

GAME ACT 1928.

An Act to consolidate the Law relating to the 19 GEORGE V.
No. 3689.
Protection of Game.^(a)

[12th February, 1929.]

BE it enacted by the King's Most Excellent Majesty by and with the Game Act 1915.
advice and consent of the Legislative Council and the Legislative
Assembly of Victoria in this present Parliament assembled and by the
authority of the same as follows (that is to say):—

1. This Act may be cited as the *Game Act 1928*, and shall come Short title and
commencement.
into operation on a day to be fixed by proclamation of the Governor in
Council published in the *Government Gazette*.

2. The Acts mentioned in the First Schedule to this Act to the Repeal.
First Schedule
ib. s. 2.
extent thereby expressed to be repealed are hereby repealed. Such
repeal shall not affect any proclamation order or complaint made or
any certificate given under the said Acts or any of them before the
commencement of this Act.

3. In this Act unless inconsistent with the context or subject- Interpretation.
ib. s. 3.
matter—

- “Game” includes all birds and other animals mentioned in the Second
Schedule.
Second Schedule to this Act ;
- “Gun” includes a firearm of any description and any air-gun
or other kind of gun from which any shot bullet or other
missile can be discharged ;
- “Native game” includes all birds and other animals mentioned Third Schedule.
in the Third Schedule to this Act ; and
- “Close season” means in respect of any bird or other animal Third Schedule.
mentioned in the Third Schedule the period set opposite
the name of such bird or other animal in the said Schedule
or such other period as the Governor in Council may by
proclamation in the *Government Gazette* from time to Game Act 1917
s. 3.
time direct and if in any year the last day of the close
season is Saturday the close season for that year shall
include the following day.

(a) See, for offences in respect of deer, *Crimes Act 1928*, sections 82, 83, and 84.

General.

Game Act 1917
s. 2.
Proclamation
altering adding
or removing
names of birds
and animals to
be protected,
and values or
close season
periods.
Second
Schedule.
Third Schedule.

Power to
Governor in
Council to alter
close-season
periods for
native game.
Game Act 1925
s. 2.

Game Act 1917
s. 2.

Power to
proclaim sanc-
tuary for native
game in any
locality.
Game Act 1915
s. 5.

Penalty on
killing or
destroying
native game in
sanctuary.
Comp. Game
Act 1925 ss.
3, 4.

Person
trespassing on
sanctuary liable
to penalty.
Game Act 1917
s. 4.

4. (1) The Governor in Council may by proclamation—
- (a) alter the name of any bird or other animal included in the Second or Third Schedule to this Act;
 - (b) name any other bird or animal as a bird or other animal which is to be included in the said Second or Third Schedule respectively, and set such sum as the Governor in Council thinks fit opposite the name of such bird or other animal so included in the Second Schedule, and (if necessary) set such period as the Governor in Council thinks fit opposite the name of such bird or other animal so included in the said Third Schedule; and
 - (c) remove from the said Second Schedule the name of any bird or animal included therein and the sum set opposite such name; and in the case of any bird or animal included in the said Third Schedule remove the name of such bird or animal from such Schedule and (if necessary) the period of the close season set opposite the name of such bird or animal, or prescribe instead of such period any other period specified in the proclamation.

(2) 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 or the names of which are so altered and the sums and periods so set opposite the names shall be deemed to be included in such Schedule, and any name sum or period so removed shall be deemed not to be included in such Schedule with respect to such bird or other animal, and the provisions of this Act and the said Schedules when so amended shall be read and construed and given effect accordingly.

5. (1) The Governor in Council may by proclamation published in the *Government Gazette* specify any part of Victoria as a locality hereinafter called a sanctuary 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.

(2) Every 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 Five pounds for each bird or animal so killed or destroyed.

(3) Every person who wilfully trespasses on any sanctuary (whether Crown land or not) during any period in any year so fixed in search or pursuit of game or native game shall be liable to a penalty of not more than Twenty pounds and the fact that a person trespassing on such sanctuary has in his possession implements for shooting or is accompanied by a dog or dogs shall be *prima facie* evidence of the purpose of such trespass and that such trespass was wilful.

