

Queensland



DEER FARMING ACT 1985

Reprinted as in force on 15 January 1996
(includes amendments up to Act No. 58 of 1995)

Reprint No. 1

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the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This Act is reprinted as at 15 January 1996. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- correct spelling and use different spelling consistent with current drafting practice (s 26)
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- reorder definitions and other provisions consistent with current drafting practice (ss 30 and 30A)
- insert references to schedule, appendix or body of law (s 33B)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 36, 37 and 39)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of changed names and titles**
 - **table of changed citations and remade laws**
 - **table of obsolete and redundant provisions**
 - **table of renumbered provisions.**

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DEER FARMING ACT 1985

[as amended by all amendments that commenced on or before 15 January 1996]

An Act to control the farming of deer throughout the State and for other purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Deer Farming Act 1985*.

Interpretation

5. In this Act—

“**approved form**” see section 43A.¹

“**books**” includes any record of information, any accounts or accounting records, however compiled recorded or stored and any papers, documents or writings.

“**chief inspector**” means the chief inspector of stock within the meaning of the *Stock Act 1915*.

“**deer**” includes deer stags, bucks, hinds, does, fawns and calves.

“**dwelling house**” includes a part of any place which part is used exclusively as a dwelling house and does not include the curtilage of any dwelling house.

“**farm**”, when used as a verb in relation to the activity of farming deer, means the depasturing or raising of deer for their sale or slaughter or

¹ Section 43A (Approval of forms)

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the harvesting of velvet or other deer products, as the predominant purpose thereof.

“have in possession” includes having under control in any place, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual custody of the thing in question.

“honorary inspector” means an honorary inspector appointed under this Act.

“inspector” means an inspector (other than an honorary inspector) within the meaning of the *Stock Act 1915*, and includes an honorary inspector appointed under this Act.

“licence” means a deer-farming licence within the meaning of section 20.

“licence holder” means a person to whom has been issued or transferred under this Act, a licence which is in force at the material time.

“licensed deer farm” means a place in respect of which there has been issued under section 20, and there is currently in force, a licence permitting the farming of deer.

“obstruct” includes assault, threaten, abuse, insult, intimidate and attempt to obstruct.

“prescribed earmark” means a mark or cut of the prescribed shape and size made in the prescribed ear of deer.

“prescribed species of deer” means species of deer prescribed by or pursuant to section 8 and the deer progeny resulting from the interbreeding of deer of any of the prescribed species.

“vehicle” includes a conveyance of any kind, whether or not it is at the material time capable of being operated or moved in any manner and includes any caravan or trailer.

Farm deer definition

6. In this Act—

“farm deer” means—

- (a) deer upon which a prescribed earmark has been duly made in accordance with section 13; and

- (b) deer which is the young of a dam that is a farm deer and is less than 3 months old.

Displaced farm deer definition

7.(1) In this Act—

“**displaced farm deer**” means a farm deer—

- (a) that is not at—
- (i) a licensed deer farm; or
 - (ii) premises to which an accreditation under the *Meat Industry Act 1993* applies; or
 - (iii) a veterinary premises as defined under the *Veterinary Surgeons Act 1936*; or
 - (iv) an agricultural show or exhibition approved by the chief inspector of stock; or
 - (v) a place that it is authorised to be at under a permit issued under section 18; and
- (b) that is not travelling stock within the meaning of the *Stock Act 1915*.

Prescribed species of deer

8.(1) For the purposes of this Act, deer of any of the following descriptions are prescribed as species—

- (a) Red Deer (*Cervus elaphus*);
- (b) Fallow Deer (*Dama dama*);
- (c) Chital Deer (*Axis axis*);
- (d) Rusa Deer (*Cervus timorensis*);
- (e) Sambar Deer (*Cervus unicolor*);
- (f) Wapiti Deer (*Cervus canadensis*).

(2) A regulation may prescribe deer of another description as species for the purpose of this Act.

PART 2—ADMINISTRATION

Honorary inspectors

9.(1) The Minister may appoint a conservation officer, or honorary protector, under the *Nature Conservation Act 1992* to be an honorary inspector.

(2) The Minister may limit the powers of an honorary inspector by written notice given to the person.

(3) An honorary inspector holds office on the conditions stated in the instrument of appointment.

Delegation

11. The Minister may delegate the Minister's powers under this Act to an officer of the department.

PART 3—CONTROL OF FARM DEER

Unauthorised deer farming prohibited

12.(1) A person shall not carry on the farming of deer unless the deer are farm deer being farmed in accordance with a licence of which the person is the licence holder at a place with respect to which the licence is issued.

(2) It is not a defence to a charge of an offence defined in subsection (1) that in connection with the farming there was in force at the material time a licence, permit or authority under the *Nature Conservation Act 1992*.

Earmarking

13.(1) A person may make the prescribed earmark on deer in the person's possession to make it farm deer if it is a species of deer prescribed under a regulation.

(2) The prescribed earmark provided for by this section shall be made

with pliers approved by the chief inspector, and not otherwise.

(3) A person who makes or attempts to make the prescribed earmark on deer otherwise than in accordance with this section commits an offence against this Act.

Farm deer as the subject of property

15.(1) Subsections (1A) and (1B) apply only with respect to deer that, but for the provisions of this subsection, would be the property of the Crown by reason only of the *Fauna Conservation Act 1974*, section 7.

