

FAUNA PROTECTION ACT.

Act No. 47, 1948.

George VI.
No. 47, 1948.

An Act to make provisions for the protection and preservation of fauna; to repeal the Birds and Animals Protection Act, 1918-1930, and to amend certain other Acts; and for purposes connected therewith. [Assented to, 24th December, 1948.]

BE

BE it enacted by the King's Most Excellent Majesty, **No. 47, 1948.**
by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Fauna Protection Act, 1948." Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided into Parts as follows:—

Division into Parts.

PART I.—PRELIMINARY.

PART II.—FAUNA PROTECTION PANEL.

PART III.—FAUNAL RESERVES.

PART IV.—FAUNA PROTECTION.

DIVISION 1.—*Scheduled Fauna.*

DIVISION 2.—*Protected Fauna.*

DIVISION 3.—*Districts.*

DIVISION 4.—*Rangers.*

PART V.—LICENSES AND ROYALTIES.

PART VI.—GENERAL.

SCHEDULES.

3. (1) The Birds and Animals Protection Act, 1918, and the Birds and Animals Protection (Amendment) Act, 1930, are hereby repealed. Repeal of Act No. 21, 1918, and Act No. 12, 1930.

(2) All proclamations, notices and licenses published, given or issued under any Act repealed by this section and in force immediately before the commencement of this Act shall continue in force in all respects as if the same were published, given or issued under this Act.

(3) All regulations made under any Act repealed by this section and in force immediately before the commencement of this Act shall continue in force in all respects as if the same were made under this Act.

4.

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No. 47, 1948. 4. In this Act, unless the context or subject-matter otherwise indicates or requires—

Definitions.

- “Bird” means any bird, whether native, introduced or imported, and includes the eggs and young of a bird or the skin or the feathers or any part of any such bird, but does not include any domestic bird.
- “Chief Guardian” means the Chief Guardian of Fauna appointed under this Act.
- “Collector” means a collector of royalty appointed under this Act.
- “Court” means any stipendiary magistrate or any two justices of the peace sitting in petty sessions.
- “District” means district constituted or proclaimed under this Act.
- “Fauna” means any mammal or bird.
- “Land” includes any land covered by water or any waters within the territorial jurisdiction of New South Wales.
- “License” means a license issued in pursuance of this Act.
- “Mammal” means any mammal, whether native, introduced or imported, and includes an aquatic mammal and also the eggs and young of a mammal or the skin or any part of any such mammal, but does not include any domestic mammal or any rats (other than water rats) or mice.
- “Panel” means the Fauna Protection Panel constituted under this Act.
- “Prescribed” means prescribed by this Act or by the regulations.
- “Proclamation” means proclamation published in the Gazette.
- “Protected fauna” means any fauna not mentioned in the First Schedule to this Act.
- “Regulations” means any regulations made under or in force by virtue of this Act.
- “Scheduled fauna” means any fauna mentioned in the First Schedule to this Act.

“Take

“Take or kill” means the hunting, shooting, killing, poisoning, netting, snaring, spearing, pursuing, taking, disturbing or injuring of any protected fauna. No. 47, 1948.

PART II.

FAUNA PROTECTION PANEL.

5. (1) There shall be a Fauna Protection Panel. Fauna
Protection
Panel.
- (2) The person for the time being holding the office of Chief Guardian shall be a member of the panel and shall be the chairman. The remaining members of the panel shall be appointed by the Governor.
- (3) Of the members so appointed—
- (a) one member shall be appointed on the nomination of the Minister for Agriculture and shall be an officer of the Department of Agriculture;
 - (b) two members, one of whom shall be an officer of the Forestry Commission of New South Wales and the other an officer of the Department of Conservation, shall be appointed on the nomination of the Minister for Conservation;
 - (c) one member shall be appointed on the nomination of the Colonial Secretary and shall be an officer of the Chief Secretary's Department;
 - (d) two members, one of whom shall be an officer of the Australian Museum and the other an officer of the Department of Education, shall be appointed on the nomination of the Minister for Education;
 - (e) one member shall be appointed on the nomination of the Secretary for Lands and shall be an officer of the Department of Lands;
 - (f) one member shall be appointed on the nomination of the Minister for Tourist Activities and Immigration and shall be an officer of the Ministry of Tourist Activities and Immigration;
 - (g) one member shall be appointed on the nomination of the Senate of the University of Sydney;
 - (h)

