

General.

4. It shall be lawful for the Governor in Council at any time after the passing of this Act by proclamation to alter the name of any bird or other animal included in the Second or Third Schedule or to name any other bird or animal as a bird or other animal which shall be included in such Second or Third Schedule respectively, and after the publication of any such proclamation in the *Government Gazette* and the expiration of the period mentioned in such proclamation for the time of its coming into operation the birds or other animals so named shall be deemed and considered as being thenceforward included in such schedule.

Game Act 1890
s. 3.
Governor may name other birds and other animals to be protected.
Second Schedule.
Third Schedule.

5. (1) The Governor in Council may by proclamation published in the *Government Gazette* specify any part of Victoria as a locality in which during such period or periods in each year as shall be fixed in such proclamation it shall be unlawful for any person to kill or destroy any native game mentioned in such proclamation or to kill or destroy any native game mentioned in such proclamation under such an age as is therein prescribed with regard to such native game.

Power to proclaim sanctuary for native game in any locality.
Game Act 1896
s. 14.

(2) Any person who in contravention of any such proclamation kills or destroys any native game or uses any instrument whatever net or other means for the purpose of killing or destroying any native game shall be liable to a penalty of not more than Twenty pounds in addition to a sum of not more than Twenty shillings for each bird or animal so killed or destroyed.

Penalty on killing or destroying native game in sanctuary.
Ib. s. 14.

6. Any person who wilfully kills or destroys at any time any game or uses any instrument whatever net or any other means for the purpose of killing or destroying any game, shall be liable to a penalty of not more than Ten pounds, in addition to the value of each bird or other animal destroyed, which value shall be the sum set opposite the name of such bird or animal in the Second Schedule hereto, and shall be adjudged to the owner if claimed by him.

Penalty on killing or destroying game.
Game Act 1890
s. 6.
Game Act 1912
s. 2.
Second Schedule.

7. Any person who during the close season wilfully kills or destroys any native game or uses any instrument whatever net or any other means for the purpose of killing or destroying any native game shall be liable to a penalty of not more than Ten pounds in addition to the sum of Five shillings for each bird or other animal destroyed.

Penalty on killing or destroying native game out of season.
Game Act 1890
s. 6.
Game Act 1896
s. 15.

8. Any person who buys sells or consigns or knowingly has in his possession house or control any game at any time or any native game during the close season shall be liable to a penalty of not more than Five pounds for every head of game in addition to the value of any such game, such value to be assessed by the justices hearing the case, and a penalty of not more than Two pounds for every head of native game so bought sold or consigned or found in his possession house or control.

Game Act 1912
s. 2.
Penalty on having in possession game at any time and native game during close season.
Game Act 1890
s. 7.
Game Act 1912
s. 3.

Provided that any native game killed or destroyed not within the close season—

- (a) may be bought sold consigned or kept in possession during the ten days next following the commencement of the close season ; or

Game Act 1890.

(b) may be kept in possession during the remainder of the close season or any part thereof subject to such conditions and restrictions as the Governor in Council may by proclamation direct.^(a)

Penalty on buying selling consigning or having feathers &c. of certain game or native game killed in close season

Game Act 1912 s. 7.

9. Any person who buys sells consigns or knowingly has in his possession house or control any flesh skin feathers or other portion of any game or native game killed or destroyed during any period in which such killing or destroying was or is prohibited by this Act or by any proclamation thereunder shall for every such offence be liable to a penalty of not more than Five pounds.

Penalty on taking or destroying eggs.

Game Act 1890 s. 8.

10. Any person who wilfully takes out of the nest or destroys in the nest the eggs of any bird of game or native game, or knowingly has in his possession any such eggs, shall be liable to a penalty of not more than Ten shillings for each egg so wilfully taken or destroyed or found in his possession.

Laying poison for or poisoning game prohibited.

ib. s. 11.

11. Any person who at any time or place kills destroys or injures any game by poison or lays poison at any time or place with intent to kill destroy or injure any game shall for every such offence be liable to a penalty of not more than Ten pounds, and in addition if any game is so killed destroyed or injured for each head of game so killed destroyed or injured the sum set opposite the name of the species to which the same belongs in the Second Schedule hereto.

Second Schedule.