(1A) Upon a deer becoming farm deer by reason of its being earmarked in accordance with section 13, the property rights therein had by the Crown by reason of the *Fauna Conservation Act 1974*, section 7 shall thereby terminate and the deer shall thereby become the property of the person who, being duly authorised under that section, has made the earmark in accordance with that section, subject however to the rights of any other person (other than the Crown) in that deer.

(1B) A deer that is farm deer by reason that—

- (a) it is the young of a dam that is farm deer; and
- (b) it is less than 3 months old;

is the property of the owner of the dam, subject however to the rights of any other person (other than the Crown) in that deer and any property rights therein had by the Crown by reason of the *Fauna Conservation Act 1974*, section 7 are terminated.

(2) Notwithstanding the provisions of subsections (1) to (1B), where a deer to which those subsections apply ceases to be farm deer by reason that—

- (a) it has become 3 months old; and
- (b) it has not been earmarked in accordance with section 13;

the Crown shall thereupon have property rights therein as provided for by the *Fauna Conservation Act 1974*, section 7 to the exclusion of the rights had by any other person therein.

(3) For the purpose of determining the nature of property rights in or in

respect of farm deer that a person may have or dispose of or that a person may be deprived of it shall be deemed that a farm deer is a domestic animal.

Displaced farm deer

16.(1) A person shall not cause farm deer to be displaced.

(2) The owner of a displaced farm deer and a prescribed person shall be deemed to have caused it to be displaced where a substantial cause of that event is a failure on the owner's or person's part to exercise such due diligence to prevent the occurrence of the event as the owner or person ought to have exercised having regard to all the circumstances.

(3) The owner of a farm deer which is displaced, and a prescribed person, shall forthwith upon receiving information of that event—

- (a)** notify the nearest inspector or the chief inspector of the prescribed particulars; and
- (b)** take all necessary steps to ensure that the farm deer ceases to be displaced.

(3A) An owner, and a prescribed person, are taken to receive information that a farm deer is displaced when the owner or person or his or her employees or agents receive information from which it ought reasonably to be suspected that the farm deer is displaced.

(4) An inspector, may require the owner of a displaced farm deer, or a prescribed person, to take, within such time as the inspector specifies, such steps as the inspector specifies to ensure that the farm deer ceases to be displaced.

(4A) A requirement may be made under subsection (4) against 2 or more persons with respect to the same displaced farm deer.

(4B) It shall not be competent to—

- (a)** an honorary inspector to require the sale, destruction, or other disposal of farm deer to ensure that it ceases to be displaced;
- (b)** an inspector to require the sale, destruction or other disposal of farm deer to ensure that it ceases to be displaced except in accordance with the provisions of section 17.

(5) When an owner of a displaced farm deer, or a prescribed person, can

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not be located after reasonable inquiry, or when a person against whom a requirement under this subsection has been duly made fails to comply with it, an inspector, with the authority of the chief inspector, may take such steps as the inspector thinks fit to ensure that the farm deer ceases to be displaced.

(5A) The power to take steps includes the power to seize.

(6) All owners of and all persons who are prescribed persons in respect of any farm deer with respect to which steps are taken by an inspector pursuant to subsection (5) shall be jointly and severally liable, to pay to the Crown the amount of any costs, charges or expenses reasonably incurred in connection with the steps.

(6A) Where the amount of any costs, charges or expenses with respect to any of the steps is prescribed, the liability provided for in subsection (6) shall be to pay the prescribed amount where that amount is demanded.

(7) In this section—

“prescribed person” means—

- (a) when the farm deer is displaced as a result of escaping or being released from a licensed deer farm—the licence holder with respect to the licensed deer farm and the person in charge of the licensed deer farm; and
- (b) when the farm deer is displaced as a result of being abandoned by an owner—that owner; and
- (c) a person who is in possession of the farm deer when it escapes or is released and as a result is displaced, including the person in charge of any vehicle from which it escapes or is released and as a result is displaced; and
- (d) any person who has the displaced farm deer in the person’s possession.

Disposal of displaced farm deer

17.(1) An inspector may, by order in writing, require the owner of a displaced farm deer, or a farm deer that was a displaced farm deer to take within such time as is therein specified, such steps as are therein specified, to sell, destroy or otherwise dispose of it.

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(1A) Where there is more than 1 owner of a farm deer, an order shall be deemed to have been made on all owners if it is made on any 1 owner.

(2) Where the owner of a displaced farm deer, or a farm deer that was a displaced farm deer can not be located after reasonable inquiries, or where the owner against whom an order is duly made under subsection (1) fails to comply with the order, an inspector may take such steps as the inspector thinks fit to sell, destroy or otherwise dispose of the farm deer concerned.

(2A) The power to take steps includes the power to seize.

(3) An order under subsection (1), and steps under subsection (2) may not be taken except with the authority of the Minister.

(4) All owners of any farm deer with respect to which steps have been taken pursuant to subsection (2) shall be jointly and severally liable to pay to the Crown the amount of any costs, charges and expenses reasonably incurred in connection with those steps.

(4A) Where the amount of any costs, charges or expenses with respect to any of the steps is prescribed, the liability provided for in subsection (4) shall be to pay the prescribed amount where that amount is demanded.

(5) Where farm deer are sold, destroyed or otherwise disposed in accordance with subsection (2), the proceeds thereof, less the amount of any costs, charges or expenses for which the owner is liable under subsection (4), shall—

- (a) be paid to the owner; or
- (b) in the event that the owner can not be located after reasonable inquiries—be paid into the consolidated fund.