6. Every 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, as set out in the Second Schedule to this Act, and each such bird or other animal shall be adjudged to the owner if claimed by him.

Game Act 1915 s. 6.
 Penalty on killing or destroying game.
 Second Schedule.

7. Every person who during the close season wilfully kills or destroys any native game or uses any instrument 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 for a first offence and to a penalty of not less than Five nor more than Fifty pounds for a second or subsequent offence and in every such case to an additional penalty of not less than Five shillings nor more than Five pounds for each bird or other animal destroyed.

Penalties for killing or destroying native game out of season.
Game Act 1925 s. 3.

8. Every 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, as set out in the Second Schedule to this Act, and a penalty of not more than Five pounds for every head of native game:

Penalty on having in possession game at any time and native game during close season.
Game Act 1916 s. 8.

Provided that any native game killed or destroyed not within the close season may be bought sold consigned or kept in possession during the ten days next following the commencement of the close season.

Game Act 1917 s. 6.
Game Act 1925 s. 3.
 Second Schedule.

9. (1) Every 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 any corresponding previous enactment or by any proclamation under such Act or enactment shall be liable to a penalty of not less than Five shillings and not more than Five pounds for the flesh skin feathers or other portion of each bird or animal in respect of which the offence has been committed.

Penalty for buying selling consigning or having feathers &c. of game or of native game killed in close season.
Ib. s. 4.

(2) The following provisions shall apply with respect to egrets whether alive or dead and whether taken or killed or destroyed in Victoria or elsewhere whether before or after the commencement of this Act:—

Penalties in respect of buying &c. egrets and feathers &c. thereof wherever and wherever killed &c.

- (a) Every person who buys sells consigns or knowingly has in his possession house or control any such egret shall be liable to a penalty of not more than Five pounds;
- (b) Every person who buys sells or consigns or knowingly has in his possession house or control any flesh skin feathers or other portion of any such egret shall be liable to the like penalty as is set forth in sub-section (1) of this section;
- (c) The provisions of sections eighteen nineteen twenty-three twenty-six and twenty-nine of this Act shall with such alterations modifications and substitutions as are necessary extend to and apply for the purposes of this sub-section;

Powers of seizure &c. and legal proceedings.

Game Act 1925.

(d) This sub-section shall be read as in aid and not in derogation of the provisions of this Act with respect to game or native game.

Power to extend to certain game or native game.

(3) The Governor in Council may by proclamation extend and apply the provisions of the last preceding sub-section to any bird or other animal specified in such proclamation and mentioned or included in the Second Schedule or the Third Schedule to this Act (whether taken or killed or destroyed in Victoria or elsewhere and whether so taken or killed or destroyed before or after the date of such proclamation) and to the flesh skin feathers or other portion of such bird or animal.

Penalty on taking or destroying eggs. Game Act 1915 s. 10.

10. Every 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 or native game prohibited. Ib. s. 11. Game Act 1917 s. 7. Game Act 1925 s. 5.

11. (1) Every person who—

(a) at any time or place kills destroys or injures any game by poison or lays poison with intent to kill destroy or injure any game; or

(b) during the close season for any native game kills destroys or injures any such native game by poison or lays poison with intent to kill destroy or injure any such native game,

Penalty.

shall be liable, (a) for a first offence to a penalty of not less than Five nor more than Twenty pounds and for a second or subsequent offence to imprisonment for a term of not more than six months and in addition (if any game or native 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 and for each head of native game so killed destroyed or injured a sum to be determined by the Court upon the conviction of not less than Five shillings nor more than Five pounds.

Second Schedule.

Punishment &c. where poison used is potassium cyanide &c.

(2) If the poison used or laid by any person found offending against any of the foregoing provisions of this section is potassium cyanide or any of the compounds of cyanogen such person shall, in lieu of the penalty or imprisonment and the additional sum aforesaid, be liable to imprisonment for not more than twelve months, and in addition (if any game or native 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, and for each head of native game so killed destroyed or injured a sum to be determined by the court upon the conviction of not less than Five shillings and not more than Five pounds.

