



ANNO DECIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1964

No. 60 of 1964

An Act to repeal the Animals and Birds Protection Act, 1919-1958 and to make more effective provision for the conservation and management of the fauna of South Australia and for matters incidental thereto.

[Assented to 12th November, 1964.]

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

PART I.

PART I.

PRELIMINARY.

- Short title.** **1.** This Act may be cited as the "Fauna Conservation Act, 1964".
- Commence-
ment.** **2.** (1) Sections 1, 2 and 3 of this Act shall come into force on the day on which this Act is assented to by the Governor.
- (2) The other provisions of this Act shall come into force on the day or on the several days fixed by the Governor by proclamation.
- (3) The Governor may so fix different days for the coming into force of different parts or provisions of this Act.
- Repeals.** **3.** (1) The Governor may by proclamation fix a day or days upon which the enactments mentioned in the first schedule or any of those enactments or any provisions of those enactments shall be repealed.
- (2) The said enactments or provisions shall be repealed as from the day or the several days so fixed.

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

PART I.—Preliminary, ss. 1-7 :

PART II.—Administration, ss. 8-21 :

PART III.—Conservation and Control of Animals and Birds,
ss. 22-57 :

PART IV.—Selling, Importing and Exporting Animals and
Birds, ss. 58-61 :

PART V.—Royalties, ss. 62-65 :

PART VI.—General Provisions, Legal Procedure and
Regulations, ss. 66-80 :

5. (1) In this Act, unless the contrary intention appears— **Interpretations.**

“animal” means an animal of—

(a) the Class Mammalia ; or

(b) any other Class of the Animal Kingdom declared
by regulation to be a class of animals
within the meaning of this Act :

“bird” means an animal of the Class Aves :

“buy” means buy, agree to buy, offer to buy, receive or
accept pursuant to a purchase :

“carcass” when used with reference to an animal or bird
means the carcass of the animal or bird or a part of any
such carcass :

“controlled species” means species of animals and birds
declared by regulation to be controlled species :

“Crown land” means any land in the State except land
which—

(a) is held for an estate of freehold by a person other
than the Crown ; or

(b) is subject to a contract, made by or on behalf of
the Crown, for the grant of the land for an
estate of freehold ; or

(c) is subject to an agreement for sale or purchase,
or a lease, or a licence to occupy, granted by
or on behalf of the Crown ;

(d) is held for an estate of freehold by the
Commonwealth or an instrumentality of the
Commonwealth :

- “day” means period of twenty-four hours commencing from midnight :
- “device” means trap, net, snare or other device for taking or facilitating the taking of animals or birds, but does not include a gun :
- “egg” includes eggshell or part of an eggshell :
- “fauna reserve” means land which is a fauna reserve pursuant to a proclamation under this Act :
- “fauna sanctuary” means land which is a fauna sanctuary pursuant to a proclamation under this Act ;
- “gun” includes any weapon, whether having a barrel or not, from which any shot, bullet or missile can be discharged :
- “game reserve” means land which is a game reserve pursuant to a proclamation under this Act :
- “inspector” means inspector appointed under this Act :
- “land” includes waters over which the legislative power of the State extends :
- “licence” means licence granted under this Act :
- “permit” means permit granted under this Act :
- “private land” means land other than Crown land :
- “prohibited area” means land which is a prohibited area pursuant to a proclamation under this Act :
- “prohibited species” means species of animals or birds declared by regulation to be prohibited species :
- “protected” means protected pursuant to any provision of this Act :
- “rare species” means species of animals and birds named in the third schedule to this Act :
- “sell” means—
- (a) sell, barter or exchange ;
 - (b) agree or offer to sell, barter or exchange ;
 - (c) receive, expose, store, have in possession, send, consign or deliver for or on sale, barter or exchange :
- “sale” means sale, barter, exchange, agreement or offer to sell, barter or exchange, exposing, storing, possessing, sending, consigning or delivering for or on sale :
- “skin” includes plumage and any part of a skin :
- “take” when used in relation to an animal or bird means to take the animal or bird alive or dead :
- “the Director” means the Director of Fauna Conservation, or the Acting Director of Fauna Conservation for the time being in office :

“the Minister” means the Minister of Agriculture or a person for the time being acting as that Minister :

“this Act” includes proclamations and regulations in force under this Act :

“warden” means honorary warden appointed under this Act :

“waters” means the sea and every lake lagoon river creek anabranch and stream whether on Crown land or private land :

(2) The expression “animals or birds” means animals or birds or both animals and birds.

(3) Any reference in this Act to animals or birds native to Australia shall be deemed to include migratory animals or birds which periodically migrate to and live in Australia.

(4) A protected animal or bird does not cease to be a protected animal or bird within the meaning of any provision of this Act solely because it may lawfully be taken pursuant to a proclamation or permit.

(5) This Act shall not be construed so as to take away or restrict the liability of any person under section 53 of the Justices Act, 1921-1960 for aiding abetting counselling or procuring the commission of an offence against this Act, or under section 32 of the Acts Interpretation Act, 1915-1957 for attempting to commit an offence against this Act.

6. (1) Subject to any proclamation for the time being in force under subsection (2) of this section, this Act shall apply throughout the whole State.

Application
of Act.

(2) The Governor may by proclamation declare that this Act or any provisions of this Act specified in the proclamation, shall not apply—

- (a) within a part of the State defined or indicated in the proclamation ;
- (b) to specified species of animals or birds ;
- (c) to specified species of animals or birds in a specified part of the State.

7. The Governor may by proclamation—

- (a) revoke or vary any proclamation made by him under this Act other than a proclamation under section 2 or section 3 ;
- (b) make another proclamation in substitution for any proclamation so revoked ;
- (c) vary the third schedule (which contains the names of rare species) by including or excluding any species of animals or birds.

Power of
Governor as
to proclama-
tions.

PART II.

PART II.

ADMINISTRATION.

Administration. 8. This Act shall be administered by the Minister of Agriculture.