(6) Where there is more than 1 owner, moneys payable by the Crown to an owner of farm deer under subsection (5) may be paid by it—

- (a) to any 1 owner; or
- (b) to each of the owners or some of the owners in such proportions as it thinks fit;

and thereupon it shall not be liable at the suit of any person for such moneys or part thereof.

(7) Subsection (6) shall not be construed so as to bar the right of a person entitled to recover by action moneys payable under subsection (5) from a

person to whom those moneys have been paid by the Crown under subsection (6).

Displaced farm deer permit

18.(1) An inspector may issue to a person a displaced farm deer permit authorising farm deer to be outside a licensed deer farm.

(2) A person who seeks a permit from an inspector under this section shall supply such information as is prescribed, such further information as the inspector requires and shall pay the prescribed fee (if any).

(3) A displaced farm deer permit issued under this section—

- (a) shall be in the approved form;
- (b) shall be subject to such terms and conditions as are prescribed and such further terms and conditions as the inspector who issues it thinks fit and specifies therein;
- (c) may be altered by an inspector from time to time by specifying therein the alterations;
- (d) may be cancelled at any time by an inspector;
- (e) may be a permit with respect to particular farm deer or farm deer generally;
- (f) may be a permit with respect to a particular occasion or class of occasions.

(4) When an inspector cancels a permit issued under this section, it shall thereupon terminate.

Duties with respect to fencing

19.(1) The licence holder and person in charge of a licensed deer farm shall maintain the prescribed fencing.

(2) Without limiting the power to make regulations conferred by section 44, the regulations may—

- (a) exempt a person from the maintenance of fencing in circumstances defined therein;

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- (b) provide that an exemption from the maintenance of fencing shall be subject to the approval of the Minister;
- (c) empower the Minister to impose conditions upon the granting of an approval such as is referred to in paragraph (b) and provide for their enforcement;
- (d) provide for the withdrawal of an exemption such as is referred to in paragraph (a), whether upon a breach of a condition imposed with respect thereto or otherwise.

(3) In this section—

“maintain” includes erect and maintain.

(4) A person who causes an opening at any gate or place in fencing at a licensed deer farm shall not, without reasonable excuse, depart therefrom without securely closing the opening.

(4A) In subsection (4)—

“opening” means an opening which might allow farm deer to move out of the licensed deer farm.

(5) Where there is not maintained at a licensed deer farm the fencing required by subsection (1), an inspector may, by order in writing, require the licence holder and person in charge of the licensed deer farm to take within such time as is therein specified, such steps as are therein specified, to carry out the fencing necessary for compliance with subsection (1).

(6) An order made pursuant to subsection (5) shall be deemed to have been made on all licence holders and persons in charge of a licensed deer farm if it is made on any one of those persons.

(7) Where an order made pursuant to subsection (5) has not been complied with, the Minister may direct an inspector to take such steps as are necessary to ensure that the steps required by the order, or such of the steps as the Minister thinks fit, are carried out.

(8) All licence holders and persons in charge of a licensed deer farm with respect to which steps are taken pursuant to subsection (7) shall be jointly and severally liable to pay to the Crown the amount of any costs, charges or expenses reasonably incurred in connection with those steps.

(9) Where the amount of any costs, charges or expenses with respect to

any of the steps is prescribed, the liability provided for in subsection (8) shall be to pay the prescribed amount where that amount is demanded.

PART 4—LICENSING OF DEER FARMS

Deer-farming licences

20.(1) The chief inspector may issue a deer-farming licence permitting the farming of deer at a place specified in the licence and may renew, transfer, amend or cancel a licence previously issued.

(2) A licence issued before the commencement of the *Deer Farming Act Amendment Act 1989* and which continues in force thereafter shall be deemed to be issued free of any condition restricting the class of the prescribed species of deer that is permitted to be farmed thereafter under the licence.

Applications

21.(1) A person may make an application to the chief inspector to be issued with a licence, or to have a licence previously issued renewed or transferred from the holder thereof to himself or herself.

(2) An application shall be in the approved form and shall be accompanied by a prescribed document and the prescribed fee, if any such document or fee is prescribed.

(2A) An application for the transfer of a licence shall also be accompanied by the licence of which the transfer is sought.

(3) The chief inspector shall consider each application and shall refuse or grant it.

(3A) For the purpose of considering an application the chief inspector may require the applicant to produce to the chief inspector any further documentation or information that the chief inspector considers desirable.

(3B) Where the chief inspector refuses an application the chief inspector shall refund to the person who made it the amount of any fee paid with

respect to it less the amount of any cost incurred in considering it that in the chief inspector's opinion is reasonable.

(3C) Where the chief inspector grants an application the chief inspector shall issue a licence or a new licence, as the case may be, and if the new licence is issued with respect to an application for the transfer of an existing licence the chief inspector shall forthwith cancel the existing licence.

(4) A licence shall not be issued with respect to a place which is, or part of which is, a place with respect to which another licence is issued.

Terms and conditions

22.(1) A licence shall be in the prescribed form and shall be subject to such terms and conditions as are prescribed generally or for the particular class of licence granted, or so far as not prescribed, as the chief inspector thinks fit and specifies therein.

(2) Without limiting the authority of the chief inspector under subsection (1) terms and conditions may include the fees or charges payable with respect to the licence, the manner of payment, the period of time for which a licence shall be in force, and the activities that the licence authorises.

