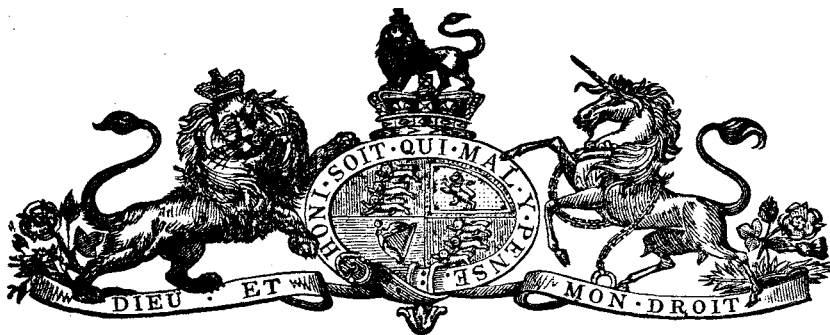


T A S M A N I A .



1895.

ANNO QUINQUAGESIMO-NONO

VICTORIÆ REGINÆ,

No. 26.

Amended by 62 Vict. No. 12

62 " " 42

63 " " 36

64 " " 25

1 Ed VII - 36

2 Id. VIII no 21

3 Ed VII no 23

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Rep 79d. 7. 9a.

AN ACT to consolidate and amend the Laws relating to the Protection of Game, and for other purposes. [24 October, 1895.] A.D. 1895.

WHEREAS it is desirable to consolidate and amend the Laws relating to the Protection of Game: PREAMBLE.

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1 This Act may be cited as "The Game Protection Act, 1895." Short title.
- 2 The Acts mentioned in the Schedule (1.) are hereby repealed, except as to all offences committed before the commencement of this Act. Repeal.
- 3 In this Act, unless the context otherwise determines— Interpretation.
  - "Kangaroo" means the Brush and Forester Kangaroo of Tasmania:
  - "Opossum" means and includes every animal of the Family *Phalangerinae*, of which the "Black Opossum," the "Grey

to end of Act.

*Game Protection.*

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Opossum," and the "Flying Squirrel" are the best known representatives in *Tasmania*, but does not include the "Ringtailed Opossum:"

- "Quail" includes the bird usually called the *Californian Quail* :
- "Imported Game" means and includes Pheasants, Partridges, and Grouse, whether the same are alive or dead, and any other bird or animal which the Governor by Proclamation, as hereinafter provided shall declare to be Imported Game :
- "Native Game" means and includes Wild Ducks, Teal, Widgeon, Quail, Plover, Black Swans, Ground Doves, Wattle Birds, Cape Barren Geese, Southern Stone Plover, and Bronze-winged Pigeons, whether such birds are alive or dead, and any other bird, whether such bird is alive or dead, which the Governor by Proclamation as hereinafter provided shall declare to be Native Game :
- "Hunt" includes to kill, take, pursue, or capture in any manner whatsoever :
- "Police Magistrate" includes a Stipendiary Magistrate and the Warden of a Rural Municipality :
- "District" means any Rural Municipality or any Municipal District :
- "Carcase" includes any part of a carcase.

Other birds or animals may be included in term "Imported Game" or "Native Game."

**4** It shall be lawful for the Governor, by Proclamation published in the *Gazette*, to name any other bird or animal which shall be included in the term "Imported Game" or "Native Game;" and after the publication of any such Proclamation in the *Gazette*, and, after the expiration of the period mentioned in such Proclamation for the commencement thereof, the bird or animal so named shall be included in the term "Imported Game" or "Native Game," as the case may be.

*Imported Game.*

Penalty for killing imported game.

**5** If any person kills or takes any imported game, or uses any dog, gun, net, snare, or other engine or instrument for the purpose of killing or taking any such game, every such person shall for every head of imported game so killed or taken, and for every such offence of so using any dog, gun, net, snare, or other engine or instrument, incur a penalty not exceeding Ten Pounds; but nothing herein contained shall extend to any person killing or taking on his own land either himself or by other persons, with his permission, imported game.

Possession of imported game illegal.