The Director and Acting Director. 9. (1) The Director and Chief Inspector of Fisheries shall be the Director of Fauna Conservation.

(2) If for any reason the Director is unable to act in his office, or the office of the Director is vacant, the Governor may appoint an acting Director of Fauna Conservation to hold office for a period fixed by the Governor, or until the happening of some event, or during the Governor's pleasure.

Delegation by Minister or Director. 10. (1) The Minister and the Director shall each have power to delegate by writing to any person any of their respective powers under this Act (except this power of delegation), so that the delegated powers may be exercised by the delegate with respect to the matters specified in the instrument of delegation.

(2) A delegation under this section may be revoked at will by the delegator and shall not prevent the exercise of any power by the delegator.

Research by Director. 11. The Director shall carry out such operations and experiments and make such investigations relating to the conservation, propagation and management of animals or birds, as the Minister directs.

Annual report. 12. The Minister shall prepare and lay before Parliament an annual report on the administration of this Act which shall include such information as is available on the following matters:—

- (a) the number of permits granted under section 40 of this Act;
- (b) the number of animals and birds of each species taken pursuant to such permits;
- (c) the number of licences in force under section 58,
- (d) the number of animals and birds of each species exported under permits to export;
- (e) sales of protected animals and birds.

Inspectors and wardens. 13. (1) The Governor may appoint such inspectors, honorary wardens and other officers as he considers necessary for the administration of this Act.

(2) The Director and every member of the Police Force shall, while holding office as the Director or as a member of the police force, be an inspector under this Act.

(3) The instrument of appointment of an honorary warden may prescribe limitations on his powers, duties or functions by reference to any or all of the following things namely, the nature of the powers, duties or functions which he may exercise or perform, and the time, place and circumstances in which he may exercise or perform them.

(4) An honorary warden shall hold office until—

- (a) his appointment is terminated by the Governor ; or
- (b) a written resignation signed by him is received by the Minister.

14. The Minister shall issue to every person appointed as an inspector or warden a card (in this Act called an "identity card") stating the name of that person and the fact that he is an inspector or warden as the case may be.

Identity cards
of inspectors
and wardens.

15. (1) An inspector may for the purpose of the administration and enforcement of this Act—

Powers of
inspectors
and wardens.

- (a) request any person whom he finds committing or whom he suspects on reasonable grounds of having committed an offence against this Act to state his full name and usual place of residence ;
- (b) arrest any such person who on request refuses or fails to state his full name and usual place of residence, or who states a name or place of residence which the inspector suspects on reasonable grounds to be false and detain that person until his full name and place of residence are ascertained ;
- (c) subject to subsection (3) of this section, enter and search any land, building, structure, vessel, boat, vehicle, receptacle, place, or thing in which he suspects, on reasonable grounds, that there is any animal, bird, carcass, skin, eggs, device, record or other thing which is likely to afford evidence of an offence against this Act, or which it is necessary to inspect and examine in order to ascertain whether this Act is being complied with ;
- (d) search for inspect and examine any such animal, bird, carcass, skin, eggs, device, record or thing ;
- (e) seize any such animal, bird, carcass, skin, eggs, device, record or thing and retain it for investigation and legal proceedings ;

(f) request any person whom he suspects on reasonable grounds to have done any act or thing for which that person is required to hold a licence or permit under this Act to produce such a licence or permit.

(2) A warden shall have similar powers to those conferred on an inspector by paragraphs (a) and (f) of subsection (1) of this section.

(3) Upon demand by the owner, occupier or person in charge of any land, building, structure, vessel, boat, receptacle, place or thing which an inspector has entered, or is about to enter or to search, the inspector shall produce and show his identity card to that owner occupier or person in charge, and if he does not do so he shall not be entitled to exercise further any power of entry or search in relation to that land, building, structure, vessel, boat, receptacle, place or thing.

Seizure of animals, birds, etc., illegally taken.

16. (1) An inspector may seize any animal bird or eggs taken or imported into the State in contravention of this Act, or the carcass or skin of any such animal or bird.

(2) The Minister may sell or otherwise dispose of any animals birds eggs carcasses or skins seized under this section, or may return them to the person from whom they were taken.

Saving of police powers.

17. This Act shall not be construed so as to take away or restrict any power which a member of the police force has under any other Act or law.

Hindering and assaulting inspectors and wardens.

18. (1) A person shall not hinder or resist an inspector or warden in the execution of any of his duties under this Act.

Penalty : Fifty pounds, or imprisonment for three months.

(2) A person shall not assault an inspector or warden in the execution of any of his duties under this Act.

Penalty : One hundred pounds or imprisonment for six months.

Duty to state name and address.

19. When an inspector or warden—

(a) informs a person that he suspects him of having committed an offence against this Act ; and

(b) shows his identity card to that person ; and

(c) requests that person to state his full name and usual place of residence,

that person shall forthwith inform that inspector or warden of his full name and his usual place of residence.

Penalty : Fifty pounds.

20. A person holding a licence or permit shall carry that licence or permit with him while he is taking or attempting to take birds or animals or eggs, or is shooting at birds or animals pursuant to the licence or permit.

Duty to carry licence or permit.

Penalty : Twenty-five pounds.

21. When an inspector or warden—

(a) requests a person holding a licence or permit to produce that licence or permit ; and

(b) shows his identity card to that person,

that person shall either produce his licence or permit to the warden or inspector forthwith or produce it within forty-eight hours at any police station or at an office indicated by the inspector or warden.

Duty to produce licence or permit.

Penalty : Twenty-five pounds.

PART III.

PART III.

CONSERVATION AND CONTROL OF ANIMALS AND BIRDS.

Prohibited Areas, Fauna Reserves, Fauna Sanctuaries and Game Reserves.

22. If the Governor is satisfied with respect to any land that—

Prohibited areas.