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- (h) one member shall be appointed on the nomination of the Minister and shall be a person engaged in grazing or agricultural pursuits in New South Wales;
- (i) three members shall be appointed on the nomination of the Minister and shall be persons nominated by organisations the constitutions of which include specific or general objects in relation to the preservation, conservation, protection or scientific investigation of fauna.
- (4) The panel shall annually elect one of its members to be deputy-chairman.
- (5) A member of the panel other than the chairman shall be deemed to have vacated his office if he—
- (a) resigns his office by writing under his hand addressed to the Governor;
 - (b) ceases to reside in the State;
 - (c) becomes bankrupt, compounds with his creditors or makes an assignment of his salary or estate for their benefit;
 - (d) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898-1947;
 - (e) ceases to hold the qualification in respect of which he was appointed; or
 - (f) absents himself from three consecutive ordinary meetings of the panel except on leave granted by the panel.
- (6) No person of or above the age of seventy years shall be eligible for appointment by the Governor pursuant to a nomination under paragraph (g), (h) or (i) of subsection three of this section and any person appointed by the Governor pursuant to a nomination under any such paragraph shall cease to hold office upon the day upon which he attains the age of seventy years.
- (7) All meetings of the panel shall be called by direction of the chairman or in his absence by direction of the deputy-chairman.
- (8) At any meeting of the panel the chairman or deputy-chairman and four other members shall form a quorum and any meeting at which a quorum is present shall have all the powers and authorities conferred upon the panel by this Act.
- (9)

(9) The chairman shall preside at any meeting of the panel at which he is present. In the absence of the chairman the deputy-chairman shall preside. No. 47, 1948.

(10) The chairman or the deputy-chairman (when presiding at any meeting) shall have an original vote on any question before the panel and in the case of an equality of votes shall have a second or casting vote.

(11) No act or proceeding of the panel shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy or vacancies in the office or offices of any member or members.

(12) The procedure for the calling of meetings of the panel and for the conduct of business at such meetings shall, subject to any regulation in relation thereto, be as determined by the panel.

(13) (a) In the case of illness or absence of any member of the panel other than the chairman, the Governor may appoint a deputy to act in the place of such member during his illness or absence.

(b) Any deputy appointed under this subsection while he acts as such deputy may exercise all the powers and authorities of the member in whose place he acts.

(14) (a) Each member, other than the chairman, shall be entitled to receive such remuneration for his services as may be prescribed.

Each member shall be entitled to receive travelling expenses at such rate as may be prescribed.

(b) A member who is an officer of the Public Service shall, notwithstanding the provisions of any Act or rule or regulation made under any Act, be entitled to receive remuneration under this subsection in addition to any remuneration to which he is entitled as an officer of the Public Service.

(15) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the panel, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

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Powers and
functions
of the
panel.

6. (1) The panel shall be the authority for the protection and care of fauna.

(2) The panel shall—

- (a) advise the Minister on matters relating to the administration of this Act;
- (b) engage in such educational activities as it considers necessary to awaken and maintain an appreciation of the value of bird and animal life;
- (c) have the care and control and management of faunal reserves;
- (d) co-operate with the trustees of any land reserved by the Secretary for Lands for the preservation of fauna or the promotion of the study of fauna and generally co-operate with any other persons or bodies in the care and development of reserves for fauna;
- (e) form or approve the formation of local faunal societies;
- (f) conduct scientific and biological research in connection with the protection and care of fauna either separately or in conjunction with other scientific organisations; and
- (g) exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

(3) In the exercise and discharge of the powers, authorities, duties and functions conferred and imposed upon it by or under this Act, the panel shall be subject in all respects to the control and direction of the Minister.

Chief
Guardian
of Fauna.

7. (1) (a) The Governor shall appoint a Chief Guardian of Fauna.

(b) The salary of the Chief Guardian shall be fixed by the Governor.

(2) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment of the Chief Guardian, and the Chief Guardian shall not be subject to the provisions of such Act during his term of office.

(3) The Chief Guardian shall subject to this Act be appointed for a term of five years, and shall be eligible for reappointment from time to time.

(4)

(4) A person who is of or above the age of sixty-^{No. 47, 1948.} five years shall not be appointed as Chief Guardian.

(5) The Chief Guardian shall be deemed to have vacated his office if he—

- (a) engages (whether in New South Wales or elsewhere) during his term of office in any paid employment outside the duties of his office;
- (b) becomes bankrupt, compounds with his creditors or makes an assignment of his salary or estate for their benefit;
- (c) absents himself from duty for a period of more than fourteen consecutive days, except on leave granted by the Minister;
- (d) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898-1947;
- (e) resigns his office by writing under his hand addressed to the Governor;
- (f) is removed from office by the Governor.

(6) The Governor may, for any cause which seems to him sufficient, remove the Chief Guardian from his office.

(7) The Chief Guardian shall be deemed to have vacated his office on the day upon which he attains the age of sixty-five years.

(8) (a) A Chief Guardian who at the date of his appointment is an officer of the Public Service, shall, if he ceases to be Chief Guardian from any cause whatsoever otherwise than in pursuance of subsection five or seven of this section, be entitled to be appointed upon the recommendation of the Public Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chief Guardian.

(b) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916, or any Acts amending such Acts, to any person appointed as Chief Guardian who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof.

