



ELIZABETHAE SECUNDAE REGINAE

No. 44 of 1974

An Act to consolidate and amend the law relating to the conservation of fauna in its habitats and throughout its distribution in the State, the introduction into and removal from the State of fauna, and for other purposes

[ASSENTED TO 2ND MAY, 1974]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Fauna Conservation Act 1974*.

2. Commencement. Save as otherwise provided therein, this Act shall commence on a date appointed by Proclamation.

3. Arrangement. This Act is divided into Parts and Divisions of Parts as follows:—

- PART I—PRELIMINARY, ss. 1-9;
- PART II—ADMINISTRATION, ss. 10-17;
- PART III—PERMANENTLY PROTECTED FAUNA, ss. 18-21;
- PART IV—PROTECTED FAUNA, ss. 22-25;

- PART V—NON-PROTECTED AND PROHIBITED FAUNA, ss. 26–27;
- PART VI—OPEN SEASONS, ss. 28–33;
- PART VII—SANCTUARIES, REFUGES AND RESERVES, ss. 34–46;
Division I—Sanctuaries;
Division II—Refuges;
Division III—Reserves;
- PART VIII—APPLIANCES PROHIBITED FOR THE TAKING OF FAUNA,
 ss. 47–51;
- PART IX—TAKING AND KEEPING OF FAUNA, ss. 52–54;
- PART X—DEALING IN, DISPOSAL OF AND MOVEMENT OF FAUNA,
 ss. 55–66;
Division I—Fauna dealers;
Division II—Disposal of fauna;
Division III—Movement of fauna;
- PART XI—ROYALTY, ss. 67–71;
- PART XII—MISCELLANEOUS PROVISIONS, ss. 72–93;
- SCHEDULE.

4. Repeal and savings. (1) *The Fauna Conservation Act of 1952* (in this section referred to as the “repealed Act”) is repealed.

(2) (a) Every order, direction, licence, permit, registration, certificate, notice, delegation or other act of authority granted, issued, given or done under the repealed Act and in force immediately prior to the date of commencement of this Act shall continue in force as if it were granted, issued, given or done under this Act, until it expires by effluxion of the time limited for its operation at the time it was granted, given or done or is revoked, cancelled, suspended or surrendered under this Act.

(b) A fauna district constituted under the repealed Act and subsisting immediately prior to the date of commencement of this Act shall be deemed to have been constituted a district under this Act and shall continue in being under the name then assigned to it until it is abolished, subdivided or altered pursuant to this Act.

(c) Land declared by or under the repealed Act to be a sanctuary and subsisting as a sanctuary immediately prior to the date of commencement of this Act shall be deemed to have been declared by or under this Act and shall continue in being under the name then assigned to it until it is altered or revoked pursuant to this Act.

(d) All fauna officers and honorary protectors appointed under the repealed Act and in office immediately prior to the date of commencement of this Act shall be deemed to have been appointed to their respective offices under this Act and, subject to this Act, shall continue to hold those offices respectively in terms of their appointments without further or other appointment under this Act.

(e) Any land that immediately prior to the date of commencement of this Act is reserved and set apart by or under the *Land Act 1962–1973* for the purposes of fauna conservation shall without further authority than this provision continue to be a reserve declared under this Act until it ceases to be such in accordance with this Act.

5. Interpretation. In this Act save where a contrary intention appears—

“appliance” means a thing of any kind used or capable of being used for the taking of fauna or for facilitating or assisting in the taking of fauna and, without limiting the generality of its meaning, the term includes—

- (a) any prohibited gun, air-gun, firearm, other gun of any description, catapult, or other weapon from which any shot, bullet, arrow or other missile can be discharged;
- (b) any trap, snare, net, mist-net, aircraft, boat, vehicle, caravan, trailer or other conveyance, animal, bird, decoy, poison, bird-lime, explosive, implement, gear, or apparatus;
- (c) any lamp, flash-light, torch or other artificial light;
- (d) any shot, bullet, cartridge or other ammunition:
where an appliance is carried or otherwise kept in parts by two or more persons in company each of those persons shall be deemed (for the purposes of this Act) to carry or otherwise keep that appliance;

“authorized agent” means an agent authorized in writing to exercise the power or authority conferred or to perform the function or duty imposed by this Act, in respect of which the term is used;

“aviary” means a cage or enclosure containing or capable of containing birds to which this Act applies;

“aviary bird” means a bird that is declared by Order in Council to be an aviary bird, being one bred from birds kept in captivity otherwise than in contravention of this Act or obtained from birds so bred;

“bird” means a bird wild by nature whether native to a State or Territory of the Commonwealth, migratory or introduced, in captivity, bred in captivity or tamed: the term includes in relation to such a bird—

- (a) any species or individual member thereof;
- (b) the eggs or young;
- (c) the whole or part of the carcass or nest;