(3) The chief inspector may, during the currency of a licence, alter the terms and conditions to which the licence is subject, other than prescribed terms and conditions, by specifying therein the alterations and the licence shall be subject to the terms and conditions as altered thereafter.

(4) The power to alter terms and conditions includes the power to add or omit terms and conditions.

Suspension or cancellation

23.(1) The chief inspector may, at any time during the currency of a licence, by notice in writing served on the licence holder, suspend it for such period as the chief inspector thinks fit, or cancel it, if—

- (a) it was issued in error or in consequence of a false or misleading document or representation;
- (b) the licence holder is convicted of an offence against this Act;

- (c) for any reason it is the opinion of the chief inspector that the licence holder is not a fit and proper person to hold a licence.

Effect of cancellation or suspension

24.(1) Upon the cancellation of a licence in accordance with section 23, the licence shall terminate.

(2) Upon the suspension of a licence in accordance with section 23, the person to whom it was issued shall be deemed not to be the holder of that licence during the period of the suspension.

(3) A suspension shall not operate so as to extend the period of time for which the licence would otherwise be in force.

Appeal

25. Any person who is aggrieved by the refusal of the chief inspector to issue, renew or transfer a licence or by the chief inspector suspending or cancelling a licence may at any time before the expiration of 28 days after being served with notice of the refusal, suspension or cancellation appeal in writing to the Minister against the refusal, suspension or cancellation and the decision of the Minister on appeal shall be final.

Register of licences

26. In a register kept for the purpose the chief inspector shall record—

- (a) the issue, renewal or transfer of a licence, the name of the current licence holder, the place with respect to which the licence is issued and the period for which the licence is in force;
- (b) the suspension of a licence and the period of suspension;
- (c) the cancellation of a licence.

PART 5—POWERS

General powers

27.(1) An inspector may, at any time, with such assistants, vehicles and equipment as the inspector considers necessary for the proper discharge of the inspector's duties—

- (a) subject to this Act, enter and remain in any place—
 - (i) if the inspector suspects or believes on reasonable grounds that in that place there is any deer, fence, crush, race or other thing with respect to which an offence against this Act has been committed, is being committed or is likely to be committed, or any deer or other thing with respect to which the inspector has a power of seizure;
 - (ii) if it is necessary in order to ascertain whether the provisions of this Act are being complied with or to exercise a power conferred upon the inspector by this Act;
- (b) search any place entered pursuant to paragraph (a) and make such inspection, investigation or inquiry as is necessary for the purposes of this Act;
- (c) in the exercise of the power conferred by paragraph (b) break open and search any box, receptacle or package of any kind at that place;
- (d) at any place, seize any deer or other thing with respect to which the inspector has reasonable grounds for believing that an offence against this Act has been committed or is being committed or that the inspector believes will afford evidence as to the commission of an offence against this Act;
- (e) remove deer and any other thing seized by the inspector from the place where it was seized to such place as the inspector determines or allow it to remain at the place of seizure and in the latter case make such arrangements as the inspector considers necessary to protect its seizure;
- (f) require the licence holder with respect to any licensed deer farm to hold at the licensed deer farm any deer which has been seized by

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the inspector pursuant to this Act, whether or not the licence holder has any interest in, or was in any way responsible for the seized deer before it was seized;

- (g) require any person to furnish for inspection at such times and places as the inspector specifies—
 - (i) books or copies thereof that person has in the person's possession that were prepared or are kept for a purpose connected with this Act; or
 - (ii) any licence, permit or other instrument of authority issued to that person under this Act or which the person has in his or her possession, or any copy thereof;
- (h) take notes or copies of or extracts from, books furnished pursuant to paragraph (g);
- (i) stop, detain, or search for deer any vehicle that the inspector suspects on reasonable grounds contains deer; or
- (j) for the purposes of exercising the power in paragraph (e)—
 - (i) require any person in possession of a vehicle containing seized deer to remove that vehicle to such place as the inspector determines; or
 - (ii) remove any vehicle, or authorise any person to remove any vehicle, containing seized deer to such place as the inspector determines;
- (k) require—
 - (i) the licence holder or a person apparently in charge of a licensed deer farm to muster or hold for inspection any or all deer or farm deer at the licensed deer farm or in the person's possession (including deer outside the deer farm);
 - (ii) any person who is the owner of farm deer, or apparently in possession of deer, to muster or hold for inspection any or all of those deer or farm deer;
- (l) question a person—
 - (i) found by the inspector in any place entered pursuant to paragraph (a);

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- (ii) found by the inspector with or near deer;
- (iii) found by the inspector in or near a vehicle stopped, detained or searched pursuant to subparagraph (i);
- (iv) who is a licence holder;
- (v) who is the owner of, or apparently in charge of a place where there is any deer or where the inspector suspects on reasonable grounds there is any deer;
- (vi) who is the owner of farm deer, or apparently in possession of deer;

to ascertain whether this Act is being complied with and, subject to section 38, require that person to answer the questions put;

- (m) require a person being questioned by the inspector pursuant to paragraph (l) to state the persons's name and usual place of residence;
- (n) by order in writing, require a person who has failed to comply with this Act to take within such time as is therein specified such steps as are therein specified and to remedy those matters in respect of which noncompliance has occurred.

(2) An order pursuant to subsection (1)(n)—

- (a) shall be in the prescribed form;
- (b) shall not prejudice or affect in any way any proceeding or action that has been or may be taken for the failure to comply that has resulted in the order, save that the person to whom the order is given is not liable for a continuation of the failure to comply during the time specified therein.