(a) it is expedient to reserve that land for the permanent conservation of animals and birds ; and

(b) for such conservation it is necessary to prevent the entry of persons into that land ; and

(c) satisfactory arrangements have been made or will be made for the management of the land as a prohibited area and for controlling the entry of persons into the land ; and

(d) the consents required by this Act have been obtained, the Governor may by proclamation declare the land to be a prohibited area.

23. If the Governor is satisfied with respect to any land that—

Fauna reserves.

(a) it is expedient to reserve that land for the permanent conservation of animals and birds, but it is not necessary for that purpose to prevent the entry of persons on to that land ; and

(b) the land is not likely to be used for any purpose inconsistent with the permanent conservation of animals and birds thereon; and

(c) satisfactory arrangements have been made for ensuring that the land will be managed as a fauna reserve; and

(d) the consents required by this Act have been obtained, the Governor may by proclamation declare the land to be a fauna reserve.

Fauna sanctuaries.

24. If the Governor is satisfied with respect to any land that—

(a) the land is or may be used for purposes other than the conservation of animals or birds, but that it is desirable to conserve animals thereon as far as is practicable having regard to the other uses of the land; and

(b) the consents required by this Act have been obtained, the Governor may by proclamation declare the land to be a fauna sanctuary.

Game reserves.

25. If the Governor is satisfied with respect to any land that—

(a) it is expedient to reserve that land for the permanent conservation of animals and birds; and

(b) if the land is managed as a game reserve under this Act the annual yield of animals or birds therefrom is likely to increase; and

(c) the land is not likely to be used for any purpose inconsistent with the propagation of such animals and birds; and

(d) satisfactory arrangements have been made or will be made for the management of the land as a game reserve; and

(e) the consents required by this Act have been obtained, the Governor may by proclamation declare the land to be a game reserve.

Consents to creation of prohibited areas, reserves and sanctuaries.

26. A proclamation of land as a prohibited area, fauna reserve, fauna sanctuary or game reserve shall not be made unless—

(a) where the land or part of it is Crown land—the Minister has recommended the making of the proclamation;

(b) where the land or part of it is private land—the occupier, and if the occupier is not the owner, the owner also has consented to the making of the proclamation.

27. (1) If the owner of any land being the whole or part of a fauna sanctuary or game reserve makes a request in writing to the Minister that the land shall cease to be a fauna sanctuary or game reserve or part thereof, the Governor shall make such proclamations as are necessary to provide that the said land shall cease to be such a sanctuary or reserve, or part thereof.

Abolition or alteration of fauna sanctuaries or game reserves.

(2) Subsection (1) of this section shall not restrict the power of the Governor to revoke or vary, at his discretion and without any request, any proclamation declaring land to be a prohibited area, fauna reserve, fauna sanctuary or game reserve.

28. (1) The Director or any person authorized by him may cause to be erected at suitable places within, or on the boundaries of, or near any prohibited area, fauna reserve, fauna sanctuary or game reserve, notices indicating that the land is a prohibited area, fauna reserve, fauna sanctuary or game reserve.

Erection of notices.

(2) The fact that a notice is not erected at any place pursuant to this section shall not affect the liability of any person for a contravention of any provision of this Act.

(3) A person shall not destroy, damage, move or interfere with a notice erected pursuant to this section.

Penalty : One hundred pounds.

(4) Upon the conviction of a person for an offence against subsection (3) of this section the court may, whether or not it imposes any penalty, order the defendant to pay to the Minister such sum as the court deems just for compensation for the loss caused by the action of the defendant.

29. All animals and birds in a prohibited area, fauna reserve, fauna sanctuary or game reserve (including animals and birds of species which are declared by other provisions of this Act to be unprotected), shall be protected animals and birds.

Protection of animals and birds in prohibited areas, reserves and sanctuaries.

30. A proclamation under this Act declaring an open season—

(a) shall not apply to or make it lawful to take any animals or birds within a prohibited area, fauna reserve or fauna sanctuary ;

Effect of open seasons on prohibited areas, fauna reserves and fauna sanctuaries and game reserves.

(b) shall, if it expressly so provides, confer rights to take animals or birds within a game reserve in accordance with the terms of the proclamation, but shall not otherwise apply to or make it lawful to take animals or birds within a game reserve.

Restriction on entry to prohibited area.

31. (1) A person shall not be within a prohibited area without the permission of an authorized person.

Penalty : Fifty pounds.

(2) The following persons are authorized to grant permission to be within a prohibited area—

(a) as regards Crown land—the Minister ;

(b) as regards private land—the occupier, or a person authorized by the occupier to give such permission.

(3) Permission to be within a prohibited area may be limited as to time or place and shall have no effect after the specified time, or outside the specified area.

Restrictions on guns and devices in prohibited areas, etc.

32. (1) A person within a prohibited area, fauna reserve, fauna sanctuary or game reserve shall not use or have in his possession any gun or device, or any substance capable of being used for the purpose of taking animals or birds.

Penalty : Fifty pounds.

(2) It shall be a defence to a charge for an offence against this section, to prove that the defendant had the gun, device or substance in his possession, or used it, for the purpose of lawfully taking or destroying animals or birds pursuant to a permit or proclamation or a provision of this Act.

Dogs, cats and pests in prohibited areas, reserves and sanctuaries.

33. (1) Subject to subsection (2) of this section, an inspector, or an owner or occupier of any land which is the whole or a part of a prohibited area, fauna reserve, fauna sanctuary or game reserve may destroy any of the following animals or birds on that land namely—

(a) any dog or cat ;

(b) any animal or bird of a controlled species ;

(c) any animal or bird of a prohibited species ;

(d) any vermin within the meaning of the Vermin Act, 1931-1962.

(2) This section does not authorize—

(a) any person to destroy a dog on a game reserve during an open season applicable to that reserve ;

(b) any person to destroy a dog or cat belonging to the owner or occupier of any land.

(3) Compensation shall not be payable to any person for the destruction of any dog, cat, vermin or other animal or bird in accordance with this section.