“boat” includes a ship, vessel or boat of any kind, raft, punt or hulk;

“buy” includes receive or accept, offer or attempt to receive or accept or cause or suffer to be received or accepted, pursuant to an agreement for sale; agree to buy, offer to buy, barter, hire or lease under any arrangement;

“carcass” includes, in relation to fauna, the skin or feathers or other part of the carcass;

“certificate” means a certificate granted and issued under this Act and in force at any material time;

“close season” means, in relation to any fauna, the period during which that fauna is protected from being taken by or under this Act;

- “ conservation ” means the care and protection of fauna and its habitat in the presence of man and his activities: the term includes research, extension or management to this end;
- “ Conservator ” means the Conservator of Fauna appointed pursuant to this Act;
- “ Crown land ” means all land in the State except land that is for the time being—
- (a) lawfully granted or contracted to be granted in fee-simple by the Crown;
 - (b) reserved for or dedicated to public purposes;
 - (c) subject to a lease or licence lawfully granted by the Crown;
 - (d) set apart and declared to be a State Forest, National Park or Timber Reserve or deemed so to be;
- “ deal ” used in relation to fauna includes buy, sell, forward or receive on consignment, whether on one or more than one occasion;
- “ district ” means a fauna district constituted by or under this Act;
- “ exotic fauna ” means fauna that is not indigenous to the Commonwealth: the term does not include migratory fauna;
- “ fauna ” means a mammal or bird: the term includes also any other animal or group of animals wild by nature declared by Order in Council to be fauna;
- “ Fauna Authority ” means the Minister and subject to the Minister the Under Secretary and the Conservator;
- “ fauna dealer ” means a person licensed under this Act as a fauna dealer who engages in the business of dealing in fauna whether on his own behalf or on behalf of another person;
- “ fauna officer ” means a fauna officer appointed by or under this Act;
- “ flora ” means all vegetable matter whether living or dead, standing or fallen;
- “ 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 possession or custody of the thing in question;
- “ holder ” used in relation to a licence, permit, certificate or other authority granted and issued under this Act, means a person who at any material time holds that licence, permit, certificate or other authority;
- “ holding ” means land held in fee-simple or under any tenure or subject to a trust under any Act relating to the occupation, lease or alienation of Crown land: the term includes land held from the Crown under an occupation licence within the meaning of that term as defined in the *Land Act* 1962-1973;
- “ honorary protector ” means an honorary protector of fauna appointed under this Act;

- “keep” includes have in possession or under control in any place, whether for the use of or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question;
- “land” includes waters within the territorial jurisdiction of the State, land covered by water, Crown land or a holding;
- “licence” means a licence granted and issued under this Act and in force at any material time;
- “Local Authority” means a Local Authority constituted under the *Local Government Act* 1936–1973: the term includes a Joint Local Authority, Brisbane City Council constituted under the *City of Brisbane Act* 1924–1973, The Commissioner of Irrigation and Water Supply constituted under *The Irrigation and Water Supply Acts* 1946 to 1949 or other corporation where pursuant to any Act The Commissioner of Irrigation and Water Supply or that other corporation is a Local Authority;
- “mammal” means a mammal wild by nature whether native to a State or Territory of the Commonwealth, migratory or introduced, in captivity, bred in captivity or tamed: the term includes in relation to such a mammal—
- (a) any species or individual member thereof;
 - (b) the eggs or young;
 - (c) the whole or part of the carcass, skin or nest:
- the term does not include marine mammals save such as are declared by Order in Council to be mammals;
- “Minister” means the Minister for Primary Industries or other Minister of the Crown who at the material time is charged with the administration of this Act: the term includes a Minister of the Crown who is temporarily performing the duties of the Minister;
- “non-protected fauna” means species of fauna or any individual member thereof that, having regard to the time and place in question, is prescribed by or under this Act to be non-protected fauna;
- “officer” means the Under Secretary or Conservator, or a fauna officer or other officer (save an honorary protector) appointed by or under this Act: the term includes a person who for the time being occupies the office or performs the duties of an officer: in relation to a power conferred or a function or duty imposed by this Act, the term includes also a person authorized by the Minister, Under Secretary or Conservator in that behalf;
- “open season” means, in relation to any fauna, the period declared by Order in Council under this Act during which that fauna may be taken;
- “permanently protected fauna” means species of fauna or any individual member thereof prescribed by or under this Act to be permanently protected fauna;