Restricted entry into dwelling house

28.(1) Before an inspector enters a dwelling house for the purpose of exercising any powers under this Act, save where the inspector has the permission of the occupier to the inspector's entry, the inspector shall obtain from a justice a warrant to enter.

(2) A justice who is satisfied on the complaint of an inspector that there is reasonable cause to suspect—

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- (a) that in any place an offence against this Act has been, is being or is likely to be committed;
- (b) that there is in any place anything with respect to which an offence against this Act has been, is being, or is likely to be committed, or with respect to which an inspector has a power of seizure;

may issue a warrant directed to an inspector to enter the place specified in the warrant for the purpose of exercising therein the powers conferred upon the inspector by this Act.

(3) A warrant issued under subsection (2) shall be, for a period of 1 month from the date of its issue, sufficient authority for the inspector and all persons acting in aid of the inspector—

- (a) to enter the place specified in the warrant; and
- (b) to exercise therein the powers conferred upon an inspector by this Act.

Facilities order

29.(1) An inspector may, by order in writing, require the licence holder of a licensed deer farm to maintain at the licensed deer farm facilities specified in the order (which may include a crush or race) such as will, in the opinion of the inspector, enable deer to be effectively inspected by the inspector and ensure the safety of the inspector during the inspection.

(1A) In subsection (1)—

“**maintain**” includes erect and maintain.

(1B) An order may include particulars of where the facilities are to be situated and the time within which the order is to be complied with.

(2) Before making an order under this section, an inspector shall obtain the authorisation of the Minister.

(2A) An authorisation which generally authorises an inspector to make an order of the kind provided for in this section at a particular licensed deer farm shall be sufficient authorisation for the purposes of this section.

(2B) The Minister shall not authorise the making of an order under this section unless the Minister is satisfied that it is not practicable to conduct an effective and safe inspection of deer without resorting to such an order.

(3) Where there is more than 1 licence holder with respect to a licensed deer farm, an order made pursuant to subsection (1) shall be deemed to have been made on all licence holders if it is made on any 1 licence holder.

(4) Where a licence holder fails to comply with an order made pursuant to subsection (1), the inspector may take such steps as are necessary to ensure that the construction order is carried out.

(5) All licence holders of a licensed deer farm with respect to which steps are taken pursuant to subsection (4) shall be jointly and severally liable to pay to the Crown the amount of any costs, charges or expenses reasonably incurred in connection with those steps.

(6) Where the amount of any costs, charges or expenses with respect to any of the steps is prescribed, the liability provided for in subsection (5) shall be to pay the prescribed amount where that amount is demanded.

Disposal of seized deer or other things

30.(1) Where an inspector has lawfully seized any deer or other thing pursuant to section 27(1)(d), the inspector may—

- (a) cause it to be retained until the determination of any proceeding taken in respect thereof in which it may be required as evidence; or
- (b) whether or not the inspector has previously acted in accordance with paragraph (a), deliver it to the owner thereof subject to such conditions (if any) as may be appropriate to the purpose of the delivery.

(2) Where anything is returned by an inspector pursuant to subsection (1)(b) subject to any conditions, a person who deals with it otherwise than in accordance with the conditions commits an offence against this Act.

(3) Where a deer or any other thing is seized pursuant to section 27(1)(d), and the owner can not after reasonable inquiries be found the Minister may order it to be sold, destroyed or otherwise disposed of as the Minister thinks fit.

(3A) Where the Minister orders a disposal of a seized deer or other thing there shall be paid out of the proceeds (if any) any costs, charges or

expenses in connection with the seizure, retention or disposal of the deer or thing in question, and the remainder of the proceeds (if any) shall be paid into the consolidated fund.

(4) Where anything seized by an inspector pursuant to section 27(1)(d), is retained at the outcome of any proceeding taken in respect thereof, the court that determines that proceeding may make such order with respect to the disposal of it as it considers just, and all persons concerned shall do all things necessary to give effect to that order.

PART 6—MISCELLANEOUS

Exclusion of liability

31.(1) Neither the Crown, the Minister, the chief inspector, any inspector, other officer appointed under this Act or any person acting in aid of those persons shall incur any liability on account of anything done or omitted to be done in good faith and without negligence by a person who in relation thereto purports to act pursuant to or for the purposes of this Act.

(2) Notwithstanding the provisions of subsection (1) where a person suffers damage by reason of an act done by an inspector, being a step of a description referred to in section 16 or 17, no compensation, other than a payment provided for by section 17(5)(a), shall be payable on account of such damage unless the damage has been caused by a deliberate act done otherwise than in good faith pursuant to or for the purposes of this Act.

Recovery of moneys

32. There may be recovered by the Crown in the same manner as a debt due and owing to it may be recovered in any court of competent jurisdiction the amount outstanding of any costs, charges and expenses that any person is liable to pay to it under this Act.

Duty to convert stored data to writing

33.(1) Where a person records or stores any matter by means of a

mechanical, electronic or other device, any duty imposed by this Act to make available any books containing those matters shall be construed as a duty to make the matters available in written form.

(2) Where the duty imposed is to make available a copy of any books that duty shall be construed as a duty to make available a clear reproduction in writing.

Obstruction

34. A person shall not obstruct an inspector in the exercise of the inspector's powers under this Act.

Interference with farm deer

35.(1) A person who, without lawful excuse, interferes with the identification marking of farm deer commits an offence against this Act.