(c)

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(c) Any officer of the Public Service or person who is an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, appointed as Chief Guardian shall continue to contribute to any fund or account and be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be, or any Acts amending such Acts, and for such purpose his service as Chief Guardian shall be deemed to be service for the purpose of such Acts.

Officers and employees.

8. The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint and employ such collectors of royalty and other officers and employees as may be necessary for the execution of this Act.

PART III.
FAUNAL RESERVES.

Dedication of areas for protection, care, etc. of fauna.

9. (1) The Governor may, on the recommendation of the panel, dedicate any Crown lands as faunal reserves for the purpose of the protection and care of fauna, the propagation of fauna and the promotion of the study of fauna.

In this subsection "Crown lands" has the meaning ascribed to that expression in section five of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

(2) Crown lands shall not be dedicated under this section except with the concurrence of the Secretary for Lands.

(3) Of the areas dedicated under subsection one of this section, two shall be primitive or natural areas, that is to say, areas intended for the protection and care of fauna, the propagation of fauna and the promotion of the study of fauna in its natural state.

(4)

(4) Any dedication under this section shall not be revoked either wholly or in part otherwise than by Act of Parliament. No. 47, 1948.

(5) (a) The panel shall in respect of each faunal reserve cause to be drawn up a detailed written scheme of the operations which it is proposed to undertake on or in relation to such reserve.

(b) The object of the scheme shall be the protection and care of fauna, the propagation of fauna and the promotion of the study of fauna on the faunal reserve.

(c) Such scheme shall be submitted to the Minister for his approval and if approved by him, shall become the working plan for such faunal reserve.

(d) No operations shall be undertaken on or in relation to a faunal reserve unless such operations are in accordance with the working plan for the reserve.

(e) The working plan for a faunal reserve may, with the approval of the Minister, be amended or altered from time to time.

(f) The working plan may contain provisions for the panel to carry out any work in connection with the improvement, development and maintenance of any faunal reserve, including the opening of roads, tracks and paths, the erection of buildings and other structures, and the prevention and control of fires.

(6) The panel may arrange with the Minister of any Government Department or with any statutory corporation for the carrying out by such Department or statutory corporation of any work required or authorised by or under this Act to be carried out by the panel.

In this subsection "statutory corporation" includes the Commissioner for Railways, the Commissioner for Main Roads, the Water Conservation and Irrigation Commission, the Forestry Commission of New South Wales and any county, municipal or shire council.

10. (1) The land within any faunal reserve is hereby exempted from occupation under any miner's right or business license issued under the provisions of the Mining Act, 1906-1946.

Restriction on operation of Mining Act, 1906-1946.

(2) Act No. 14, 1944, s. 8.

No. 47, 1948. (2) No lease under the Mining Act, 1906-1946, of any land within a faunal reserve shall be granted, except with the concurrence of the panel, and subject to such conditions and restrictions as it may impose.

Restrictions as to timber. cf. Act No. 14 1944, s. 9. **11.** (1) Notwithstanding any provision in any Act or any condition annexed to any lease or permissive occupancy of land within any faunal reserve, no person shall fell, cut, destroy, injure or remove any tree or timber on land within such reserve except under and in accordance with the regulations.

(2) Any person who contravenes the provisions of subsection one of this section shall be guilty of an offence and shall be liable to a penalty not exceeding two hundred pounds.

Prohibition on taking or killing fauna within faunal reserves. **12.** (1) No person other than an officer or employee authorised by the panel in that behalf shall take or kill any fauna within any faunal reserve.

(2) Any person who contravenes the provisions of subsection one of this section shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment.

Restrictions on disposal or dealing with land within faunal reserves. Ibid. s. 10. **13.** (1) No land within any faunal reserve shall be sold or leased or otherwise dealt with except as provided in this Act.

(2) No permit to graze over any part of a travelling stock reserve or camping reserve under the control of a Pastures Protection Board which reserve is situated within the boundaries of any faunal reserve shall be granted except with the concurrence of the panel and subject to such special conditions as may be determined by the panel.

(3) The Secretary for Lands may with the concurrence of the panel grant permissive occupancies or extend the terms of any permissive occupancy within the boundaries of any faunal reserve whether granted before or after the commencement of this Act, subject to such special conditions as may be determined by the panel.

14. The Soil Conservation Act, 1938, shall apply to and in respect of any land within any faunal reserve but any experimental or research work conducted pursuant to section six of the said Act, upon land within the boundaries of such reserve, shall be undertaken only with the concurrence of the panel and subject to such special conditions and restrictions as may be determined by the panel.

No. 47, 1948.
Soil Conservation Act, 1938.

PART IV.

FAUNA PROTECTION.

DIVISION 1.—*Scheduled Fauna.*

15. (1) The fauna specified in the first column of the First Schedule to this Act shall in respect of the locality set opposite thereto in the second column of such Schedule be unprotected fauna.

Unprotected fauna.