Second Schedule.

Swivel and Punt Guns.

Description of guns to be deemed swivel or punt guns. Game Act 1915 s. 12.

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

(a) See *Poisons Act 1923*, section 53.

(c) having a bore of greater size than the calibre now known as twelve bore or gauge, or Game Act 1925 s. 6.

(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.

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; and every 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. Punt guns &c. not to be used. Game Act 1915 s. 13. Game Act 1925 s. 7. Penalty.

14. Every 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 part of such device or instrument 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. Game Act 1915 s. 14. Game Act 1925 s. 8.

15. Every 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 1915 s. 15.

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. 16.

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. 17.

Powers of Seizure &c.

Game Act 1915
s. 18.
Power to seize
game &c. in
illegal
possession.
Game Act 1925
s. 9.

18. (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 during business hours enter any store or shop and the premises tenanted therewith or any private land (but except as aforesaid not any house thereon) in which he has reason to believe he will find any game or native game or any eggs flesh skin feathers or other portion of any game or native game which any person may have in his possession in such store or shop or premises or on such private land apparently contrary to any of the provisions of this Act or of any proclamation thereunder, and such officer or member may seize and take possession of such game native game eggs flesh skin feathers and other portion and anything so taken possession of shall be destroyed or otherwise disposed of in such manner as the Minister directs.

Warrant to
search private
houses for
native game.
Game Act 1917
s. 11.

(2) Any justice who is satisfied by information upon oath laid by the inspector of fisheries or any assistant to the said inspector or any member of the police force that there is reasonable ground for believing that there is in any place or premises whatsoever (whether provided for in the last preceding sub-section or not) any native game or any eggs flesh skin feathers or other portion of any native game apparently contrary to any provision of this Act or of any proclamation thereunder may at any time issue a warrant under his hand authorizing such inspector or assistant or some member of the police force or other person named therein to search such premises for the same and to seize and carry the same before a court of petty sessions to be by such court dealt with according to law. Subject to this sub-section the rules to be observed with regard to warrants to search mentioned in the *Justices Act 1928* shall extend and apply to warrants under this section and the provisions of this sub-section shall be read and construed as in aid and not in derogation of the provisions with regard to warrants to search contained in any other Act and shall not limit or affect the provisions of the last preceding sub-section.

Expenses of
seizure &c.
under ss. 18, 19.
Game Act 1925
s. 9.

(3) Every person who is convicted of any offence against this Act shall in addition to any penalty imposed upon him be liable to pay any expenses incurred in the seizure carriage and disposition pursuant to this or the next succeeding section of any game or native game or eggs or flesh skin or feathers or other portion of any game or native game with respect to which the offence was committed.

Power to search
for and seize
game &c.
Game Act 1915
s. 19.

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 or any proclamation thereunder may with or without warrant—

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

(b) 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. *Game Act 1915.*

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 by any person 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 or of any proclamation thereunder. *Power to seize instruments &c. when being unlawfully used. Ib. s. 20. Game Act 1925 s. 10.*

(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 or of any proclamation thereunder 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.

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. *Power to appoint persons to exercise powers of police. Game Act 1915 s. 21.*

(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.

22. (1) Every 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. *Penalty for obstruction. Ib. s. 22.*

(2) The inspector of fisheries or any assistant to such inspector or any member of the police force may (with or without warrant) with any assistance he requires take into custody any person found offending against any of the provisions of this Act or of any proclamation thereunder whose name and address are unknown to such inspector assistant or member of the police force if such person on demand— *Power to arrest persons offending against Game Acts where name and address not known. Game Act 1925 s. 11. Comp. (N.S.W.) 1918 No. 21 s. 15.*

(a) refuses to give his name and address; or

(b) gives a name and address which in any particular such inspector assistant or member of the police force reasonably suspects to be false or after reasonable inquiry from such person does not believe to be true.

Such person shall be taken before a justice of the peace to be dealt with according to law.