Swivel and Punt Guns.

Description of guns to be deemed swivel or punt guns.

Game Act 1896 s. 10.

12. (1) Every gun or fowling-piece—

- (a) having a barrel exceeding forty-two inches in length, or
- (b) having a single barrel exceeding eight pounds avoirdupois in weight or having a double barrel exceeding fourteen pounds avoirdupois in weight, or
- (c) having a bore exceeding eight calibre, or
- (d) being of a weight exceeding sixteen pounds avoirdupois, or
- (e) having more than two barrels, or
- (f) not being such a gun or fowling-piece as is habitually raised at arm's length and fired without other support from the shoulder,

and every combination of more than two guns or fowling-pieces temporarily or permanently secured together, shall be deemed and taken to be a swivel or punt gun within the meaning of this Act.

(2) No firearms belonging to or used by His Majesty or the naval or military forces or the police force shall be deemed to be swivel or punt guns within the meaning of this Act.

Punt guns &c. not to be used.

Game Act 1896 s. 12.

13. No person shall at any time kill or attempt to kill or destroy any game or native game with any swivel or punt gun or any device or instrument known as a swivel or punt gun or with any gun other than

(a) Until the Governor in Council has proclaimed conditions and restrictions there is an absolute right to retain native game during the

period mentioned in this section free from any restriction.—*Clyft v. Lucas*, 1913 V.L.R., 551.

such guns as are habitually raised at arm's length and fired from the shoulder; and any person offending against the provisions of this section shall be liable to a penalty of not more than Twenty pounds for a first offence and of not less than Five nor more than Fifty pounds for any subsequent offence.

Game Act 1890.

Penalty.

Game Act 1912 s. 4.

14. Any person who is found in any boat punt raft or navigable vessel of any kind having therein or attached thereto a device or instrument known as a swivel or punt gun or any gun of a kind other than such as is habitually raised at arm's length and fired from the shoulder shall be liable to a penalty of not more than Twenty pounds for a first offence and of not less than Five nor more than Fifty pounds for any subsequent offence.

Penalty for having swivel gun in boat &c.

Ib. s. 13.

Ib. s. 4.

15. Any person having in his possession or custody or having in any vehicle or boat punt raft or navigable vessel of any kind in his care or control any swivel or punt gun or any part of such gun shall be guilty of an offence against this Act and shall be liable to a penalty of not more than Twenty pounds for a first offence and of not less than Five nor more than Fifty pounds for any subsequent offence.

Penalty for having swivel or punt gun in possession.

Game Act 1912 s. 11.

16. In any prosecution for an offence against any of the provisions of this Act when it is proved that a gun was fired in or from any boat punt raft or navigable vessel without having been raised at arm's length and fired from the shoulder without other support such proof shall without prejudice to any other evidence available be sufficient evidence that such gun was a swivel or punt gun within the meaning of this Act.

Proof of gun being a swivel or punt gun.

Ib. s. 5.

17. The inspector of fisheries or any assistant to such inspector or any member of the police force may with or without warrant at any time seize and take possession of any swivel or punt gun or part thereof and such gun or part shall be forfeited to the Crown and shall be destroyed or otherwise disposed of as the Minister may direct.

Power to seize swivel or punt gun whether being used or not.

Ib. s. 11 (2).

Powers of Seizure &c.

18. The inspector of fisheries or any assistant to such inspector or any member of the police force may without any warrant at all times during business hours enter any store or shop and the premises tenanted therewith in which he has reason to believe he will find any game or native game or any eggs flesh skin or feathers of any game or native game which any person may have in his possession in such store or shop or premises apparently contrary to any of the provisions of this Act, and such officer or member may seize and take possession of such game native game eggs flesh skin or feathers and anything so taken possession of shall be destroyed or otherwise disposed of in such manner as the Minister directs.

Power to seize game &c in illegal possession.

Game Act 1893 s. 6.

Game Act 1912 ss. 9 & 12.

19. The inspector of fisheries or any assistant to such inspector or any member of the police force if he has reasonable ground to believe that an offence has been committed against this Act may with or without warrant—

Power to search for and seize game &c.

Ib. s. 9.