(2) In this section—

“identification marking” means a prescribed earmark, eartag, other device or mark, provided for or required under this Act.

“interferes with” means removes, obliterates, damages, obscures, alters or otherwise interferes with.

False instruments, personation

36.(1) A person shall not, with intent to defeat the purposes of this Act—

- (a) make or utter an instrument of authority provided for by this Act that the person knows to be false; or
- (b) falsely represent himself or herself to be a person named in any instrument of authority provided for by this Act.

(2) For the purposes of subsection (1), a person who has the intent that an inspector or other person concerned in the administration of this Act shall in that capacity be induced—

- (a) to do an act that the person might not have done but for the instrument or representation in question; or
- (b) to refrain from doing an act that the person might have done but

for the instrument or representation in question;
shall be taken to have the intent to defeat the purposes of this Act.

(3) An instrument of authority shall be taken to be false if—

- (a) it contains any material particular that is false; or
- (b) it purports to be made by or under the authority of a person who does not exist or who did not make or authorise the making of the instrument; or
- (c) it has been altered or added to without the authority of the person who made it.

(4) It is immaterial—

- (a) whether or not any particular person is, or is intended to be, misled by the false instrument of authority;
- (d) whether or not the false instrument of authority is complete, or purports to be effective in law for any particular purpose.

(5) In this section—

“instrument of authority” includes a licence or permit.

“utter” includes using or dealing with, and attempting to use or deal with, and attempting to induce any person (whether or not an inspector or other person concerned in the administration of this Act) to use, deal with, or act upon the instrument of authority concerned.

Return of licences etc.

37.(1) Where a licence, permit or other instrument of authority provided for under this Act is cancelled or suspended, the holder, after being required to do so by an inspector, shall within such time as is required deliver it up to an inspector.

(2) If a person is convicted of an offence that consists of a failure to comply with a requirement made pursuant to this section, further fails to deliver up the licence, permit or other instrument of authority within 14 days after the date of that conviction, the person commits a further offence, which is a continuing offence, and is liable to a penalty of 1 penalty unit for every day during which the failure continues.

Offences in relation to information

38.(1) A person shall not—

- (a) refuse or fail to furnish any information, return, books or copies of books, required of the person by or under this Act; or
- (b) in response to a requirement of the person made by or under this Act, or with respect to any application or request made by the person for a licence, permit or other authority under this Act, furnish any information, return, books or copies of books that is or are false or misleading in a material particular, whether by way of any statement therein or omission therefrom; or
- (c) keep books of a description required by this Act to be kept that are false or misleading in a material particular, whether by way of any statement therein or omission therefrom.

(2) This section shall not apply with respect to a refusal or failure to furnish any information required of a person pursuant to section 27(1)(l) that would tend to incriminate the person in any offence.

(3) If in response to a requirement made of the person pursuant to section 27(1)(l), a person furnishes any information that would tend to incriminate the person in any offence, other than an offence defined in subsection (1)(b), the information as furnished shall not be admissible in evidence against the person in proceedings relating to the firstmentioned offence.

General offence provision

39.(1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) A person who—

- (a) fails to do that which the person is directed or required to do;
- (b) does that which the person is forbidden to do;

by a person acting under the authority of this Act or by any term or condition to which any licence, permit or other authority under this Act is subject, commits an offence against this Act.

(3) Unless a specific penalty is otherwise prescribed a person who commits an offence against this Act is liable to a penalty of 40 penalty units.

(4) The liability of a person to a penalty under this section for the person's failure to comply with a requirement made under this Act by an inspector shall not be taken to be limited by the person's liability under this Act to pay to the Crown the amount of any costs, charges or expenses reasonably incurred in connection with steps taken by an inspector to remedy the failure.

Proceedings for offences

40. Proceedings in respect of an offence against the Act shall be taken in a summary way under the *Justices Act 1886* within 12 months after the offence is committed or within 6 months after the offence comes to the knowledge of the complainant whichever period is the later to expire, upon the complaint of—

- (a) an inspector; or
- (b) any person authorised by the Minister.

Liability for offence as employee

41. A person is not liable to be convicted for an offence against this Act committed by the person as an employee if the person satisfies the court that the offence was committed while the business of the person's employer was being conducted under the personal superintendence of that employer or of a manager or other representative of that employer, and that the offence was committed with the knowledge of that employer, manager or representative.

Service of notice

42.(1) Any notice, order, requirement or other document under this Act required or authorised to be given or served to or upon any person for which no manner of service is specifically provided by this Act, may be served—

- (a) by delivering it or a copy to that person; or
- (b) by leaving it or a copy at the person's usual or last-known place of residence or business; or

(c) by forwarding it or a copy by post addressed to that person at the person's usual or last-known place of residence or business.

(2) A document mentioned in subsection (1) which is intended to be served on the licence holder or person in charge of a licensed deer farm may be addressed to the person by that description without a name, together with the address or other description of the licensed deer farm.

(3) A document addressed as provided for in subsection (2) may be served—

- (a) by delivering it to some person at the licensed deer farm who is apparently above the age of 16 years and apparently employed, or resident at the licensed deer farm; or
- (b) by affixing it to some structure at the licensed deer farm so as to make the document conspicuous.