Game Act 1915
s. 23.
Persons offend-
ing against this
Act must give
name and
address and
deliver up game
guns &c.
Game Act 1917
s. 9.

23. If any person is found offending against the provisions of this Act or of any proclamation thereunder and does not give his true 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 the inspector of fisheries or any assistant to such inspector or any member of the police force who demands the same such person shall be liable to a penalty of not more than Ten pounds in addition to any other penalty he may have incurred under this Act.

Proceedings
how brought.
Game Act 1925
s. 16.

24. Unless otherwise expressly provided in this Act all prosecutions and proceedings under this Act may be in the name of the Minister or of any officer nominated in writing for that purpose by the Minister or of the inspector of fisheries or of any assistant to such inspector or of any member of the police force or of any person authorized in writing by the Minister to exercise any of the powers conferred by this Act on members of the police force.

Appearances on
hearing of
informations for
offences.
ib. s. 19.

25. Upon the hearing of an information for an offence against this Act or any proclamation or authority thereunder the informant may appear either personally or by some officer in the Public Service nominated in writing by the inspector of fisheries either generally or in any particular case for the purpose; and the appearance of such officer and his statement that he appears for the informant shall be sufficient evidence of the authority of such officer to appear for the informant for all purposes.

Burden of proof.
Game Act 1915
s. 24.

26. 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 or of any proclamation thereunder 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.

Power of court
to prohibit use
&c. of gun by
person for three
years.
Game Act 1925
s. 12.

27. (1) On the application of any informant authorized in writing by the Minister to make the application the court before which any person is convicted of any offence under this Act may, if it thinks fit, order that such person shall not, at any time during a period of three years from and after the date of the conviction or, in case such person has been sentenced to any term of imprisonment, from and after the date of his release, have in his possession use or carry a gun.

Penalty.

(2) Subject to this section every person who has been convicted as aforesaid who acts in contravention of such order shall be guilty of an offence and shall be liable in respect of each offence to a penalty of not more than Ten pounds.

Use under
permit for
certain
purposes.

(3) A person against whom any such order has been made shall not be liable to any penalty hereunder if he—

- (a) has in his possession uses or carries a gun for the sole purpose of destroying any pest or vermin on any land owned or occupied by him; and
- (b) holds a permit in writing from the Minister allowing him to have in his possession or to use or carry a gun for such purpose.

28. Nothing in this section shall affect the operation of any provisions of the *Firearms Act 1928* or any other enactment relating to guns. Game Act 1925 s. 12. Saving.

29. 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. Game Act 1915 s. 25.

30. 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. Ib. s. 26.

Trespass.

31. Every 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 a dog or dogs shall be *prima facie* evidence of the purpose of such trespass and that such trespass was wilful.^(a) Persons trespassing on private lands liable to a penalty. Ib. s. 29.

32. Every person who wilfully drives or sets on a dog or 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. Persons driving dogs on or through certain lands liable to a penalty. Ib. s. 30.

Exemptions.

33. 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^(b) 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. Authority to destroy game injuring crops &c. Ib. s. 31.

(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., 732.

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. Hassett*, 1907 V.L.R., 515.

See *Police Offences Act 1928*, section 19 at end.

(b) An authority under this section is not an authority to the grantee to kill or destroy by his own hand only, but is exercisable by him, by his employes, or by his agents, whose acts, as such agents, he retains power to direct or control.—*Harrington v. McArthur*, 1922 V.L.R., 639.

Game Act 1916
s. 32.
Power to exempt
from certain
provisions.

34. (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 over 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 other animal or (as the case may be) any such bird or other animal over the prescribed age in the part of Victoria specified in such proclamation.

Licences to take
or kill opossums.
Game Act 1925
s. 13.

35. (1) Notwithstanding anything in this Act the Minister may authorize the issue and renewal of licences to take or kill opossums but the Minister may in accordance with this Act or any proclamation in that behalf thereunder refuse in any case to issue or to renew any such licence.

Limitations &c.
in licence.