34. (1) A person shall not without the consent of an authorized person light a fire within a prohibited area, fauna reserve or game reserve.

Fires in prohibited areas and reserves.

Penalty : Fifty pounds.

(2) The following persons are authorized to consent to the lighting of fires under this section—

- (a) fires on Crown lands—the Minister or any officer authorized by the Minister ;
- (b) fires on land other than Crown land—the occupier or any person authorized by the occupier.

Protection of Animals and Birds.

35. All animals and birds of species native to Australia other than species in the second schedule are protected.

Protected animals and birds.

36. (1) All animals and birds of the species named in the second schedule are unprotected.

Unprotected animals and birds.

(2) The Governor may by regulation vary the second schedule by including or excluding any species of animals or birds.

37. (1) Subject to subsection (2) of this section a person shall not take, kill or injure a protected animal or bird, or take the eggs of a protected animal or bird.

Restrictions on taking protected animals or birds.

Penalty : For a first offence, not less than five and not more than fifty pounds ; for a subsequent offence, not less than ten and not more than one hundred pounds.

(2) It shall be a defence—

- (a) to a charge of taking a protected animal or bird or the eggs of a protected animal or bird—that the defendant did so in accordance with the terms and conditions of a proclamation declaring an open season, or of a permit ;
- (b) to a charge of killing or injuring a protected animal or a protected bird—that the defendant did so in an attempt to take the animal or bird in accordance with the terms and conditions of a proclamation declaring an open season or of a permit.

s. 37. COLLATON v. BOOTHEY (1934) S.A.S.R. 429. *Seemle*, that section 14 (1) (a) of the Animals and Birds Protection Act, 1919 (which prohibited the taking of protected animals and birds), did not apply to an animal or bird which was a domestic pet.

Open season.

38. (1) The Governor may by proclamation declare an open season for the taking of animals or birds of the species specified or indicated in the proclamation.

(2) A proclamation under this section—

- (a) shall state the period of the open season thereby declared and whether the open season will be in force during a specified year or years, or in every year until the proclamation is altered or revoked ;
- (b) may indicate the particular days or hours during which animals or birds may be taken in the open season ;
- (c) shall indicate whether the open season applies throughout the whole State or in parts thereof and if in parts, shall indicate them ;
- (d) may indicate whether and to what extent eggs of protected animals or birds may be taken in the open season ;
- (e) may prescribe any other restrictions or conditions applying to the taking of animals and birds or any species thereof or eggs during the open season.

(3) Any such restrictions or conditions may relate to the place, or circumstances in which, or the devices, substances, or methods by which, animals or birds or any species thereof may be taken and may limit the number of animals or birds, or any species thereof, or eggs to be taken by any one person either during the open season or any specified period therein.

(4) Declarations of two or more open seasons for different species of animals or birds may be included in the same proclamation.

Restrictions on taking animals or birds during open season.

39. A proclamation declaring an open season shall not confer on any person any right to take—

- (a) any animal or bird of a rare species ; or
- (b) any animal or bird within a prohibited area, fauna reserve or fauna sanctuary ;
- (c) any animal or bird within a game reserve, except as expressly provided in the proclamation.

Permits to take animals and birds.

40. (1) The Minister may grant to any person (including the Director) a permit to take protected animals or birds or eggs of protected animals or birds if he is satisfied that it is desirable to grant the permit—

- (a) to facilitate scientific research ; or

- (b) to enable persons to place bands marks or tags upon animals or birds and then release them ; or
- (c) to permit the destruction of animals or birds which are causing damage or are likely to cause damage to crops, stock or other property ; or
- (d) for any other purpose which the Minister considers expedient and not inconsistent with the objects of this Act.

(2) A permit granted under this section to a person other than the Museum Board or the Director shall not authorize the taking of any animal or bird of a rare species or eggs of any such animal or bird or any animal, bird or eggs in a prohibited area, fauna reserve, fauna sanctuary or game reserve.

(3) A permit granted under this section to the Museum Board shall authorize the members of that Board and any employees of that Board nominated by that Board for the purpose to take animals or birds or eggs in accordance with the permit.

(4) A permit granted under this section to the Director shall authorize the Director and any employee in the Fisheries and Game Department to take animals or birds or eggs in accordance with the permit.

41. A person to whom a permit to take animals, birds or eggs has been granted—

Reports by
grantees of
certain permits.

- (a) for facilitating scientific research ; or
- (b) for placing bands marks or tags on animals, or birds ; or
- (c) to permit the destruction of animals or birds causing or likely to cause damage to crops, stock or other property,

shall within fourteen days after the expiration revocation or cancellation of the permit deliver to the Director a report in the prescribed form of all animals birds or eggs taken or destroyed pursuant to the permit.

Penalty : Twenty-five pounds.

42. (1) Notwithstanding any other provision of this Act, any aboriginal may at any time without any licence permit or other authority granted under this Act take from any land other than a prohibited area, fauna reserve, fauna sanctuary or game reserve such numbers of protected animals and birds

Rights of
aboriginals.

as are reasonably required for food for himself and his family : Provided that this subsection shall not authorize the taking of any animal or bird on land other than Crown land unless consent thereto is given by the occupier or some person authorized by him.

(2) In this section "aboriginal" means a person deemed to be an Aboriginal pursuant to section 4 of the Aboriginal Affairs Act, 1962.

Australian magpie.

43. (1) Notwithstanding any other provision of this Act, it shall be lawful for any person, without any permit or other authority granted under this Act to take any Australian magpie which has attacked or is attacking any person.

(2) A person shall not sell an Australian magpie taken pursuant to this section.

Penalty : Twenty pounds.

Possession of animals and birds unlawfully taken.

44. (1) A person shall not have in his possession any animal bird or eggs taken or imported into the State in contravention of this Act, or the skin or carcass of any such animal or bird.

Penalty : One hundred pounds.

(2) It shall be a defence to a charge for an offence under subsection (1) of this section to show that the defendant did not know and had no reason to suspect that the animal bird or egg had been unlawfully taken or imported into the State.