Evidentiary provisions

43. In a proceeding for the purposes of this Act—

- (a) it shall not be necessary to prove the appointment of the chief inspector, any inspector or other officer or his or her authority to do any act, take any proceeding, or make any requirement or give any order;
- (b) a signature purporting to be that of the Minister, chief inspector, any inspector or other officer shall be taken to be the signature it purports to be until the contrary is proved;
- (c) a document purporting to be a copy of a licence, permit, other instrument of authority, requirement, order or notice under this Act shall upon its production in that proceeding be evidence, and in the absence of evidence to the contrary conclusive evidence, of that licence, permit, authority, requirement, order or notice and of the due making, issuing, or giving of the original of which it purports to be a copy;
- (d) a certificate purporting to be that of the chief inspector as to any of the following matters shall upon its production be accepted as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein—

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- (i) that at a specified time or during a specified period there was or was not in force a licence, permit or other instrument of authority provided for under this Act, as described in the certificate, issued to a specified person or with respect to a specified place or thing, and that any such instrument of authority was or was not subject to terms and conditions described in the certificate;
 - (ii) that there had not been received during a specified period or at any time a return or other matter specified therein required under this Act to be furnished to the chief inspector, or that a specified return or other matter has been received (or is the only return or other matter received) during a specified period or at any time;
 - (iii) that the person named therein holds the appointment or authority described therein;
- (e) a statement in a complaint of when it was that the commission of an offence against this Act came to the knowledge of the complainant shall be evidence and in the absence of evidence to the contrary, conclusive evidence, of that fact.

Approval of forms

43A. The chief executive may approve forms for use under this Act.

Regulations

44.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may make provision with respect to the matters specified in the schedule.

(3) A regulation may provide for the approval of the chief inspector to be the standard applicable in respect of a particular matter.

Approved forms

44A.(1) This section applies if—

- (a) immediately before its commencement, there was a prescribed

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form for a matter; and

(b) on the commencement, there is to be an approved form for the matter or a form may be approved for the matter.

(2) Until there is an approved form for the matter, the form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter.

(3) This section expires 3 months after it commences.

SCHEDULE

SUBJECT MATTER FOR REGULATIONS

section 44

Persons administering Act

1. The powers, authorities, functions and duties of the Minister, chief inspector, inspectors, honorary inspectors and other officers engaged in the administration of this Act.

Licences and other authorities

2.(1) Applications or requests for and the issue of licences, permits and other instruments of authority provided for under this Act and duplicates thereof.

(2) Eligibility of and the qualifications entitling persons to be issued with or hold licences, permits and other instruments of authority under this Act.

(3) Prohibitions against persons not eligible or qualified as prescribed from being issued with, or holding such licences, permits and other instruments of authority and exemptions from such prohibitions.

(4) The terms and conditions to which licences, permits or other instruments of authority issued under this Act are subject.

(5) The circumstances under which licences, permits or other instruments of authority under this Act may or shall be issued, transferred, renewed, cancelled or suspended.

(6) The manner in which alterations may be made to licences, permits or other instruments of authority issued under this Act.

(7) Restrictions on the number of or total prohibition of licences, permits or other instruments of authority which may be issued in the State, or to a part of the State, or to a particular person or class of persons.

(8) Prohibitions upon the issuing of licences permitting the farming of deer in areas or on land defined therein.

SCHEDULE (continued)

(9) Fees payable in connection with the issue of licences, permits and other instruments of authority under this Act.

(10) Fees payable in connection with the inspection of deer farms and proposed deer farms.

Dealing with certain deer

3. The methods of dealing with deer which have been seized; steps which may be taken to ensure that displaced deer cease to be displaced; manner of sale, destruction or disposal of deer where that is authorised or required by this Act.

Inspection of deer

4. All matters with respect to the inspection of deer.

Identification of farm deer

5. All matters with respect to the identification of farm deer including the making or use of earmarks, eartags, devices or marks for any purpose under this Act, their protection, the authorisation required with respect thereto, and the evidentiary effect with respect to the presence or absence of such matters.

Control of farm deer

6. All matters with respect to the control of farm deer including—

- (a) prohibition or regulation of the keeping of farm deer outside a licensed deer farm whether or not in a place which is within a feral area for its species;
- (b) prohibition or regulation of the movement of farm deer into or out of particular parts of the State;
- (c) special controls with respect to farm deer which have not been bred in captivity.

SCHEDULE (continued)

Farm conditions

7. All matters with respect to safe control of farm deer connected with licensed deer farms, the maintenance of appropriate standards of hygiene in and about licensed deer farms, and the regulation of the numbers of farm deer which may be held at licensed deer farms generally or by reference to classes of licensed deer farms or particular licensed deer farms.

Books and returns

8.(1) The books to be kept and the returns which are to be made by prescribed persons for the purposes of ensuring that the provisions of this Act are being complied with.

(2) Schemes and matters to prevent the making or using, or uttering of false or misleading books and returns.

Notices

9. The notices which are to be given by prescribed persons upon the happening of any prescribed event which is relevant to the administration of this Act.

Proof of certain matters

10. The manner of proving any matter relevant to the issue of any licence, permit or other authority pursuant to this Act.