(2) Every such licence shall specify—

- (a) the particular species of such animals that may be killed or taken;
- (b) the area or areas in or from which they may be killed or taken;
- (c) the number which may be killed or taken; and
- (d) the period during which the licence is to be in force.

Issue and
revocation of
licences.

(3) Any such licence may be issued or renewed to any person for the term and at the fee and subject to the conditions restrictions and limitations prescribed by any proclamation in regard thereto under this Act and may be revoked by the Minister upon any ground prescribed by any such proclamation.

Power to
demand
production of
licence.

(4) Every person found hunting or taking or killing any opossum shall if so required by the inspector of fisheries or any assistant to such inspector or by any member of the police force produce his licence; and every such person who fails to produce his licence when so required or when afforded reasonable opportunity for so doing shall (without prejudice to any other liability under this Act) be liable to the penalty prescribed in regard thereto in such proclamation.

Rights of
holders of
licences.

(5) The holder of a licence to take or kill opossums for the time being in force may notwithstanding anything in this Act but subject to this section and to the conditions restrictions and limitations aforesaid take or kill opossums in accordance with the licence.

Licences to
dealers in skins
&c. of
opossums.
16. s. 14.
Comp. (N.Z.)
1921 No. 57
s. 19.

36. (1) The Minister may in the prescribed form and subject to any such limitations as to locality or period of the year and to such other conditions as he thinks proper or as are prescribed by any proclamation under this Act, and upon payment of the prescribed fee, issue or renew a licence authorizing the holder thereof (hereinafter referred to as a "licensed dealer in opossum skins") to carry on during the period in respect of which the licence or renewal thereof is in force the business of dealing in the skins and other portions of opossums.

(2) Every person carrying on the said business shall if so required by the inspector of fisheries or any assistant to such inspector or by any member of the police force produce his licence; and every such person who fails to produce his licence when so required or when afforded reasonable opportunity for so doing shall (without prejudice to any other liability under this Act) be liable to the penalty prescribed in regard thereto in such proclamation.

Game Act 1925.
Power to demand production of licence.

(3) Any licence under this section may be revoked by the Minister upon any ground prescribed by a proclamation under this Act.

Revocation of licences.

(4) No person shall carry on the business of dealing (whether in conjunction with any other business or not) in the skins or other portions of opossums unless he is a licensed dealer in opossum skins under this Act.

Licence required for dealing in opossum skins.

(5) No person except a licensed dealer in opossum skins under this Act shall sell the skin or other portion of any opossum to any person other than to a licensed dealer in opossum skins under this Act.

Restrictions on sale of such skins.

(6) Every person committing a contravention of any of the provisions of the two last preceding sub-sections shall, in addition to any other penalty or punishment under this Act to which he may be liable, be liable to a penalty of not more than One hundred pounds.

Penalty.

(7) The Governor in Council may by proclamation published in the *Government Gazette* exempt absolutely or to the extent prescribed in the proclamation any class of persons carrying on the business of dealing in the skins or other portions of opossums from the operation of this section.

Exemptions by proclamation.

37. (1) Notwithstanding anything in this Act the Minister may authorize the issue of licences—

Licences to hunt deer and take mutton birds &c.
Game Act 1917
s. 12.

(a) to hunt deer; or

(b) to take or destroy mutton birds and the eggs of such birds.

(2) Any such licence may be issued to any person for the term and at the fee and subject to the conditions prescribed by a proclamation in regard thereto under this Act.

Issue of licences.

(3) Every person not being the holder of a licence in that behalf who in contravention of this Act—

Killing deer &c. without licence.

(a) hunts kills or captures deer; or

(b) takes or destroys any mutton bird or any egg of a mutton bird,

shall be liable to the penalty prescribed in regard thereto in such proclamation.

Penalty.

(4) Every person found—

(a) hunting killing or capturing any deer; or

(b) taking or destroying any mutton bird or any egg of any such bird,

Power to demand production of licence.

shall if so required by the inspector of fisheries or any assistant to the said inspector or by any member of the police force produce his licence; and every such person who fails to produce his licence when so required or when afforded reasonable opportunity for so doing shall be liable to the penalty prescribed in regard thereto in such proclamation.