Trespassing.

45. (1) A person shall not be on any land, other than Crown land, for the purpose of taking an animal or bird or the eggs of an animal or bird, unless the owner or occupier of that land has given him permission to be on that land for that purpose.

Penalty : Fifty pounds.

(2) If the owner or occupier of any land or the servant or agent of any such owner or occupier suspects that a person trespassing on that land is committing or has committed an offence against this Act, he may request that person to do either or both of the following things namely :—

- (a) to state his full name and usual place of residence ;
- (b) to quit the land.

A person to whom any such request is made shall forthwith comply with it.

Penalty : Fifty pounds.

(3) A person who has quitted land pursuant to a request under this section shall not re-enter that land without the permission of the owner or occupier.

Penalty : Fifty pounds.

(4) In proceedings for an offence against this section proof that a person on any land had in his possession a dog, gun or device capable of being used for the purpose of taking an animal or bird, shall be *prima facie* evidence that that person was on the land for the purpose of taking an animal or bird.

(5) The permission of an owner or occupier may be given by any person acting on his behalf.

46. Neither a permit nor a proclamation declaring an open season shall confer any right to enter or be upon any land without any other consent or authority required by law. Saving of law as to trespass.

Use of Guns, Devices and Poisons.

47. (1) Except as provided in subsection (2) of this section, a person shall not shoot at an animal or bird with a gun or have a gun in his possession for the purpose of shooting at an animal or bird unless he holds a gun licence. Gun licences.

Penalty : For a first offence, fifty pounds ; for a subsequent offence, one hundred pounds.

(2) The occupier of any land, or an employee or member of the household of any such occupier may, without holding a gun licence, shoot at animals or birds on that land and have a gun in his possession for the purpose of such shooting.

(3) A gun licence does not authorize a person to shoot at or take animals or birds in contravention of any other provision of this Act.

48. The Director, or a member of the police force for the time being in charge of a police station, may issue a gun licence to any person : Provided that a gun licence shall not be issued— Issue of gun licences.

(a) to any person during the balance of the term of a gun licence revoked by the Minister, or while he is disqualified from holding a gun licence ; or

(b) to any person under the age of fifteen years.

PART III.**Use of guns.**

49. (1) A person shall not—

- (a) shoot at an animal or bird with a gun having a bore greater than a 10 gauge bore ;
- (b) have any such gun in his possession for the purpose of shooting at animals or birds.

Penalty : For a first offence, not less than five and not more than fifty pounds ; for a second offence, not less than ten and not more than one hundred pounds.

(2) In this section “a 10 gauge bore” means a bore the internal diameter of which is thirty-one fortieths of an inch.

Restriction on use of devices for taking animals and birds.

50. (1) The Governor may by proclamation prescribe restrictions or prohibitions on the use of any specified devices, and may declare that such restrictions or prohibitions shall apply to the taking of animals and birds generally or to animals and birds of any species specified in the proclamation.

(2) A person shall not take an animal or bird in contravention of a proclamation under this section.

Penalty : One hundred pounds.

Duck traps.

51. An inspector may seize and dismantle any duck trap by which duck have been taken or are likely to be taken illegally.

Use of poison.

52. (1) A person shall not, except with the consent of the Minister, use poison for the purpose of killing or injuring any protected animal or bird.

Penalty : One hundred pounds.

(2) The Minister may by writing consent to the killing of any specified animals or birds by poison of such kind and subject to such terms and conditions as the Minister specifies in the instrument of consent.

(3) In this section “poison” includes any substance which when taken into or applied to the body of an animal or bird is likely to kill that animal or bird.

Use of dogs.

53. A person shall not cause or permit a dog to kill, injure or molest a protected animal or bird.

Penalty : Fifty pounds.

Shooting from boats.

54. A person shall not shoot at an animal or bird from a boat or other navigable vessel moving at a speed of more than five miles an hour.

Penalty : Fifty pounds.

Shooting on Sundays.

55. A person shall not—

- (a) shoot at animals or birds on any Sunday ; or

(b) have a gun in his possession on any Sunday for the purpose of shooting at animals or birds on that day.

Penalty : Fifty pounds.

Restrictions on Possession and Release of Certain Animals and Birds.

56. (1) The Governor may, by regulation, declare any species of animals or birds to be prohibited species. Prohibited species.

(2) A person shall not have in his possession or under his control an animal or bird of a prohibited species.

Penalty : Fifty pounds.

57. (1) The Governor may, by regulation, declare any species of animals or birds to be controlled species. Controlled species.

(2) A person shall not without the consent in writing of the Minister release from captivity or control an animal or bird of a controlled species.

Penalty : Fifty pounds.

PART IV.

PART IV.

KEEPING, SELLING, IMPORTING AND EXPORTING
PROTECTED ANIMALS AND BIRDS.

58. (1) A person shall not—

(a) keep in confinement or under his control—

(i) more than nine protected animals ; or

(ii) more than nine protected birds ; or

(iii) protected animals and protected birds the total number of which is more than nine ;

(b) sell a protected animal or bird or the carcass or skin or egg of a protected animal or bird,

unless he holds a licence granted under this section.

Penalty : One hundred pounds.

(2) Paragraph (a) of subsection (1) of this section shall not apply to—

(a) the Museum Board ; or

(b) the University of Adelaide ; or

(c) the Commonwealth Scientific and Industrial Research Organization ; or

Licences to keep and sell protected animals, birds, carcasses, eggs.

s. 58. CUNNINGHAM v. KING (1964) S.A.S.R. 97. Held under section 14 of the Animals and Birds Protection Act, 1919 (which prohibited a person from having any protected animal or bird in his possession or under his control), that it was not necessary on a charge under the section of having protected birds in possession or under control, that it should be proved that the birds were closely confined. If it was shown that a person, with the intention of keeping such birds in his possession or under his control, has taken such action as is necessary under the circumstances (as, for instance, by clipping their wings or feeding them), to ensure that the birds will not wander away and be lost to him, there was evidence upon which a jury could find that the birds were in that person's possession or under his control.