(2) The Minister may by notice in the Gazette add the names of any fauna to the First Schedule to this Act for any particular locality described in such notice, or for the whole State, and may remove the names of any fauna therefrom in any particular locality described in such notice or for the whole State.

Act No. 21, 1918, s. 4.

The production of the Gazette containing such notice shall be conclusive evidence of such addition or removal.

16. (1) The Minister may by notice in the Gazette declare a close season for the protection of any scheduled fauna. Such notice may refer to the whole State or to any specified locality.

Close season for scheduled fauna.
Ibid. s. 5.

(2) Notwithstanding anything contained in the Pastures Protection Act, 1934, or in any other Act, any person who during such close season and in the State or in such locality, as the case may be, wilfully takes, kills, captures or injures or attempts to use any means whatever to take, kill, capture or injure any fauna to which any such notice relates shall for every such offence be liable to a penalty not exceeding fifty pounds.

DIVISION

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DIVISION 2.—*Protected Fauna.*

Fauna
vested in
Crown.
Act No. 21,
1918, s. 17
(1).
Open
seasons.

17. All protected fauna, until taken or killed in accordance with the provisions of this Act, shall be deemed to be the property of the Crown.

18. (1) The Minister may by notice in the Gazette declare an open season for such protected fauna as may be specified in such notice.

Any such notice may refer to the whole State or to any specified locality and may prescribe conditions or restrictions relating to the taking or killing of any fauna specified in such notice or to the use of any gun, explosive, dog, net or instrument or means whatsoever for the purpose of taking or killing any such fauna.

Penalty for
killing, etc.,
protected
fauna.

(2) Any person who takes or kills any protected fauna or uses any gun, explosive, dog, net or instrument or means whatsoever for the purpose of taking or killing any protected fauna shall be guilty of an offence and shall be liable to a penalty not exceeding fifty pounds.

This subsection shall not apply to any person who during an open season declared under subsection one of this section and in the State or locality referred to in the notice declaring such open season takes or kills or uses any gun, explosive, dog, net or instrument or means whatsoever for the purpose of taking or killing any protected fauna to which such open season relates in accordance with the conditions or restrictions, if any, prescribed in any such notice.

Penalty for
having
protected
fauna in
possession.
Ibid. s. 8.

19. (1) Any person who knowingly buys, sells, offers or consigns for sale, or has in his possession, house, or control, any protected fauna at any time shall be liable to a penalty not exceeding five pounds for each of such fauna in respect of which such offence has been committed.

The provisions of this subsection shall apply whether such fauna was killed, taken, or bought in or received from any State or territory of the Commonwealth, or the Dominion of New Zealand, or elsewhere: Provided that the Minister may by license, under conditions therein specified, permit the importation of any such fauna: Provided also that the Governor may by proclamation exempt under conditions specified in such proclamation any fauna from such provisions. (2)

(2) A person shall not be convicted of an offence No. 47, 1943. against this section if he proves—

- (a) that such fauna was taken, killed, bought or received either during an open season in accordance with the provisions of this Act, or in pursuance of a license; or
- (b) that he had such fauna in his possession legally before the commencement of this Act or that he purchased the same legally within six months after such commencement from some person who possessed the same before such commencement:

Provided that the provisions of paragraph (b) of this subsection shall not apply to the buying, selling or offering or consigning for sale of any platypus or the skin or eggs thereof.

(3) Any such fauna shall, upon the conviction of any person under this section for an offence in relation thereto, be liable to forfeiture, and shall be disposed of in such manner as the court may direct.

(4) In this section "possession" includes having any protected fauna in any building, lodging, apartment, field, or other place whether belonging to or occupied by the person charged or not, and whether such fauna is then had or placed for his own use or the use of another.

(5) This section shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any provision of this section, or the application thereof to any person or circumstance is held invalid the remainder of this section, and the application of such provision to other persons or circumstances shall not be affected.

20. (1) The Governor may from time to time by proclamation declare any protected fauna to be rare fauna. ^{Rare fauna.}

(2) The provisions of section eighteen of this Act shall not apply to any fauna declared under this section to be rare fauna.

(3) If any person otherwise than under and in accordance with a license issued under section twenty-five or twenty-six of this Act takes or kills any rare fauna or uses

No. 47, 1948. uses any gun, explosive, dog, net or instrument or means whatsoever for the purpose of taking or killing any rare fauna, he shall be guilty of an offence and shall be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.

Protected fauna kept in domesticated state exempted from this Act.

21. Nothing in this Act shall prevent any person from keeping in confinement or in a domesticated state otherwise than for the purpose of sale, any protected fauna which has been taken in accordance with the provisions of this Act.

DIVISION 3.—*Districts.*

Fauna within districts.
Act No. 21,
1918, s. 9.

22. (1) The land described in the Second Schedule to this Act is hereby constituted a district.

(2) The land within a radius of one mile from any school is hereby constituted a district.