**6** If any person buys or sells, or knowingly has in his house, possession, or control any imported game, except live game kept or to be kept in a mew or breeding-place, every person shall, for every head of imported game so bought or sold, or found in his house, possession, or control, incur a penalty not exceeding Ten Pounds; and nothing herein contained shall extend to any imported game lawfully killed under Section Five, or to any dead imported game brought into this Colony.

Penalty for taking or destroying eggs of imported game.

**7** If any person wilfully takes out of the nest, or destroys in the nest, the eggs of any imported bird of game, or knowingly has in his house, possession, or control any such eggs, every such person shall for every egg so taken or destroyed, or so found in his house, possession, or control incur a penalty not exceeding Five Pounds; but this pro-

*Game Protection.*

vision shall not extend to the owner of any mew or breeding-place for game in respect of eggs in or taken from the nest in such mew or breeding-place, or to any person in respect of any eggs taken from the nest and given to such person by such owner. A.D. 1895.

*Native Game.*

Repealed by 60 Vict. No 12

**8** The following shall be deemed to be the breeding seasons for native game; that is to say,— Breeding seasons of native game.

For Wild Ducks, Teal, Widgeon, Plover, Black Swans, Southern Stone Plover, Ground Doves, and Cape Barren Geese, from the First day of *July* in every year to the Tenth day of *January* in every succeeding year, both days inclusive:

For Bronze-winged Pigeons, from the First day of *August* in every year to the Tenth day of *February* in every succeeding year, both days inclusive:

For Wattle Birds, from the First day of *August* in every year to the Twenty-third day of *May* in every succeeding year, both days inclusive:

For Quail, from the Thirty-first day of *July* in every year to the Fifteenth day of *April* in every succeeding year, both days inclusive.

**9** It shall be lawful for the Governor from time to time, by Proclamation published in the *Gazette*, to declare that any native game described in such Proclamation shall not be killed, taken, or captured during any time, to be stated in such Proclamation, in such parts of *Tasmania* as may be described and set forth in such Proclamation; and every person acting in contravention of such Proclamation shall be liable to the like penalty as if he had offended against the next Section of this Act. Governor may prohibit the taking of native game during open season in certain places.

**10** If any person kills, takes, or captures, or has in his possession or control, and either on his own land or on that of any other person, any native game during the breeding season of such game, such person shall for every head of native game so killed, taken, or captured by him, or so found in his possession and control, forfeit and pay a penalty not exceeding Forty Shillings; but nothing in this Section contained shall apply to any person keeping native game in a mew or breeding-place for breeding purposes. Penalty for killing or taking, &c. native game.

**11** Every person who shall at any time kill or attempt to kill or destroy any Wild Ducks, Teal, or Widgeon with any device or instrument known as a swivel or punt-gun, or with any gun other than such guns as are habitually raised at arms' length and fired from the shoulder, in which the charge when loaded does not exceed Four drachms of gunpowder and Three ounces of shot, shall upon conviction thereof be liable to a penalty not exceeding Twenty Pounds for every such offence. Punt-guns, &c. not to be used.

**12** If any person takes or wilfully destroys the eggs of any native game, every person so offending shall forfeit and pay a penalty not exceeding Forty Shillings for every such egg taken or wilfully destroyed as aforesaid. Penalty for taking or destroying eggs of native game.

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*Native Birds.*

Penalty for buying or selling, &amp;c. Magpies.

**13** If any person buys or sells, or offers for sale, any native White Magpie, every person shall for every such Magpie so bought or sold, or offered for sale, incur a penalty not exceeding Twenty Shillings.

Penalty for killing, &amp;c. other birds.

**14** Every person who shoots at, or wilfully kills, or destroys the eggs of, any of the birds enumerated in the Schedule (2.) shall forfeit and pay a penalty not exceeding Twenty Shillings.

Governor may authorise protected birds to be killed for scientific purposes.