(d) any person keeping in confinement or under his control any animals or birds by authority of the said Board, University or Organization.

(4) The Minister may grant a licence under this section to any person whom he considers a fit and proper person to hold such a licence.

(5) Such a licence shall authorize the holder to do all or any of the acts mentioned in subsection (1) of this section, subject to the terms and conditions of the licence.

(6) A licence under this section shall not entitle any person to keep or sell animals or birds which have been taken or imported into the State in contravention of this Act, or the carcasses or skins or eggs of any such animals or birds.

(7) The Minister may, upon the recommendation of the Director, direct that no fee shall be payable for a licence granted under this section to a person who in the opinion of the Minister is in necessitous circumstances. Such a licence may therefrom be issued without fee.

(8) The holder of a licence under this section shall furnish the Director with such returns as are prescribed.

Penalty : Twenty-five pounds.

Species not to be sold.

59. (1) The Governor may, by regulation, declare that any specified species of animals or birds or the eggs of any specified species of animals or birds shall not be sold.

(2) A person, whether holding a licence or not, shall not sell an animal or bird or egg the selling of which is prohibited by regulation under this section.

Penalty : One hundred pounds.

Export and import of protected animals and birds, carcasses, etc.

60. A person shall not—

(a) export a protected animal or bird or the carcass, skin or eggs of a protected animal or bird from a place within the State to a place outside the State except pursuant to a permit to export granted under this Act ; or

(b) import a protected animal or bird or the carcass, skin or eggs of a protected animal or bird into the State from a place outside the State except pursuant to a permit to import granted under this Act.

Penalty : For a first offence, not less than five and not more than fifty pounds ; for a subsequent offence, not less than ten and not more than one hundred pounds.

61. (1) The Minister may grant to any person a permit to export from the State or a permit to import into the State such protected animals, birds, carcasses, skins or eggs as are indicated in the permit.

Grant of permits to export or import.

(2) A permit to export granted under this section shall not entitle any person to export from the State any animals or birds taken in contravention of this Act, or the carcasses, skins or eggs of any such animals or birds.

(3) A permit to import or export shall not be granted unless the Minister is satisfied that the proposed import or export of animals birds carcasses skins or eggs is or will be in accordance with the laws of the State or country from which they are imported into South Australia, or to which they are exported from South Australia.

(4) A permit to import shall not be granted unless the Minister is also satisfied that the animals, birds, carcasses, skins or eggs proposed to be imported were not taken in contravention of the laws of any other State or country.

PART V.

PART V.

ROYALTIES.

62. (1) The Governor may by proclamation declare that royalties of the amounts stated in the proclamation shall be payable on animals birds and eggs of the species specified in the proclamation or on the carcasses or skins of such animals and birds.

Declaration of royalties.

(2) The amounts of royalties so proclaimed may vary according to the size, age, quality, standard or condition of the animals, birds, eggs, carcasses or skins on which they are payable or according to other circumstances.

(3) A proclamation under this section may contain a declaration that it applies to animals birds or eggs of any species only when they are taken in a game reserve.

63. (1) A permit to take animals or birds chargeable with royalty shall not be granted pursuant to paragraph (d) of subsection (1) of section 40 unless the royalty on the number of animals birds or eggs which may be taken pursuant to the permit is first paid to the Minister.

Payment of royalties.

(2) When animals or birds chargeable with royalty are taken pursuant to a permit pursuant to paragraph (c) of subsection (1) of section 40 the royalty shall be payable in respect of the sale of those animals or birds or of the skins or carcasses or eggs thereof.

A person shall not sell any such animal or bird, or the skin or carcass of any such animal or bird, unless the royalty thereon has been paid, or an agreement or arrangement for payment of the royalty has been made with the Minister.

Penalty : Not less than ten and not more than one hundred pounds.

(3) When animals birds or eggs chargeable with royalty are taken in accordance with a proclamation declaring an open season, the royalty shall be payable by the person taking them, on demand made by or on behalf of the Minister.

A person shall not—

- (a) fail to pay on demand the royalty on any such animal bird or egg taken by him, when a demand for payment is made by or on behalf of the Minister ; or
- (b) sell any such animal bird or egg or the skin or carcass of any such animal or bird before the royalty thereon has been paid or an agreement or arrangement for payment of the royalty has been made with the Minister.

Penalty : Not less than ten and not more than one hundred pounds.

(4) On a conviction for an offence against this section the Court may, in addition to imposing a fine, make either or both of the following orders :—

- (a) that any royalty payable on an animal, bird, carcass, skin or egg be paid by the defendant ;
- (b) that any animal, bird, or egg on which the defendant was liable to pay royalty or the carcass or skin of any such animal or bird be forfeited to the Crown and delivered to the Director.

(5) The Director may sell any animal bird carcass skin or egg delivered to him pursuant to an order under this section and shall pay the net proceeds of the sale to the Treasurer in aid of the General Revenue of the State.

Collection of
royalty.

64. The Minister may appoint collectors of royalty, and shall publish notice of every such appointment in the *Gazette*.

Recovery of
royalty.

65. (1) The Minister may recover any royalty due and owing under this Act—

- (a) by proceedings on complaint in a court of summary jurisdiction ; or

(b) by action in any court which would have jurisdiction if the royalty were an amount owing to the Crown under a contract.

(2) A collector of royalty or an inspector may seize any animal, bird, or egg, or the carcass or skin of any animal or bird, on which the royalty is due and unpaid and may retain possession of it until the royalty is paid.

(3) The Minister may sell any animal, bird, carcass, skin or egg which has been seized under this section, and on which the royalty is due and unpaid.

(4) The proceeds of a sale made pursuant to an order under this section shall be paid to the Treasurer in aid of the General Revenue of the State: Provided that the Minister, if he is satisfied that it is just to do so, may order that any sum received on the sale in excess of the amount of the royalty and the costs of sale, shall be refunded to the owner of the animal, bird, skin, carcass or egg.