(3) The Governor may from time to time by proclamation declare any other land to be a district and may in like manner vary, amend or revoke any such proclamation.

(4) The Governor may by proclamation declare what species of fauna may be taken or killed within a district and either generally or within specified periods.

(5) Any person who in any district takes or kills or attempts to take or kill any fauna other than those species which may be taken or killed therein, by virtue of a proclamation issued under subsection four of this section, or which he is expressly authorised to take or kill by virtue of a license issued under section twenty-five or twenty-six of this Act shall be guilty of an offence and shall be liable to a penalty not exceeding fifty pounds.

Penalty for trespass.
Ibid. s. 10.

23. If any person otherwise than under and in accordance with a license issued under section twenty-five or twenty-six of this Act is found in any district in search or pursuit of or for the purpose of taking or killing any fauna not proclaimed under the provisions of section twenty-two of this Act, he shall be guilty of an offence and be liable to a penalty not exceeding fifty pounds, and having in his possession when so found any implements or means for taking or killing fauna or being accompanied by dogs, shall be prima facie evidence of such purpose.

DIVISION

DIVISION 4.—*Rangers.*

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24. (1) Members of the police force, public school teachers, conditional purchase inspectors, officers and employees of the Forestry Commission of New South Wales on State forests, stock inspectors, field officers of the Department of Agriculture, inspectors of fisheries, and rangers appointed under the Metropolitan Water, Sewerage, and Drainage Act, 1924-1945, shall, by virtue of their office, be rangers.

Rangers.
Act No. 21,
1918, s. 11.

(2) The Minister may, by notice in the Gazette, appoint honorary rangers, who shall have the powers and perform the duties of rangers.

PART V.

LICENSES AND ROYALTIES.

25. The Minister may, by license, authorise any person at any time to kill any fauna found on his land which may be destroying or injuring or be likely to become injurious to his property and may also authorise that any such fauna may be taken under such authority. The Minister may in such license insert such conditions as he thinks proper.

Destructive
game.
Ibid. s. 18.

26. The Minister may, by license, authorise any person to take or kill any protected fauna as specimens of natural history for any scientific institution or museum or for the purpose of carrying on any scientific investigation or for any purpose specified in such license. The Minister may in such license insert such conditions as he thinks proper.

Collections
for
Museums,
etc.
Ibid. s. 19.

27. (1) (a) Any person who takes or kills for the purpose of sale any fauna shall, unless he is in possession of a license under this section authorising him to take or kill such fauna, be guilty of an offence against this Act.

Persons
taking or
killing
fauna
for sale.

(b) Any person who engages in the business of dealing in fauna, whether by sale or by auction and whether on his own behalf or on behalf of any other person shall, unless he is in possession of a license under this section, be guilty of an offence against this Act.

Fauna
dealers.

(c).

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dealers.

(c) Any person who engages in the business of dealing in skins of any fauna, whether by sale or by auction and whether on his own behalf or on behalf of any other person, shall, unless he is in possession of a license under this section, be guilty of an offence against this Act.

(d) The provisions of this subsection shall not apply to—

- (i) any person who not in contravention of this Act takes for the purposes of sale or sells any dingo, ferret, fox, hare, rabbit, kangaroo, wallaroo, wallaby or opossum, or any other fauna in respect of which the Governor by proclamation declares this section shall not apply;
- (ii) any skin dealer carrying on the business of a skin dealer only in the skins of mammals mentioned in the First Schedule to this Act.

Issue of
licenses.

(2) The panel may, in the prescribed form, issue licenses—

- (a) to persons to take or kill the fauna specified therein for the purpose of selling the same;
- (b) to any person to carry on the business of a fauna dealer;
- (c) to any person to carry on the business of a skin dealer.

(3) Such licenses may be issued subject to such conditions as may be prescribed and in the case of licenses issued under paragraph (a) of subsection two of this section may contain limitations as to locality and any other conditions the panel may think proper.

Registra-
tion of
premises.

(4) (a) Any person licensed under this section as a fauna dealer or skin dealer shall register each of the premises at or upon which he carries on business as such fauna dealer or skin dealer.

(b) The panel may in the prescribed form issue registration certificates in respect of each of such premises.

(5) Any license or registration certificate may be cancelled by the panel for any good cause.

(6)

(6) Any person whose application for a license or registration certificate under this section has been refused, or whose license or registration certificate has been cancelled, may appeal to the Minister against such refusal or cancellation and the determination of the Minister on such appeal shall be final.

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Appeal to
Minister.

28. Royalty at the rates prescribed shall be payable to the Crown upon such species of fauna and the skins of such species of fauna as may be prescribed.

Royalty to
be paid.

The regulations may make provision with respect to the method of collecting such royalty, the manner of payment thereof, the branding of skins to indicate the payment of royalty thereon and the persons by whom such royalty is payable.

29. Notwithstanding the provisions of section eight of this Act, all members of the police force shall be collectors of royalty under and for the purposes of this Act.