Penalty for refusing.

Game Act 1915
s. 33.
Trustees &c.
of public
gardens &c.
may be
authorized to
keep game.

38. (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.*
Ib. s. 34.

39. (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 game or native game or eggs pursuant to such order.

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

*Native game
state of
domestication
or captivity.*
Ib. s. 35.

40. 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.

*Application of
this Act.*
Ib. s. 36.

41. 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.

Proclamations in respect of Various Matters.

Proclamations.
Ib. s. 37.

42. (1) The Governor in Council may by proclamation published in the *Government Gazette*—

Game Act 1925
s. 18.

(a) prohibit the buying or selling or exposing for sale of any specified native game (whether taken or killed or destroyed in Victoria or elsewhere) or the flesh skin feathers or other portion of such native game for such period as is fixed by any proclamation;

Game Act 1917
s. 10.

(b) prescribe the maximum number of any specified native game which any person may kill or destroy or have in possession on any one day or within any specified period;

*Marketing &c.
of flesh skins
feathers &c. of
game or
native game.*
Game Act 1925
s. 17.

(c) regulate the methods of buying selling consigning marketing or storing the flesh skin feathers or any other portion of any game or native game and prescribe the conditions to be observed by persons buying selling consigning marketing or storing the same.

- (d) regulate or prohibit the use of any method or any substance for taking killing or hunting or for attempting or assisting to take kill or hunt native game; and (without affecting the generality of this power) may prohibit generally or in any specified locality the use of the substance known as birdlime or any other similar substance or mixture of any kind whatsoever for the taking or capture of any bird (whether game or native game or not); Game Act 1926. Prohibition of certain methods of killing &c. native game. Birdlime &c.
- (e) prescribe the forms of licences to take or kill opossums and of licences to licenced dealers in opossum skins under this Act and the renewal of any such licences and reasonable fees (including royalties) which may be charged therefor; and may make provision with respect to the classes of persons who may be exempted from the operation of the provisions of this Act relating to licenced dealers in opossum skins and the extent of such exemptions; Licences concerning opossums. Comp. (N.Z.) 1921 No. 57 s. 19.
- (f) prescribe the manner in which and the grounds upon which any such licences may be revoked, and may provide for the refusal of issue or renewal of any such licence; Revocation &c. of licences.
- (g) in addition to any powers conferred under paragraph (d) of this sub-section prescribe the methods which may or may not be employed by holders of licences to take or kill opossums in hunting or taking or killing them; Methods of taking &c. opossums.
- (h) in addition to the powers conferred by paragraph (c) of this sub-section regulate the keeping in possession or the purchase or sale or other disposal of the skins or other portions of opossums; Regulation of possession &c. of skins &c.
- (i) provide for the inspection of stocks of skins or other portions of opossums; Inspection.
- (j) prescribe the records to be kept and the returns to be furnished by licenced dealers in opossum skins under this Act; Records.
- (k) prescribe the conditions upon which licences to hunt deer or to take or destroy mutton birds and the eggs of such birds are to be issued the term for which such licences respectively are to be current and the fees to be payable for such licences respectively; Licences concerning deer and mutton birds. Game Act 1917 s. 12.
- (l) prescribe penalties not exceeding Twenty pounds for any contravention of any proclamation and not exceeding Ten pounds for any contravention of any authority granted under section thirty-three of this Act; Game Act 1916 s. 37.
- (m) explain vary revoke annul or supersede any proclamation under this Act or any of the Acts hereby repealed.
- (2) The Governor in Council may make proclamations (to be published as aforesaid) generally for or in respect of any matters or things authorized or required by this Act to be prescribed or provided for by proclamation or necessary or convenient to be prescribed or provided for in order to carry out or give effect to the provisions of this Act. Form of proclamation. Game Act 1926 s. 18.

Game Act 1925. (3) All forms prescribed in pursuance of this section or of any other power to make proclamations under this Act or forms to the like effect may be used for the purposes of this Act and shall be sufficient in law.