**15** Notwithstanding anything to the contrary contained in this Act, the Governor may, in writing, authorise any person at any time to kill, capture, or destroy any native game or imported game, or any birds or the eggs thereof, or any animal or the progeny thereof which is protected by this Act or by any Proclamation issued hereunder, provided that the Curator of the Tasmanian Museum shall be satisfied that any such person requires any such native game, imported game, bird or the eggs thereof, or any such animal or the progeny thereof for a scientific purpose.

Governor in Council may make Regulations to protect the Mutton Bird.

**16** For the protection of the Short-tailed Petrel (*Puffinus tenuirostris*), commonly called the "Mutton Bird," the Governor in Council may from time to time make Regulations for the following purposes or any of them; that is to say—

- i. Prescribing the time during which and the purposes for which the Mutton Bird may be killed or captured:
- ii. Prescribing the purposes for which the eggs of the Mutton Bird may be taken.
- iii. Regulating the time during which fires may be lighted upon any Waste Land reserved as hereinafter mentioned:
- iv. Prescribing the conditions upon which animals may be allowed upon Waste Lands reserved as hereinafter mentioned:
- v. Prescribing the manner in which, and the officer by whom, the Regulations made under this Section shall be enforced.

And the Governor in Council may by any Regulations prescribe a penalty not exceeding Twenty Pounds for breach of or non-compliance with any such Regulations.

All Regulations shall be published in the *Gazette*, and thereupon shall have the force of law; and copies thereof shall be laid before both Houses of Parliament forthwith if sitting, and if not sitting, then within Fourteen days after the commencement of the next Session.

Crown Lands may be reserved for Mutton Birds, &amp;c.

**17** The Governor in Council is hereby empowered, from time to time by Proclamation published in the *Gazette*, to reserve any islands, being Crown Lands, as and to be hunting-grounds for Mutton Birds, and also for acclimatization purposes, and any such Proclamation to revoke.

Repealed by 62 Vict. No. 42

*Opossum, Kangaroo, and Deer.*

Penalty for hunting, &amp;c. Opossums within a certain period.

**18** If any person in any manner hunts, or is found in possession, either on his own land or elsewhere, of any Opossum, whether alive or dead, or any skin or carcase thereof, at any time between the First day of *August* in any year and the Thirtieth day of *April* in any succeeding year, both days inclusive, which interval is herein referred to as "the

2. Law 1/11 20-21

*Game Protection.*

close season," he shall, for every Opossum so hunted or found in his possession, and for every skin or carcase thereof so found in his possession, forfeit and pay a penalty not exceeding Forty Shillings. A.D. 1895.

Nothing herein contained shall prevent any person from having or keeping any Opossum in a state of confinement, provided the same is not taken or captured in "the close season."

No person prosecuted for being found in possession of any Opossum, or skin or carcase thereof, contrary to this Section shall be liable to any penalty if such person proves to the satisfaction of the adjudicating Justices that such Opossum, or that the Opossum from which such skin or carcase was taken, was hunted at any other time than within "the close season."

**19** Every person who within the period of Two years from the date of the passing of this Act in any manner hunts or is found in possession, either on his own land or elsewhere, of any Opossum or Forester Kangaroo (*Macropus major*), whether alive or dead, or any skin or carcase thereof, shall for every Opossum or Forester Kangaroo so hunted or found in his possession, and for every skin or carcase thereof so found in his possession, forfeit and pay a penalty not exceeding Forty Shillings. Penalty for hunting, &c. Opossums and Forester Kangaroo for Two years.

**20** If any person in any manner hunts, or is found in possession, either on his own land or elsewhere, of any Kangaroo, whether alive or dead, or any skin or carcase thereof, at any time between the First day of *August* and the Thirty-first day of *March* in any succeeding year, both days inclusive, which interval is herein referred to as "the close season," he shall, for every head of Kangaroo so hunted or found in his possession, and for every skin or carcase of Kangaroo so found in his possession, forfeit and pay a penalty not exceeding Forty Shillings. Penalty for hunting, &c. Kangaroo within a certain period.

Nothing herein contained shall prevent any person from having or keeping Kangaroo in a state of confinement, provided the same are not taken or captured in "the close season."