Members of
police
force
to be
collectors.

30. The amount of any royalty due and payable under this Act and unpaid may be recovered as a debt due to His Majesty from the person liable to pay the same by action in any court of competent jurisdiction in the name of the panel or of any person authorised by the panel.

Recovery of
royalties.

PART VI.

GENERAL.

31. Notwithstanding anything contained in this Act to the contrary, the Chief Guardian or any officer of the panel authorised by the panel in that behalf may take any protected or rare fauna for any purpose connected with the protection and care of fauna, the propagation of fauna and the promotion of the study of fauna.

Chief
Guardian
and officers
may take
fauna.

32. (1) Any person who uses or carries for other than naval or military purposes a firearm having a greater length of barrel than thirty-six inches, or having a bore exceeding ten gauge, or having more than two barrels, or being of a weight exceeding sixteen pounds avoirdupois, shall be guilty of an offence and be liable to a penalty not exceeding twenty pounds.

Restriction
on method
of shooting
fauna.
Act No. 21,
1918, s. 21.

(2)

Fauna Protection Act.

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(2) Any person who, for the purpose of shooting any protected fauna—

- (a) affixes to any vessel of any kind a firearm of any description; or
- (b) loads with a charge exceeding four drachms of black gunpowder, or its equivalent in smokeless powder, or two ounces of shot, a firearm of any description; or
- (c) uses any gun or fowling-piece of a kind other than the kind which are habitually raised at arms' length and fired from the shoulder without other support,

shall be guilty of an offence and be liable to a penalty not exceeding twenty pounds.

(3) Any firearm used in contravention of this section shall, on the conviction of the person so using it, be liable to be forfeited by the court, and to be disposed of as such court may direct.

Imported fauna.

33. Any person who liberates any fauna imported into New South Wales, except under and in accordance with a permit granted by the Minister, shall be guilty of an offence and be liable to a penalty not exceeding fifty pounds.

Powers of entry and seizure by Chief Guardian, rangers, officers, etc.
cf. Act No. 21, 1918, ss. 12, 13.

34. (1) The Chief Guardian, any officer or employee of the panel authorised by the panel, any ranger and any collector—

- (a) may, on production of the prescribed evidence of his authority, if he has reason to suspect that a breach of any of the provisions of this Act or the regulations has been committed and that any fauna or poison in respect of which such breach has been committed is likely to be in or upon any building, store, shop, hut, tent, camping place or other premises or place or any vehicle or vessel, enter and search and subject to his giving a receipt in the prescribed form, seize any such fauna or poison found therein;
- (b) is empowered for the enforcement of the provisions of this Act to exercise the powers and authority of a constable and may at all times and seasons, on production of the prescribed evidence of his authority, enter any land or premises

premises and examine any nets, traps or other instruments which are being used or could be used in contravention of this Act, and do all such other acts and things as he is required to do by this Act or the regulations. No. 47, 1948.

(2) Nothing in this section shall authorise any person to enter in or upon that portion of any premises which is used for residential purposes except under written authority given by the Minister. Any such authority may be general in its application or may be limited to a particular case.

35. (1) The Chief Guardian, any officer or employee of the panel authorised by the panel either generally or specially for the purpose, any ranger and any collector may require any person reasonably suspected to be offending against any of the provisions of this Act or of the regulations, to give his name in full and place of abode and to deliver up any fauna, instrument, weapon, net, gun or other means of destruction or capture in his possession. Further powers of Chief Guardian, rangers, etc.

(2) If any such person after being so required and on production of the prescribed evidence of authority refuses to give his real name or place of abode, or gives a false or fictitious name or place of abode, or fails to deliver up any fauna, instrument, weapon, net, gun or other means of destruction or capture to the Chief Guardian or any such officer, employee, ranger or collector requiring him so to do, he shall be guilty of an offence against this Act.

36. Any person who assaults, resists, obstructs or incites or encourages any other person to assault, resist or obstruct the Chief Guardian, any officer or employee of the panel, any ranger or any collector, or who uses abusive language to any such person in the execution of his duty or authority under this Act or the regulations shall be guilty of an offence and be liable to a penalty not exceeding ten pounds. Assaulting or resisting officers, etc. Act No. 21, 1918, s. 16.

37. (1) Any person who uses, or has in his possession with intent to use, potassium cyanide or sodium cyanide, or a mixture of potassium and sodium cyanide for the destruction or attempted destruction of any fauna, whether protected or unprotected, shall, unless he is exempted Use of poison. Ibid. s. 24.

No. 47, 1943. exempted by the regulations, and complies with duly prescribed conditions attached to such exemption, be guilty of an offence.

(2) Any person who uses, or has in his possession with intent to use, any poison other than potassium cyanide or sodium cyanide, or a mixture of potassium and sodium cyanide for the destruction or attempted destruction of any protected fauna, shall be guilty of an offence.