- “ permit ” means a permit granted and issued under this Act and in force at any material time;
- “ place ” includes land, building or other structure, tent, camping area, or other premises of any kind, an aircraft, a vehicle, caravan, trailer, boat or other conveyance;
- “ prohibited fauna ” means species of fauna or any individual member thereof that, having regard to the time and place in question, is prescribed by or under this Act to be prohibited fauna;
- “ prohibited gun ” means a gun—
- (a) having a barrel exceeding 106 centimetres in length;
 - (b) having a barrel the internal diameter of which exceeds 20 millimetres;
 - (c) having a single barrel exceeding 4 kilogrammes in weight, or a double barrel exceeding 6·5 kilogrammes in weight;
 - (d) having more than two barrels;
 - (e) exceeding 7·5 kilogrammes in weight; or
 - (f) other than such as is habitually raised at arm’s length and fired without other support from the shoulder,
- and every combination of two or more guns temporarily or permanently secured together: the term does not include a firearm the property of or used by Her Majesty or any Naval, Military or Air Force or the Police Force of the State;
- “ protected fauna ” means species of fauna or any individual member thereof other than permanently protected fauna and, having regard to the time and place in question, non-protected fauna and prohibited fauna;
- “ refuge ” means land declared under this Act to be a fauna refuge;
- “ reserve ” means land reserved and set apart under the *Land Act 1962–1973* and declared under this Act to be a fauna reserve;
- “ sell ” includes auction, barter, exchange or supply, or cause, permit or attempt any of those acts, offer or attempt to sell, supply or receive for sale, have in possession for sale, expose for sale, send, forward or deliver for or on sale, cause, suffer or allow to be sold or offered for sale, dispose or offer for disposal under a lease or hire purchase agreement;
- “ sanctuary ” means land that is declared by or under this Act to be a fauna sanctuary;
- “ take ” includes—
- (a) in relation to fauna, hunt, shoot, kill, poison, net, snare, spear, trap, catch, pursue, disturb, stupefy, disable, pluck, injure, destroy or damage or attempt or permit any of those acts;
 - (b) in relation to flora, collect, pick, pluck, poison, disturb, cut, pull up, destroy, damage, dig up, remove or injure or attempt or permit any of those acts;

“ Under Secretary ” means The Under Secretary of the Department of Primary Industries of the State: the term includes the Deputy Director-General of that Department, a person for the time being carrying out the duties of either of those offices or a person who at any material time is authorized in writing by the Under Secretary to exercise the power or authority conferred or to perform the function or duty imposed by this Act upon the Under Secretary and in relation to which the term is used;

“ utter ” includes use, deal with, or act upon, or attempt so to do, or attempt to induce any person to use, deal with, or act upon the thing in question as if it were genuine.

6. Classification of fauna. (1) For the purposes of this Act fauna is divided into the following classes:—

- (a) permanently protected fauna;
- (b) protected fauna;
- (c) non-protected fauna;
- (d) prohibited fauna.

(2) Notwithstanding subsection (1), non-protected fauna may be declared also prohibited fauna.

7. Property in fauna. (1) All fauna, save fauna taken or kept during an open season with respect to that fauna, is the property of the Crown and under the control of the Fauna Authority.

(2) Liability at law shall not attach to the Crown by reason only of the vesting of fauna in the Crown pursuant to this section.

8. Right of entry upon land. Unless otherwise expressly provided by this Act, the declaration of an open season or the granting or holding of a licence, permit, certificate or other authority under this Act shall not give to a person the right of entry upon land the property of another.

9. Saving of Acts. (1) This Act shall be in addition to and not in substitution for or derogation from *The Criminal Code*, the *Animals Protection Act 1925-1971*, the *Forestry Act 1959-1973* and the *Queensland Museum Act 1970*, and nothing in this Act shall prejudice or otherwise affect the exercise and performance of the powers, authorities, functions, duties or jurisdiction conferred or imposed upon any person by any of those Acts, or the enforcement and recovery of any penalty, fee, fine or forfeiture enforceable or recoverable under any of those Acts.

Where an act or omission constitutes an offence against this Act and any of those Acts, proceedings may be brought under this Act or such other Act, but a person shall not be twice punished for the same offence.

(2) Save as is provided in subsection (1), the provisions of any other Act or regulation regulating and controlling fauna or any matter or thing with respect to the conservation, taking, keeping, liberation in, introduction into or removal from the State of fauna shall not prejudice or otherwise affect the operation of this Act.

PART II—ADMINISTRATION

10. Administration of Act. This Act shall be administered by the Minister and, subject to the Minister, by the Under Secretary and other officers.

11. Powers of Governor in Council. The Governor in Council may by Order in Council from time to time for the purposes of this Act—

- (a) declare any animal or group of animals wild by nature to be fauna;
- (b) declare any marine mammal to be a mammal;
- (c) declare birds specified therein to be aviary birds.

12. Appointment of officers and honorary protectors. (1) The Governor in Council may from time to time by notification published in the Gazette appoint so many fauna officers and other officers as he considers necessary for the effectual administration of this Act.