No person prosecuted for being found in possession of any Kangaroo, or skin or carcase thereof, contrary to this Section shall be liable to any penalty if such person proves to the satisfaction of the adjudicating Justices that such Kangaroo, or that the Kangaroo from which such skin or carcase was taken, was hunted at any other time than within "the close season."

**21** No person shall hunt Kangaroo or Deer on land of which he is not the owner or occupier unless such person has the permission of the said owner or occupier, or is the holder of a licence for that purpose; and any person who acts contrary to this provision shall be liable to a penalty not exceeding Five Pounds. No person to hunt Kangaroo or Deer unless he holds a licence.

Nothing in this Act contained shall be deemed to authorise any person holding such licence to go upon the lands occupied by or belonging to any other person, without the consent of such person, for the purpose of hunting Kangaroo or Deer. *extended to opossum 62 v. 42*

**22** Every licence to hunt Kangaroo or Deer shall be in the form in the Schedule (3.), and may be issued by any Police Magistrate to such person as he sees fit, and such licence shall be in force in the District named or described in such licence and not elsewhere, for the period therein named. Form, mode of issuing and duration of licence.

*Game Protection.*

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Licensed person upon demand to produce licence.

**23** Every person shall, upon the demand of the occupier of any land, or his servant or agent, whereon such person shall be hunting Kangaroo or Deer, produce and show a licence issued to such person under this Act, and in default thereof shall, upon conviction, forfeit and pay a penalty not exceeding Five Pounds.

Licences where packs of hounds are kept for hunting.

**24** Any person who keeps or intends to keep a pack of hounds for hunting Kangaroo or Deer for the purpose of recreation, may receive from the Police Magistrate of the District in which such person resides a licence in the form in the Schedule (4.), which shall remain in force for the period therein named, and such licence shall exempt the person to whom the same is issued and all other persons hunting Kangaroo or Deer with the pack of hounds belonging to such licensed person from the operation of so much of this Act as relates to persons hunting Kangaroo or Deer without a licence.

Any person found hunting Kangaroo or Deer with a pack of hounds for the purpose of recreation shall, unless the keeper of such pack of hounds is the holder of a licence for that purpose, be liable to a penalty not exceeding Five Pounds.

Fee for licence.

Appropriation of fees.

**25** The sum of Two Pounds shall be paid upon the issue of any such licence as is hereinbefore mentioned for a period not exceeding Six months, and Four Pounds for a period not exceeding One year; and all sums of money received for licences in any Rural Municipality shall form part of the Municipal Fund of such Municipality, and in any District not being a Rural Municipality shall form part of the Consolidated Revenue Fund.

Licence not to authorise holder to hunt during close season.

**26** Nothing in this Act contained shall be deemed to authorise any person holding any licence issued under this Act to hunt Kangaroo during the close season for Kangaroo.

Licences continued.

**27** All licences for hunting Kangaroo issued under any Act hereby repealed and in force when this Act takes effect shall, unless forfeited as herein provided in the meantime, remain in force until the expiration thereof by effluxion of time.

Licence forfeited by conviction of holder.

**28** If any person shall, whilst holding a licence to hunt Kangaroo or Deer, issued under any Act hereby repealed, or this Act, be convicted of any offence against any provision in such Acts relating to Kangaroo or Deer, such licence shall thereupon be forfeited and void.

Licensed persons hunting beyond district.

**29** If any licensed person hunts Kangaroo or Deer upon any land not being within the limits of the district specified in the licence issued to such person, he not being the owner or occupier of such land, or not having the consent or permission of the owner or occupier of such land, every such person so hunting Kangaroo or Deer beyond the limits of such district shall be deemed to be an unlicensed person, and may be dealt with according to law.

*Miscellaneous.*

Platypus.

**30** Every person who, within Two years from the date of the passing of this Act, shoots at, or wilfully kills or captures, any Platypus shall forfeit and pay a penalty not exceeding Forty Shillings.