- (a) search any parcel basket bag box receptacle or vehicle for any game or native game or any eggs or any flesh skin

Game Act 1912.

feathers or other portion of any game or native game; or go on board any boat or enter any tent factory or market to search for or inspect any game or native game or any eggs or any flesh skin feathers or other portion of any game or native game and thereon or therein search for or inspect the same; and

- (d) seize and take possession of any such game or native game or eggs or flesh skin feathers or other portion of any game or native game which he finds apparently unlawfully killed destroyed taken or in the possession of any person.

Power to seize instruments &c. when being unlawfully used.
Game Act 1896 s. 18.
Game Act 1912 s. 11 (3).

20. (1) The inspector of fisheries or any assistant to such inspector or any member of the police force may without any warrant at all times seize and take possession of any instrument net or other means used to kill or destroy game or native game which such officer or member finds any person making use of in killing or destroying or attempting to kill or destroy any game or native game in contravention of any of the provisions of this Act.

(2) If the thing so used is not a swivel or punt gun and the person alleged to have been using it is convicted for an offence against any of the provisions of this Act then such instrument net or other means shall be deemed to be absolutely forfeited and shall be destroyed or otherwise disposed of as the Minister directs, and if such person is not convicted the instrument net or other means shall be returned to him.

Appointments.

Power to appoint persons to exercise powers of police.
Ib. s. 17.

21. (1) The Minister may in writing authorize any person to exercise any of the powers conferred by this Act on members of the police force, and may at any time revoke such authority.

- (2) Every person so authorized—
(a) shall subject to such authority have all the powers conferred by this Act on members of the police force.
(b) shall if requested when exercising any of such powers produce his authority.

Legal Proceedings &c.

Penalty for obstruction.
See *Fisheries Act 1890 s. 13.*

22. Any person who obstructs or resists or assaults or incites or encourages any person to obstruct or resist or assault any member of the police force or the inspector of fisheries or any assistant to such inspector or any other person in the execution of his duty under this Act shall be liable to a penalty of not more than Fifty pounds or to imprisonment with or without hard labour for a term of not more than three months, and the court before which any such case is heard may order and award besides any such penalty a sum sufficient to cover any damage which any such officer or person has sustained by such obstruction resistance or assault, such sum to be recoverable in the same manner as the penalty.

Persons offending against this Act must give name and address and deliver up game guns &c. otherwise may be apprehended.

23. If any person is found offending against the provisions of this Act and does not give his name and address and does not deliver up any game native game or any instrument net or other means used to kill or destroy any game or native game to any person who

demands the same, it shall be lawful for such last-mentioned person with any assistance he may require and for any member of the police force to take such person into custody and take him before the nearest justice of the peace to be dealt with according to law, and any person who assaults or resists any such person so demanding such game native game instrument net or other means of destruction shall be liable to a penalty of not more than Five pounds besides any other penalty he may have incurred under this Act.

Game Act 1890
s. 17.
Act No. 311 s. 8.

24. Where any person is charged under this Act with buying selling consigning or having in his possession house or control any game or native game or flesh skin feathers or other portions of any game or native game contrary to any of the provisions of this Act the onus of proof that such game or native game or flesh skin feathers or other portions of game or native game were lawfully bought sold consigned or in his possession house or control shall be upon the person so charged.

Burden of proof.
Game Act 1912
s. 13.

25. All game or native game and all eggs and all flesh skins feathers or other portions of any game or native game seized under the provisions of this Act shall be forfeited to the Crown and may be destroyed or otherwise disposed of in accordance with the directions of the Minister.

Disposal of
seized game and
native game
eggs &c.
Ib. s. 14.

26. If any person feels himself aggrieved at any decision given under this Act he may appeal to the next general sessions held nearest to the place where such decision is given.

Appeal.
Game Act 1890
s. 18.
Act No. 311 s. 8.

27. One-half of all penalties recovered under this Act shall go to and for the sole use of the informant.

Disposal of
penalties.
Ib. s. 19.
Ib. s. 10.

28. Any justices hearing any case under this Act may dismiss the same with such costs as to such justices seem fit not exceeding Five pounds, and a certificate of such dismissal shall be a bar to any other proceedings for the same act in any court.

Justice may dis-
miss complaint
with costs.
Ib. s. 20.
Ib. s. 11.