(3) Any person who is guilty of an offence against this section shall be liable to a penalty not exceeding fifty pounds, and shall in addition to such penalty be liable at the discretion of the court before which he is convicted to imprisonment for a term not exceeding six months.

(4) Any potassium cyanide or sodium cyanide, or a mixture of potassium and sodium cyanide or other poison found in the possession of a person offending against this section shall on his conviction be liable to be forfeited by the court and to be disposed of as the court may direct.

(5) In any prosecution for an offence against this section proof that potassium cyanide or sodium cyanide or a mixture of potassium and sodium cyanide or other poison was in the possession of the person charged, shall be prima facie evidence that he had it in his possession in contravention of this section.

Use of bird-lime, etc. prohibited.
Act No. 21,
1918, s. 24A.

38. (1) Any person who uses or has in his possession with intent to use any bird-lime or other similar mixture or preparation of any kind for the taking or killing of any bird, whether protected or unprotected, shall be guilty of an offence and be liable to a penalty not exceeding twenty pounds.

(2) In any prosecution under this section proof that such bird-lime or other similar mixture or preparation was in the possession of the person charged shall be prima facie evidence that he had it in his possession in contravention of this section.

Forfeiture of protected fauna in possession of person convicted.
Ibid. s. 24B.

39. Where any person has been convicted of an offence under section thirty-two, thirty-seven or thirty-eight of this Act, any protected fauna found in the possession or under the control of such person shall be liable to forfeiture, and shall be disposed of in such manner as the court may direct.

40.

40. If any person is convicted of an offence against any of the provisions of this Act, or of any regulation made thereunder, any firearms, nets, traps, or other instruments, or any dogs found in the possession of such person when such offence was committed shall be liable to forfeiture, and shall be disposed of in such manner as the court may direct.

No. 47, 1948.
Forfeiture
of firearms,
etc.

41. If any person contravenes or fails or neglects to comply with any of the provisions of this Act, he shall for every such offence, if no other penalty is provided therefor, be liable to a penalty not exceeding twenty pounds.

Penalty.

42. All prosecutions and proceedings under this Act or the regulations may be heard and determined in a summary way before any court.

Summary
proceedings.

43. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

(2) Without prejudice to the generality of the power conferred by subsection one of this section the Governor may make regulations:—

- (a) for the issue of licenses and registration certificates, the fees to be paid for such licenses and certificates, and the conditions subject to which they are issued;
- (b) prescribing records to be kept and returns to be furnished by persons holding licenses under this Act and the inspection of such records by officers of the panel and collectors;
- (c) prescribing the procedure for the calling of meetings of the panel and the conduct of the business at such meetings;
- (d) for the management and control of faunal reserves and the prohibition or control of any person or class of persons entering such reserves;
- (e) for the protection, care, preservation and propagation of any fauna;

(f)

No. 47, 1948.

- (f) prescribing the maximum number of any specified protected fauna which any person may during an open season declared in respect of such fauna take or kill or have in possession on any one day or within any specified period;
- (g) prescribing the method of laying poison and safeguards in connection therewith in order to prevent the destruction of fauna protected by or under the provisions of this Act;
- (h) prescribing the conditions under which any fauna, whether protected or unprotected, may be consigned or offered for sale or transported, and for the proper caging of such fauna;
- (i) prescribing the method of taking or killing protected fauna during the period of an open season or under the authority of a license;
- (j) providing for the inspection of premises registered under section twenty-seven of this Act and the inspection of aviaries in which fauna is housed;
- (k) defining the duties of the Chief Guardian and officers of the panel, collectors and rangers who may be appointed under this Act;
- (l) defining the powers, duties and privileges of local faunal societies approved under this Act.

(3) The regulations may impose a penalty not exceeding twenty pounds for any breach thereof, and may provide that any protected fauna in relation to which an offence against the regulations has been committed shall be liable to forfeiture and disposed of in such manner as the court may direct.

(4) The regulations may also provide for the signature and issue of licenses by officers of the police force or of the Public Service for the time being holding the rank or office prescribed in the regulations for and on behalf of the Minister or of the panel.

Any regulation so providing may be framed generally as to all licenses and localities or officers holding specified rank or office, or may specify or except certain licenses, localities or officers.

The

The regulations may also provide that any license purporting to be issued under the authority of the regulations and signed for and on behalf of the Minister or the panel shall be as effective for all purposes as a license signed and issued by the Minister or the panel. No. 47, 1948.

(5) Regulations may be made to apply or to have operation throughout the whole or any part of the State, may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class or subject-matter.

(6) Such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

SCHEDULES.

FIRST SCHEDULE.

BIRDS.