Limitations of Actions.

Limitation of actions.
Comp. Fisheries Act 1915 s. 44. 43. Every action which is brought against any justice inspector assistant inspector member of the police force or other person for or on account of any matter or thing done or committed by him in the execution of his office or duty under this Act shall be commenced within three months after the cause of action or complaint has arisen and not afterwards.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Number of Act.	Title of Act.	Extent of Repeal.
2658 ...	<i>Game Act 1915</i>	So far as it is not already repealed.
2893 ...	<i>Game Act 1917</i>	The whole.
3398 ...	<i>Game Act 1925</i>	The whole.

SECOND SCHEDULE.

Sections 3, 4, 6, 8, & 11.

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

THIRD SCHEDULE.

Sections 3 & 4.

Acanthizae or Tits	} The whole year.
All birds known as Cranes or Herons, including Egrets of all species and the Native Companion or Australian Crane	
All Kingfishers, including the Great Kingfisher or Kookaburra	
All members of the <i>Graucalus</i> family ...	
Apostle Birds	
Avocets	
Babblers	
Bandicoots	
Bee Eaters	
Bitterns	
Black Cockatoos	
Black Swans	
Black-tailed or Rock-Pebbler Parrots ...	
Bustard or Wild Turkey	
Cape Barren Geese	
Caterpillar-eaters	
Coach-whip Birds	
Cockatoos, Pink or Major Mitchell... ..	
Crested Bell Birds	
Cuckoos	
Cuckoo-shrikes... ..	

THIRD SCHEDULE—continued.

Diamond Birds or Pardalotes (all species)...	
Emus	
Epthianurus or Chats	
Fantails	
Fly Catchers	
Flying Phalangers or Squirrels	
Frogmouth or Podargus	
Gang Gang Cockatoos	
Grass Parrots (all species)	
Grebes	
Honey Eaters, all kinds (except the Wattle Bird, the Leather Head, and the Noisy Miner)	
Ibis	
Kangaroo, Black-faced or Mallee (Macropus Melanops)	
Kangaroo, Large Grey (Macropus Giganteus)	
Kangaroo, Large Red (Macropus Rufus) ...	
Larks (including Cincloramphus) and Pipits	
Little or Blue Penguins	
Lyre Birds	
Magpie Larks (Pied Grallina)	
Magpies... ..	
Mallee Hens	
Mutton Birds	
Native Bears (Koalas)	
Night-jars	
Nuthatches or Tree-runners	
Opossums	
Orioles	
Owls	
Oyster Catchers	
Pacific Gulls	
Pied or Magpie Geese... ..	
Pilot Birds	
Platypus	
Porcupine Ant-eaters, or Echidnas... ..	
Ringneck (Mallee) Parrot	
Robins	
Satin Bower Birds	
Seals	
Shrike-tits	
Silver Gulls	
Southern Stone Plover or Curlew	
Spoonbills	
Stilts	
Swallows and Martins	
Swamp or Ground Parrakeets	
Swifts	
Thick Heads or Whistlers	
Thrushes	
Tree-creepers	
Warblers	
Wedge-bills	
Wild Doves	
Wild Pigeons (all species except the Bronzewing Pigeon)	
Wood Swallows	
Wrens	
Bronzewing Pigeons	

The whole year.

From the first day of June in each year to the last day of February next following, both days inclusive.

All kinds of Plover, other than the Southern Stone Plover or Curlew Land Rail, and all other members of the Rail family, Porphyrio, Coots, &c. Manned Geese or Wood Ducks Wild Ducks and Teal of all kinds

From the first day of May in each year to the fourteenth day of February next following, both days inclusive.

THIRD SCHEDULE—continued.

Quail	From the first day of August in each year to the fourteenth day of March next following, both days inclusive.
White-faced Storm Petrels	From the first day of November to the thirtieth day of November in each year, both days inclusive.
Wallaby (all species)	From the first day of May to the thirty-first day of October in each year, both days inclusive.

GAMING.

[See *Instruments Act 1928*; *Police Offences Act 1928*.]