Trespass.

29. Any person who wilfully trespasses on any land not being Crown land in search or pursuit of game or native game shall on information by the owner or occupier of such land be liable to a penalty of not more than Ten pounds, and the fact that such person has in his possession implements for shooting or is accompanied by dogs shall be *prima facie* evidence of the purpose of such trespass.^(a)

Persons trespass-
ing on private
lands liable to a
penalty.
Game Act 1890
s. 15.
Game Act 1896
s. 12.
Act No. 464
s. 5.

(a) The defendant was convicted of having trespassed upon lands held by the prosecutor under a gold fields licence under section 49 of *The Land Act 1869*. *Held*, that the conviction was bad, inasmuch as such land was Crown land and was excepted by the provisions of the corresponding section 5 of Act No. 464. — *Reg. v. Dickenson, ex parte Franklin*, 14 V.L.R., 752.

In order to constitute an offence under this section the person charged must be knowingly and intentionally trespassing on the land of

another in search or pursuit of game.

A person crossing the land of another merely with the object of reaching a place at which he intends to search for or pursue game is not trespassing in search or pursuit of game within the meaning of this section.

Quære, whether wilfully trespassing on the land of another with the object of shooting therefrom at game on adjacent land is an offence within this section. — *Moffatt v. Hassell*, 1907 V.L.R., 515.

See Police Offences Act, section 18 at end.

Game Act 1890
s. 10.

Persons driving
dogs on or
through certain
lands liable to a
penalty.

Game Act 1896
s. 12.

Act No. 464
s. 8.

30. Any person who wilfully drives or sets on dogs on or through any plantation vineyard orchard garden nursery or other similar enclosure or land on which is any growing crop in search or pursuit of game or native game shall on information by the owner or occupier thereof be liable to a penalty of not more than Ten pounds.

Exemptions.

Authority to
destroy game
injuring crops
&c.

Game Act 1912
s. 16.

31. If it is proved to the satisfaction of the Minister that any game or native game have increased in such numbers as to lead to serious damage to any vineyard orchard or garden or to any crops or grass upon any land owned or occupied by any person the Minister may by authority in writing authorize any person to kill or capture any game or native game upon such land in such numbers and upon such conditions as may be set forth in such authority and may at any time revoke any such authority.

Power to exempt
from certain
provisions.

Game Act 1896
s. 4.

32. (1) The Governor in Council may by proclamation published in the *Government Gazette* direct that in any part of Victoria and during any period of the year specified in such proclamation sections six and eight of this Act shall not be in operation as regards such of the birds or other animals mentioned or included in the Second Schedule to this Act as are specified in such proclamation. Such proclamation may be made as regards any bird or other animal under such an age as is therein prescribed with regard to such bird or animal.

(2) During the period so specified in any proclamation made pursuant to this section with regard to any bird or other animal the said sections shall not be in operation as regards any such bird or animal in the part of Victoria specified in such proclamation.

Trustees &c.
of public
gardens &c.
may be
authorized to
keep game.
Id. s. 7.

33. (1) The Minister may by order in writing authorize the trustees or managers of any public gardens grounds or exhibition to have and keep in their possession or control any game or native game of any kind specified in such order or any eggs flesh skin or feathers thereof, and may at any time revoke any such order.

(2) Any such order so far as it relates to any game or native game therein specified or any eggs flesh or skin or feathers thereof kept in the gardens grounds or exhibition named in such order shall until revoked exempt the said trustees or managers and their officers and servants from any of the penalties imposed by this Act.

Collection of
game for
scientific
purposes.
Id. s. 8.

34. (1) The Minister may by order in writing authorize any person to collect for scientific purposes any game or native game or the eggs of any bird being game or native game.

(2) The period during which any such order is to be in force shall be specified in such order.

(3) During such period sections eight and ten of this Act shall not apply to the person named in such order whilst collecting any animals or eggs pursuant to such order.

(4) The Minister may at any time revoke any such order.

35. Notwithstanding anything to the contrary in this or any other Act contained the Minister may at his discretion give written permission to any person or persons to retain in a state of domestication or captivity such game or during the close season such native game as are specified. The Minister may cancel such permission at any time and without notice.