*Game Protection.*

- 31** If any person knowingly sets at large, or attempts to set at large, or is concerned in setting at large any Weasel or Ferret, every person so offending shall for every such animal so set at large, or attempted to be set at large, forfeit and pay a penalty not exceeding Five Pounds. A.D. 1895.  
Penalty on persons setting Weasels, &c. at large.
- 32** Whosoever knowingly imports or brings, or is concerned in importing or bringing, or attempts to import or bring into this Colony any Fox, Wolf, Wild Dog or Dingo, shall, for every such animal, forfeit and pay a penalty not exceeding Fifty Pounds. Penalty on persons importing any Fox, Wolf, &c.
- 33** All offences against this Act shall be heard and determined, and all penalties be recovered, in a summary way by and before any Two or more Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person aggrieved by any conviction under this Act may appeal therefrom in manner directed by *The Appeals Regulation Act*. Penalties to be recovered in a summary way.
- 34** For the prevention of frivolous and unnecessary prosecutions, it shall be lawful for the Justices hearing any information under this Act to dismiss the same, which dismissal shall be a bar to any other proceeding whatever against the same person for the same matter. Justices may dismiss frivolous informations.
- 35** In all legal proceedings taken against any person for any breach of, or non-compliance with, the provisions of this Act, the onus of proving that such person was duly licensed, or was otherwise exempted from the operation of any penalty imposed by this Act, shall in all cases rest upon the defendant, who shall in all such proceedings be competent but not compellable to give evidence, anything contained in any law or practice to the contrary notwithstanding. Onus of proof upon defendant, who shall be competent but not compellable to give evidence.
- Repealed by 63 Vict. No. 36**
- 36** No action shall be brought against any person for anything done in pursuance of this Act unless such action is commenced within Three months after the cause of action has arisen, nor unless notice in writing of such action, and the cause thereof, is given to the defendant One month at least before the commencement of the action; and the defendant may plead the general issue, and give this Act and the special matter in evidence; and the plaintiff shall not recover in such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into Court after action brought; and if a verdict is given for the defendant, or the plaintiff is nonsuited or discontinues his action, or if judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client; and though a verdict is given against the defendant, the plaintiff shall not have costs against the defendant unless the Judge who tries the case certifies his approbation of the action, and of the verdict. Limitation of actions.  
Notice of action.  
General issue.  
Tender of amends.  
Costs.

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**SCHEDULE.**

(1.)

## ACTS TO BE REPEALED.

<i>Year and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
42 Vict. No. 24.	"The Game Protection Act, 1879."	The whole Act.
43 Vict. No. 4.	"The Game Protection Amendment Act, 1879."	The whole Act.
47 Vict. No. 14.	"The Game Protection Amendment Act, 1883."	The whole Act.
48 Vict. No. 35.	"The Game Protection Act, 1884."	The whole Act.
51 Vict. No. 33.	"The Game Protection Amendment Act, 1887."	The whole Act.
52 Vict. No. 40.	"The Game Protection Amendment Act, 1888."	The whole Act.
53 Vict. No. 23.	"The Game Protection Amendment Act, 1889."	The whole Act.

(2.)

1. *Ninox boobook* (Brown Hawk-owl).
2. *Ninox maculata* (Spotted Hawk-owl).
3. *Strix castanops* (Tasmanian Barn-owl).
4. *Cuculus pallidus* (Pallid Cuckoo).
5. *Cuculus flabelliformis* (Fantailed Cuckoo).
6. *Cuculus plagosus* (Bronze Cuckoo).
7. *Cuculus basalis* (Narrow-billed Bronze Cuckoo).
8. *Scythrops novæ hollandiæ* (Channel-bill Cuckoo).
9. *Halcyon sanctus* (Sacred Kingfisher).
10. *Alcyone diemenensis* (Tasmanian Kingfisher).
11. *Acanthyllis caudacuta* (Spine-tailed Swift).
12. *Podargus cuvierii* (More-pork).
13. *Ægotheles novæ hollandiæ* (Crested Night Jar).
14. *Graucalus parvirostris* (Summer-bird).
15. *Collyriocincla rectirostris* (Whistling Shrike-Thrush).
16. *Gymnorhina hyperleuca* (White Magpie).
17. *Pachycephala olivacea* (Olivaceous Thickhead).
18. *Pachycephala gutturalis* (Yellow-breasted Thickhead).
19. *Pachycephala glaucura* (Grey-tailed Thickhead).
20. *Rhiphidura saturata* (Tasmanian Fantail).
21. *Myiagra rubecula* (Leaden Flycatcher).
22. *Myiagra nitida* (Shining Flycatcher).
23. *Petræca leggii* (Scarlet-breasted Robin).
24. *Petræca phœnicea* (Flame-breasted Robin).
25. *Petræca rhodinogaster* (Pink-breasted Robin).
26. *Petræca vittata* (Dusky Robin).
27. *Malurus gouldii* (Long-tailed Warbler—Blue Wren).
28. *Geocichla macrorhyncha* (Ground Thrush).
29. *Acrocephalus australis* (Reed Warbler).
30. *Ephthianura albifrons* (White-fronted Chat).
31. *Cincoloma punctatum* (The Ground Bird—Ground Dove).



