-westerly along said low-water mark to a point being the intersection of a line being the production south-easterly of the south-western boundaries of sections 164 and D; thence north-westerly along said line and boundaries; thence northerly along the western boundary of said section 164; north-easterly along the north-western boundaries

Part II.—Birds Partly Protected—continued.

Kind of Bird.

Close Season.

of stone reserve No. 2 and section 165 ; northerly across road and along the western boundary of section 5 ; across road and along the western boundary of section 6 and its production to the point of commencement

Snipe (*Gallinago spp.*) 1st March to 30th September
Teal (*Querquedula spp.*).... 1st July to 13th February

19. The fourth schedule to the principal Act is amended so as to read as follows :—

Amendment of principal Act—

FOURTH SCHEDULE.

Fourth schedule.

Part I—Animals Unprotected.

Domestic cats run wild (*Felis cattus*).
Foxes (*Canis vulpes*).
Hares (*Lepus europaeus*).
Rabbits (*Oryctolagus cuniculus*).
Rats and mice (*Mus spp.*).
Seals, fur and hair (*Arctocephalus spp.*) except those found within St. Vincent's Gulf and Spencer's Gulf North of a line from Cape Catastrophe to Cape Borda, thence along the northern shore of Kangaroo Island to Cape Hart and from Cape Hart to the mouth of the River Murray.
Wild dogs (*Canis familiaris*).

Part II.—Birds Unprotected.

African love bird (*Agapornis spp.*).
Blackbird (*Turdus merula*).
Black tailed native hen (*Tribonyx ventralis*).
Blue mountain parrot (*Trichoglossus moluccanus*).
Canary (*Fringillidae spp.*).
Chestnut finch (Zebra).
Cockatoo, sulphur crested (*Kakatoe galerita*).
Corella (*Kakatoe tenuirostris* K. *Sanguinea*).
Cormorant (*Phalacrocorax spp.*).
Crow (*Corvus spp.*).
Eagle hawk (*Uroaetus audax*).
English chaffinch (*Fringillidae spp.*).
English house sparrow (*Passer domesticus*).

Part II.—Birds Unprotected—continued.

English starling (*Sturnus vulgaris*).
 Galah (*Kakatoe roseicapilla*).
 Goldfinch (*Carduelis carduelis*).
 Goshawk (*Astur fasciatus*).
 Greenfinch (*Chloris chloris*).
 King parrot (*Glossopsitta concinna*).
 Love bird (or Nyassa) (*Agapornis spp.*).
 Mistletoe bird (*Dicaeum hirundinaceum*).
 Musk lorikeet (king parrot).
 Myna (*Acridotheres tristis*).
 Native hen, black tailed (*Tribonyx ventralis*).
 Nyassa parrot (love bird).
 Red wattle bird (*Anthochoera carunculata*).
 Rosella parrot (*Platycercus eximius* and *P. adelaidae*).
 Shell parrot (*Melopsittacus undulatus*).
 Silver eye (*Zosterops spp.*).
 Silver gull (*Larus novae-hollandiae*) when found within the
 portion of the Hundred of Menzie bounded as follows:—
 Commencing at a point on low-water mark being the inter-
 section of a line being the production northerly of the
 western boundary of section 6; thence easterly, southerly,
 and south-westerly along said low-water mark to a point
 being the intersection of a line being the production south-
 easterly of the south-western boundaries of sections 164 and
 D; thence north-westerly along said line and boundaries;
 thence northerly along the western boundary of said sec-
 tion 164; north-easterly along the north-western boundaries
 of stone reserve No. 2 and section 165; northerly across road
 and along the western boundary of section 5; across road
 and along the western boundary of section 6 and its pro-
 duction to the point of commencement.
 Sulphur crested cockatoo (*Kakatoe galerita*).
 Warbling grass parrot (Shell).
 Zebra finch (*Taeniopygia castanotis*).

In the name and on behalf of His Majesty, I hereby assent
to this Bill.

W. DUGAN, Governor.