<i>Common and Scientific Name.</i>	<i>Locality.</i>
Goldfinch— <i>Carduelis carduelis</i> .	State of New South Wales.
Greenfinch— <i>Ligurinus chloris</i> .	"
Grey Butcher Bird— <i>Cracticus torquatus</i> .	"
Sparrow— <i>Passer domesticus</i> .	"
Silver Eye— <i>Zosterops lateralis</i> .	"
Black Cormorant or Shag— <i>Phalacrocorax carbo</i> .	"
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FIRST SCHEDULE—*continued.*BIRDS—*continued.*

<i>Common and Scientific Name.</i>	<i>Locality.</i>
White-breasted Cormorant— <i>Phalacrocorax fuscescens</i> .	State of New South Wales.
Pied Cormorant— <i>Phalacrocorax varius</i> .	"
Little Black Cormorant— <i>Phalacrocorax ater</i> .	"
Little Cormorant— <i>Microcarbo melanoleucus</i> .	"
Crow— <i>Corvus Cecillae</i> .	"
Raven— <i>Corvus coronoides</i> .	"
Black Magpie or Currawong— <i>Strepera graculina</i> .	"
Friar-bird or Leatherhead— <i>Philemon corniculatus</i> .	"
Yellow-throated Friar-bird— <i>Philemon citreigularis</i> .	"
Sulphur-crested or White Cockatoo— <i>Kakatoe galerita</i> .	"
Rose-breasted Cockatoo or Galah— <i>Kakatoe roseicapilla</i> .	"
Lory or Crimson Rosella— <i>Platyercus elegans</i> .	"
Rose Hill or Rosella Parrot— <i>Platyercus eximius</i> .	"
Wedge-tailed Eagle or Eagle Hawk— <i>Uroaetus audax</i> .	"
Common Starling— <i>Sturnis vulgaris</i> .	"
Red-whiskered Bul Bul— <i>Otocompsa emeria</i> .	"
Little Falcon— <i>Falco longipennis</i> .	"
Black Falcon— <i>Falco subniger</i> .	"
Grey Falcon— <i>Falco hypoleucus</i> .	"
Peregrine or Black-checked Falcon— <i>Falco peregrinus</i> .	"
Grey Goshawk	} <i>Astur novae-hollandiae</i> .
White Goshawk—Albino	
Form of Grey Goshawk	
Australian Goshawk— <i>Astur fasciatus</i> .	"
Bald Coot— <i>Porphyrio melanotus</i> .	} For the parishes of Bondi, Eden, Hebdon, Teningerie, Tuckerbil, Yenda, Bringan, Dallas and Willimbong, within the Shires of Willimbong, Wade and Carrathool, Police District of Narrandera.
Coot— <i>Fulica atra</i> .	
Dusky Moorhen— <i>Gallinula tenebrosa</i> .	
Black-tailed Water Hen— <i>Tribonyx ventralis</i> .	

MAMMALS.

Dingo— <i>Canis dingo</i> .	State of New South Wales.
Ferret— <i>Mustela putorius</i> .	"
Fox— <i>Vulpes alopecurus</i> .	"

FIRST

FIRST SCHEDULE—*continued.*

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MAMMALS—*continued.*

<i>Common and Scientific Name.</i>	<i>Locality.</i>
Fruit Bat or Flying Fox— <i>Pteropus poliocephalus</i> and <i>Pteropus scapulatus</i> .	State of New South Wales.
Hare— <i>Lepus europaeus</i> .	"
Rabbit— <i>Oryctolagus cuniculus</i> .	"
	In Bathurst, Bombala, Braid- wood, Cooma, Eden, Goulburn, Gundagai, Moss Vale, Mudgee, Tamworth, Up- per Hunter and Yass Pastures Protection Dis- tricts; parishes of Coolah, Dal- gleish, Mumb- dah, county Napier in Coonabarabran Pastures Protec- tion District.
Wombat— <i>Vombatus hirsutus</i> .	

SECOND SCHEDULE.

Embracing part of the county of Cumberland: Commencing on the South Pacific Ocean at the eastern extremity of Barrenjoey Head; and thence bounded by the shores of that Head, a line westerly to West Head; by the waters of the Hawkesbury River and lines westerly from Flint and Steel Point to June Head, and from that Head to Green Point, and by a line northerly to Flat Rock Point; again by the waters of the aforesaid river to the right bank of Berowra Creek; by that creek and Tunk's Creek upwards and the boundary of the parish of South Colah generally westerly and southerly to the northern boundary of the parish of Castle Hill; by that boundary generally westerly and southerly to the Old Windsor Road; by that road south-easterly, the northern boundary of the parish of Prospect westerly, Eastern Creek upwards, by part of the southern boundary of the last-mentioned parish easterly, by the western boundary of the parish of St. Luke, the Old Cowpasture Road and the western boundary of the municipality of Campbelltown generally southerly; by the southern boundary of that municipality generally easterly to Woronora River; by that river downwards to the southern boundary of the Sutherland Shire; by that boundary partly forming the southern boundary of National Park generally easterly to the South Pacific Ocean; and by the South Pacific Ocean generally northerly to the point of commencement.