PART VI.

PART VI.

GENERAL PROVISIONS, LEGAL PROCEDURE AND REGULATIONS.

66. (1) A person shall not be entitled to the grant of any licence or permit unless— Licences and permits.

(a) he applies for it on a form fixed by the Minister or accepted by the person entitled to grant the licence or permit; and

(b) he pays the prescribed fee at or before the time of applying for the licence or permit.

(2) Every licence and permit shall be in a form fixed by the Minister.

67. Every licence and every permit shall—

Term of licence.

(a) come into force on the day specified therein, and if no day is so specified, on the day when it is granted;

(b) expire on the day specified therein and if no day is so specified, on the thirty-first day of December next after it comes into operation.

68. (1) Any licence or permit—

Limitations, conditions, etc., of licences and permits.

(a) may be subject to any limitations, restrictions, terms and conditions imposed by the Minister, or other person granting it;

(b) may be revoked by the Minister if any breach of its limitations, restrictions terms or conditions has occurred, or if the holder is convicted of an offence against this Act, or if for the purpose of conserving animals or birds or for other reasonable cause the Minister directs that it be revoked.

(2) Any such limitations restrictions terms or conditions may relate to all or any of the following matters—

- (a) the species of animals or birds to which, or to the carcasses skins or eggs of which, the licence or permit applies ;
- (b) the number of animals, birds, or eggs which may be taken sold or otherwise dealt with under the licence or permit or during any part of the period of operation thereof ;
- (c) the area or places in which animals birds or eggs or the carcasses or skins of any animals or birds may be taken sold or dealt with under the licence or permit ;
- (d) the devices substances or methods which may or may not be used to take animals or birds under a permit ;
- (e) prohibitions or restrictions on the taking of the eggs of any animal or bird.

Prohibition of transfers of licences or permits.

69. A licence or permit shall not be transferable, but the Minister may make an endorsement on any licence or permit permitting persons other than the holder of the licence or permit to take or sell animals, birds, or eggs under the licence or permit or exercise any other rights given by the licence or permit.

Cancellation of licence or permit on application.

70. On the application of the holder of a licence or permit the Minister may cancel it, and at his discretion refund to the holder such part of the fee paid for the licence or permit as he deems just.

Duplicates of lost or defaced documents.

71. (1) If the Minister or Director is satisfied—

- (a) that any licence permit or other document (whether original or duplicate) issued to any person by him under this Act has been lost, destroyed or defaced ; and
- (b) that no improper use has been made of that licence, permit or document,

he may on the application of that person and payment of the prescribed fee issue to him a duplicate licence, permit or other document.

(2) A duplicate issued under this section shall have the same force and effect as the original of which it is a duplicate.

72. (1) A person shall not make a false statement in any application, return or other document made by him under this Act. False statements.

Penalty : One hundred pounds.

(2) It shall be a defence to a charge for an offence against subsection (1) of this section to prove that the defendant believed on reasonable grounds that the statement made was true.

73. A person shall not do any act or make any omission in contravention of any provision of a proclamation or of a licence or permit under this Act. Contravention of proclamations, etc.

Penalty : Fifty pounds.

74. (1) Proceedings in respect of offences against this Act shall be disposed of summarily. Procedure for offences.

(2) Notwithstanding any other Act, a complaint for an offence against this Act or to recover royalties under this Act may be laid within twelve months after the offence was committed, or, as the case may be the royalty became payable by the defendant.

75. (1) Where a person is convicted of an offence involving the unlawful taking, keeping, possessing, selling, importing, exporting, or otherwise dealing with an animal or bird, or eggs, or a carcass or skin, the court shall, in addition to imposing a fine under any other provision of this Act, impose an additional fine based on the number of animals, birds, carcasses, skins or eggs proved to have been unlawfully taken, kept, possessed, sold, imported, exported or otherwise dealt with. Additional penalties for certain offences.

(2) The amount of the additional fine shall be—

(a) not less than five pounds and not more than twenty pounds for each animal or bird of a rare species and for each carcass skin or egg of such an animal or bird ;

(b) not less than one pound and not more than five pounds for each protected animal or bird (other than rare species) and for each carcass skin or egg of such protected animal or bird.

PART VI.

Proof of
certain
matters.

76. In legal proceedings for offences against this Act or relating to other matters arising under this Act—

- (a) a certificate signed by the Director stating that at any specified time or during any specified period a person did or did not hold a licence or a permit under this Act, shall be *prima facie* evidence of the matter so certified ;
- (b) an apparently genuine document produced to the court and purporting to be a certificate such as mentioned in paragraph (a) of this section shall be accepted as such a certificate without proof thereof, unless it is proved not to be such a certificate ;
- (c) the court shall take judicial notice of the making and contents of any proclamation under this Act, or of the fact that a proclamation does not exist.

Production of
licence or
permit to
court.

77. (1) At the hearing of proceedings against the holder of a licence or permit for an offence against this Act alleged to have been committed by him as the holder of that licence or permit, the holder shall produce that licence or permit or a duplicate thereof to the clerk of the court hearing the case.

Penalty : Twenty-five pounds.

(2) If the court orders that the licence or permit of the defendant be cancelled the clerk of the court shall make an endorsement of the cancellation thereon and forward the licence or permit to the Director.

Power of
court to
cancel licence
or permit.

78. Upon convicting a person of an offence against this Act, the court may, in addition to exercising any other power as to penalty, make either or both of the following orders—

- (a) that any licence or permit of that person be cancelled ;
- (b) that that person be disqualified for such period as the court deems just from obtaining and holding a licence or permit, or a licence or permit of any kind mentioned in the order.

Regulations.

79. (1) The Governor may make regulations prescribing any matters which are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed to carry this Act into effect, or to make additional provision for the conservation of the native animals and birds of the State.