Appeals

11. The manner in which appeals under section 25 may, or shall be made or conducted.

Penalties

13. Penalties with respect to offences against the regulations not exceeding 40 penalty units in any case.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 January 1996. Future amendments of the Deer Farming Act 1985 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Deer Farming Act 1985 No. 24

date of assent 15 April 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 1985 (proc pubd gaz 28 September 1985 p 390)

as amended by—

Deer Farming Act Amendment Act 1989 No. 21

date of assent 17 April 1989

commenced on date of assent

Nature Conservation Act 1992 No. 20 ss 1–2, 159 sch 2

date of assent 22 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

Stock Amendment Act 1993 No. 52 pts 1, 3 sch 2

date of assent 25 October 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 1994 (1993 SL No. 473)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (as amd by 1995 No. 58 s 4 sch 1)

date of assent 28 November 1995

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

5 List of annotations

Commencement

s 2 om R1 (see RA s 37)

Arrangement of Act

s 3 om R1 (see RA s 36)

Amendments

s 4 om 1992 No. 20 s 159 sch 2

Interpretation

s 5 def “**approved form**” ins 1989 No. 21 s 2(a)
sub 1995 No. 57 s 4 sch 1
def “**feral area**” om 1989 No. 21 s 2(b)
def “**inspector**” sub 1993 No. 52 s 8 sch 2
def “**licensed deer farm**” ins 1989 No. 21 s 2(c)
def “**Minister**” om 1993 No. 52 s 8 sch 2
def “**prescribed species of deer**” amd 1989 No. 21 s 2(d)

Displaced farm deer definition

s 7 sub 1989 No. 21 s 3
amd 1993 No. 52 s 9; 1995 No. 57 s 4 sch 1

Prescribed species of deer

s 8 amd 1989 No. 21 s 4; 1993 No. 52 s 8 sch 2

Honorary inspectors

prov hdg sub 1993 No. 52 s 8 sch 2
s 9 amd 1989 No. 21 s 5; 1993 No. 52 s 8 sch 2
sub 1995 No. 57 s 4 sch 1

Feral areas

s 10 om 1989 No. 21 s 6(1)

Delegation

s 11 sub 1993 No. 52 s 8 sch 2

Unauthorised deer farming prohibited

s 12 amd 1995 No. 57 s 4 sch 1

Earmarking

s 13 amd 1989 No. 21 s 7; 1995 No. 58 s 4 sch 1

Permit to earmark established herds

s 14 om 1989 No. 21 s 8

Displaced farm deer

s 16 amd 1989 No. 21 s 9; 1995 No. 57 s 4 sch 1; 1995 No. 58 s 4 sch 1

Displaced farm deer permit

s 18 sub 1989 No. 21 s 10

Duties with respect to fencing

s 19 amd 1989 No. 21 s 11

Deer farming licences

s 20 sub 1989 No. 21 s 12

Applications

s 21 amd 1989 No. 21 s 13; 1995 No. 57 s 4 sch 1

Suspension or cancellation

s 23 amd 1989 No. 21 s 14

General powers

s 27 amd 1995 No. 57 s 4 sch 1

Restricted entry into dwelling house

s 28 amd 1995 No. 57 s 4 sch 1

Facilities order

s 29 amd 1989 No. 21 s 15

Disposal of seized deer or other things

s 30 amd 1995 No. 57 s 4 sch 1

Exclusion of liability

s 31 amd 1995 No. 57 s 4 sch 1

Obstruction

s 34 amd 1995 No. 57 s 4 sch 1

Interference with farm deer

s 35 amd 1989 No. 21 s 16

False instruments, personation

s 36 amd 1995 No. 57 s 4 sch 1; 1995 No. 58 s 4 sch 1

Return of licences etc.

s 37 amd 1989 No. 21 s 17

General offence provision

s 39 amd 1989 No. 21 s 18; 1995 No. 57 s 4 sch 1

Evidentiary provisions

s 43 amd 1989 No. 21 s 19; 1995 No. 57 s 4 sch 1

Approval of forms

s 43A ins 1995 No. 57 s 4 sch 1

Regulations

s 44 sub 1993 No. 52 s 8 sch 2
amd 1995 No. 57 s 4 sch 1; 1995 No. 58 s 4 sch 1

Approved forms

s 44A ins 1995 No. 57 s 4 sch 1 (as amd by 1995 No. 58 s 4 sch 1)
exp 28 February 1996 (see s 44A(3))

SCHEDULE 1—SUBJECT MATTER FOR REGULATIONS**Licences and other authorities**

s 2 amd 1989 No. 21 s 20(a)

Proof of certain matters

s 10 amd 1989 No. 21 s 20(b)

Prescription

s 12 om 1995 No. 57 s 4 sch 1

Penalties

s 13 amd 1989 No. 21 s 20(c)

SCHEDULE 2—AMENDMENTS OF THE FAUNA CONSERVATION ACT 1974–1984

om 1992 No. 20 s 159 sch 2

SCHEDULE 3—AMENDMENTS OF THE STOCK ACT 1915–1984

om 1992 No. 20 s 159 sch 2

6 Table of changed names and titles

TABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

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7 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

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definitions to be read in context	Acts Interpretation Act 1954 s 32A

8 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43

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7, 2nd sentence	7(2)
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15(2), 1st unnum para	15(2)(a)
15(2), 2nd unnum para	15(2)(b)
16(3), 2nd sentence	16(3A)
16(4), 2nd sentence	16(4A)
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17(2), 2nd sentence	17(2A)
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19(4), 2nd sentence	19(4A)
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29(5), 2nd sentence	29(6)
30(3), 2nd sentence	30(3A)
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35(2)(a)	35(2) def “interferes with”
35(2)(b)	35(2) def “identification marking”
36(5)(a)	36(5) def “instrument of authority”
36(5)(b)	36(5) def “utter”
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