Game Act 1896 s. 9.
Native game in state of domestication or captivity.
Game Act 1912 s. 10.

36. Nothing in this Act shall extend or be construed to extend to any person being the owner of any game or native game having in his possession any such game or native game in confinement or in a domesticated state, provided such game have not been found wild or such native game have not been caught or taken during the close season, nor to the owner of any eggs taken from the mew or breeding place nor to the possession of such eggs.

Application of this Act.
Game Act 1890 s. 22.

Proclamations in respect of Various Matters.

37. The Governor in Council may by proclamation published in the *Government Gazette*—

Proclamations.
Game Act 1912 s. 18.

- (a) prohibit the selling or exposing for sale of any specified native game for such period as is fixed by any proclamation ;
- (b) prescribe the maximum number of any specified native game which any person may kill or destroy on any one day or within any specified period ;
- (c) prescribe conditions and restrictions under which native game may be kept in possession during the close season or any part thereof ;
- (d) prescribe penalties not exceeding Ten pounds for any contravention of any proclamation or of any authority granted under section thirty-one of this Act ;
- (e) explain vary revoke annul or supersede any proclamation under this Act or any of the Acts hereby repealed.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Number of Act.	Title of Act.	Extent of Repeal.
1095 ...	<i>Game Act 1890</i>	So much as is not already repealed.
1463 ...	<i>Game Act 1896</i>	So much as is not already repealed.
2373 ...	<i>Game Act 1912</i>	The whole.

Sections 3, 4, 6,
& 11.

SECOND SCHEDULE.

Antelope, £15	English Thrushes, £1
Californian Quail, £1	Java Turtle Doves, £1
Deer, £15	Pheasants, £5
English Skylarks, £1	White Swans, £5.

Sections 3 & 4.

THIRD SCHEDULE.

Acanthizae or Tits	The whole year.
All birds known as Cranes, such as Herons, Egrets, &c. (except the Native Companion or Australian Crane)	
All Kingfishers, including the Great Kingfisher or Laughing Jackass	
All members of the Graucalus family	
Babblers	
Bee Eaters	
Bitterns	
Black Cockatoos	
Black Swans	
Black-tailed or Rock-Pebbler Parrots	
Bronzed-winged and other Wild Pigeons	
Bustard or Wild Turkey	
Caterpillar-eaters	
Coach-whip Birds	
Cuckoos	
Cuckoo-shrikes	
Emus	
Ephthianurus or Chats	
Fantails	
Fly Catchers	
Frogmouth or Podargus	
Ibis	
Kangaroo, Black-faced or Mallee (Macropus Melanops)	
Kangaroo, Large Grey (Macropus Giganteus)	
Kangaroo, Large Red (Macropus Rufus)	
Larks (including Cincloramphus) and Pipits	
Lyre Birds	
Magpie Larks (Pied Grallina)	
Mallee Hens	
Native Bears (Koalas)	
Night-jars	
Nuthatches or Tree runners	
Opussums	
Owls	
Platypus	
Porcupine Ant-eaters, or Echidnas	
Robins	
Satin Bower Birds	
Seals	
Shrike-tits	
Southern Stone Plover or Curlew	
Spoonbills	
Swallows and Martins	
Swamp or Ground Parrakeets	
Thick Heads or Whistlers	
Thrushes	
Tree-creepers	
Warblers	
Wedge-bills	
Wild Doves	
Wild Ducks and Teal of all kinds	
Wood Swallows	

THIRD SCHEDULE—continued.

Wrens	}	From the first day of July in each year to the tenth day of February next following.
All Honey-eaters (except Wattle Birds and Leather Heads)		
All kinds of Plover, other than the Southern Stone Plover or Curlew		
Avocets		
Gang Gang Cockatoos		
Land Rail, and all other members of the Rail family, Porphyrio, Coots, &c.		
Magpies		
Native Companions or Australian Cranes ..		
Stilts		
Wild Geese of all kinds		
Quail	}	From the first day of July in each year to the last day of March next following.
White-faced Storm Petrels		
Wallaby, Black-tailed (<i>Macropus Ualabatus</i>)	}	From the first day of May to the thirty-first day of October in each year, both days inclusive.
Wallaby, Red-bellied (<i>Macropus Billiardieri</i>)		