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32. Calamanthus fuliginosus (Rush Warbler).
  33. Megalurus gramineus (Grass Bird).
  34. Stipiturus malachurus (Emu Wren).
  35. Sericornis humilis (Sombre Bush Tit).
  36. Acanthornis magna (White-breasted Bush Tit).
  37. Acanthiza diemenensis (Brown Tail).
  38. Acanthiza chrysorrhœa (Yellow Tail).
  39. Acanthorhynchus tenuirostris (Spine Bill).
  40. Melithreptus validirostris (Strong-billed Honey-eater).
  41. Melithreptus melanocephalus (Black-headed Honey-eater).
  42. Glycyphila fulvifrons (Fulvous-fronted Honey-eater).
  43. Ptilotis flavigula (Yellow-throated Honey-eater).
  44. Meliornis novæ hollandiæ (New Holland Honey-eater).
  45. Meliornis australasiana (Tasmanian Honey-eater).
  46. Turdus musicus (Thrush).
  47. Acanthochaera mellivora (Brush Wattle-bird).
  48. Zosterops cærulescens (White-eye).
  49. Pardalotus punctatus (Diamond Bird).
  50. Pardalotus affinis (Allied Diamond Bird).
  51. Pardalotus quadragintus (Forty-spotted Diamond Bird).
  52. Hirundo neoxena (Australian Swallow).
  53. Petrochelidon nigricans (Tree Swallow).
  54. Estrela bella (Fire-tailed Finch).
  55. Anthus australis (Australian Pipit).
  56. Artamus sordidus (Wood Swallow).
  57. Lamprotreron superbus (Superb Fruit Pigeon).
  58. Lopholaimus antarcticus (Topknot Pigeon).
  59. Alauda arvensis (Skylark).
  60. Carduelis elegans (Goldfinch).
  61. Larus pacificus (Pacific Gull).
  62. Larus novæ hollandiæ (Little Gull).
  63. Turdus merula (Blackbird).
  64. Colombus palumbus (Wood Pigeon).

## (3.)

This is to certify that I, *A.B.*, Police Magistrate of the District of  
 [*or* Warden of the Rural Municipality of ] have, by virtue of "The  
 Game Protection Act, 1895," granted to *C.D.*, of in the said District  
 [*or* Municipality] this Licence to hunt with dogs and to kill, take, pursue, and capture  
 Kangaroo or Deer within the said District [*or* Municipality] for a period of  
 from the day of 18, to the day of , 18 .  
 Dated this day of 18 .

*A.B.*, Police Magistrate.

## (4.)

This is to certify that I, *A.B.*, Police Magistrate of the District of  
 [*or* Warden of the Rural Municipality of ] have, by virtue of "The  
 Game Protection Act, 1895," granted to *C.D.*, of in the said District  
 [*or* Municipality] this Licence to hunt Kangaroo or Deer with a Pack of Hounds for  
 a period of from the day of , 18 , to the  
 day of , 18 .  
 Dated this day of 18 .

*A.B.*, Police Magistrate.