(2) Without limiting the generality of subsection (1) of this section the regulations may prescribe—

- (a) the fees to be paid for licences or permits ;

- (b) statistical or other returns to be made and sent to the Director by persons holding licences or permits ;
- (c) branding or marking of animals, birds, eggs, skins or carcasses to indicate payment of royalty ;
- (d) records and books to be kept by holders of licences or permits ;
- (e) duties and other matters relating to the keeping and sale of protected animals and birds ;
- (f) penalties recoverable summarily and not exceeding fifty pounds for breaches of or non-compliance with any regulation.

80. (1) All money received under this Act for fees and royalties shall be paid to the Treasurer in aid of the General Revenue of the State. Financial provision.

(2) The money required for the administration of this Act shall be paid out of money voted by Parliament for the purpose.

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

EDRIC BASTYAN, Governor.

THE FIRST SCHEDULE.

Title of Act.	Number of Act.
Animals and Birds Protection Act, 1919	No. 1365 of 1919
Animals and Birds Protection Act Amendment Act, 1922 ...	No. 1534 of 1922
Animals and Birds Protection Act Amendment Act, 1927 ...	No. 1833 of 1927
Animals and Birds Protection Act Amendment Act, 1928 ...	No. 1855 of 1928
Animals and Birds Protection Act Amendment Act, 1932 ...	No. 2073 of 1932
Statute Law Revision Act, 1934.....	No. 2168 of 1934 (so much of the Second Schedule thereto as affects the Animals and Birds Protection Act 1919, the Ani- mals and Birds Protection Act Amendment Act 1927 and the Ani- mals and Birds Protection Act Amendment Act 1932).
Animals and Birds Protection Act Amendment Act, 1938 ...	No. 2390 of 1938
Animals and Birds Protection Act Amendment Act, 1958 ...	No. 43 of 1958

THE SECOND SCHEDULE.

Unprotected Species (Section 36).

Zebra Finch (*Taeniopygia castanotis*).
 Budgerygah (*Melopsittacus undulatus*).
 Australian (Brown) Goshawk (*Astur fasciatus*).
 Musk Lorikeet (*Glossopsitta concinna*).
 Red Wattlebird (*Anthochaera carunculata*).
 Grey-backed Silveryeye (*Zosterops halmaturina*).
 Adelaide Rosella (*Platycercus adalaidae*).
 Eastern Rosella (*Platycercus eximius*).
 Galah (*Kakatoe roseicapilla*).
 Black Cormorant (*Phalacrocorax carbo*).
 Little Black Cormorant (*Phalacrocorax ater*).
 White-breasted (Black-faced) Cormorant (*Phalacrocorax fuscescens*)
 Pied Cormorant (*Phalacrocorax varius*).
 Little Pied Cormorant (*Microcarbo melanoleucus*).
 Little Corella (*Kakatoe sanguinea*).
 White (Sulphur-crested) Cockatoo (*Kakatoe galerita*).
 Australian Raven (*Corvus coronoides*).
 Little Crow (*Corvus bennetti*).
 Australian Crow (*Corvus ceciliae*).
 Wedge-tailed Eagle (only north of 34° 30' S. Lat.) (*Uroaetus audax*).
 Wild dog (Dingo) (*Canis familiaris*).
 All species of animals and birds not native to Australia.

THE THIRD SCHEDULE.

Rare Species (Section 7).

Major Mitchell Cockatoo (*Kakatoe leadbeateri*).
Beautiful Firetail Finch (*Zonaegehinthus bellus*).
Mallee Fowl (*Leipoa ocellata*).
Plain Wanderer (Turkey Quail) (*Pedionomus torquatus*).
Australian Bustard (Wild Turkey) (*Eupodotis australis*).
Brolga (Native Companion) (*Megalornis rubicundus*).
Southern Stone Curlew (*Burhinus magnirostris*).
Cape Barren Goose (*Cereopsis novaehollandiae*).
Glossy Black Cockatoo (*Calyptrorhynchus lathamii*).
Ground Parrot (*Pezoporus wallicus*).
Night Parrot (*Geopsittacus occidentalis*).
Western Whipbird (*Psophodes nigrogularis*).
Eyrean Grass-Wren (*Amytornis goyderi*).
Princess Parrot (*Polytelis alexandrae*).
Scarlet-chested Parrot (*Neophema splendida*).
Orange-breasted Parrot (*Neophema chrysogaster*).
Red-throated Whistler (*Pachycephala rufogularis*).
Spotted Quail-Thrush (*Cinlosoma punctatum*).
Spotted Bower Bird (*Chlamydera maculata*).
Western Bower Bird (*Chlamydera guttata*).
Platypus (*Ornithorhynchus anatinus*).
Tiger Cat (*Dasyurus maculatus*).
Common Native Cat (*Dasyurus quoll*).
Black-tailed Native Cat (*Dasyurus geoffroyi*).
Brush-tailed Pouched Mouse (*Phascogale penicillata*).
Banded Ant-eater (*Myrmecobius fasciatus*).
Marsupial Mole (*Notoryctes typhlops*).
Nuyt's Islands Bandicoot (*Isoodon nauticus*).
Barred Bandicoot (*Perameles myosura*).
Rabbit Bandicoot (*Thylacomys lagotis*).
White-tailed Bilby (*Thylacomys leucurus*).
Lesser Bilby (*Thylacomys minor*).
Pig-footed Bandicoot (*Chaeropus ecaudatus*).
Koala (*Phascolarctos cinereus*).
Pigmy Gliding Possum (*Acrobates pygmaeus*).
Plain Rat-Kangaroo (*Caloprymnus campestris*).
Toolach Wallaby (*Protemnodon greyi*).
Pearson Island Rock-Wallaby (*Petrogale pearsoni*).
Flinders Island Wallaby (*Thylogale flindersi*).
Yellow-footed Rock-Wallaby (*Petrogale xanthopus*).
Flame Robin (*Petroica phoenicia*).
Regent Honeyeater (*Banthomiza phrygia*).