(2) An officer appointed under subsection (1) shall hold office subject to the *Public Service Act 1922–1973*.

(3) For the purposes of this Act, the following persons shall, by virtue of their offices and without further or other appointment, be fauna officers—

- (a) all members of the Police Force of the State;
- (b) officers of the Department of Primary Industries holding any of the following offices—
chief veterinary officer, divisional veterinary officer, regional extension officer, extension officer, district fauna ranger, fauna ranger, chief adviser, district adviser, adviser, senior inspector, district inspector, inspector, special stock officer;
- (c) officers of the Department of Lands holding any of the following offices:—
land commissioner, assistant land commissioner, land inspector;
- (d) forest officers of the Department of Forestry;
- (e) boating patrol officers of the Department of Harbours and Marine.

The Governor in Council may from time to time by Order in Council amend the list of persons specified in this subsection by adding to, deleting from, altering or varying that list, and the list as so amended shall be for the time being the list of persons for the purposes of this subsection.

(4) (a) The Governor in Council may, upon the recommendation of the Minister, from time to time by notification published in the Gazette appoint, for the purposes of this Act, such persons as he considers necessary to be honorary protectors of fauna.

(b) The procedure with respect to an application by a person for appointment as an honorary protector shall be as prescribed.

(c) An appointment pursuant to this section shall be subject to such terms, conditions or restrictions as the Governor in Council thinks fit.

(d) An honorary protector—

- (i) shall hold office during the pleasure of the Governor in Council;
- (ii) may resign his office at any time by furnishing to the Under Secretary notice in writing signed by him accompanied by the certificate of authority issued to him under this Act.

(5) Subject to a direction by the Governor in Council pursuant to subparagraph (f) of subsection (1) of section 13, a fauna officer, other officer or an honorary protector shall exercise his powers and perform his functions and duties throughout the State.

13. Districts. (1) The Governor in Council may, from time to time by notification published in the Gazette, constitute any portion of the State a district for the purposes of this Act with respect to fauna generally or a specified species of fauna and assign to that district a name, and may from time to time in like manner—

- (a) include in a district any portion of the State that is not included in a district;
- (b) abolish a district or districts and join such district or districts, or join parts of such district or districts with another district or districts;
- (c) alter the boundaries of districts by including in one district a part or parts of another district or a part or parts of other districts and by excluding such part or parts from such other district or districts;
- (d) divide a district into two or more districts;
- (e) alter the name of a district;
- (f) appoint a fauna officer or other officer or an honorary protector to a district or part thereof, and direct that an officer or honorary protector so appointed shall exercise his powers and perform his functions and duties only in that district or part;
- (g) revoke an appointment made or direction given under subparagraph (f).

(2) Boundaries of districts may differ with respect to fauna generally, specified species of fauna and different species of fauna.

14. Powers of fauna officers. (1) A fauna officer at any time—

- (a) may enter any place;
- (b) may make with respect to any place such investigation and enquiry as is necessary to ascertain whether the provisions of this Act are being complied with;
- (c) may examine an appliance or other thing of any kind used, apparently used or capable of being used for the taking of fauna or for facilitating or assisting in the taking of fauna, found by him in any place, and may seize and detain an appliance so found that is being used or has been used or that he suspects on reasonable grounds is being used or has been used for the taking of fauna in contravention of this Act, or that he reasonably believes will afford evidence as to that contravention;

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- (d) may interrogate, for the purposes of this Act, a person found by him in any place or found by him in possession of any appliance to ascertain whether this Act is being complied with, and require a person so found to answer the questions put;
 - (e) may require a person found by him committing an offence against this Act or who he believes on reasonable grounds has committed an offence against this Act, or whose name and address are in his opinion reasonably required for the purposes of this Act to state his full name and the address of his usual place of residence and if he suspects on reasonable grounds that a name or address so stated is false, may require evidence of the correctness thereof;
 - (f) may search any place if he suspects on reasonable grounds that an offence against this Act has been or is being committed and that there is or likely to be in that place any fauna, appliance or other thing of any kind with respect to which that offence was or is being committed or that will afford evidence as to the commission of that offence, and may break open and search every box, basket, receptacle or package of any kind in that place;
 - (g) may seize and detain fauna in respect of which an offence against this Act has been or is being committed or in respect of which he suspects on reasonable grounds that such an offence has been or is being committed, or that he believes will afford evidence as to the commission of that offence, or an appliance or other thing of any kind that has been or is being used or that he suspects on reasonable grounds has been or is being used in contravention of this Act or that he believes on reasonable grounds will afford evidence as to that contravention;
 - (h) may remove fauna or an appliance or other thing seized by him under this Act from the place where it was seized to such place as he determines, or may allow that fauna, appliance or other thing to remain at the place of seizure and in the latter case make such arrangements as he considers necessary to protect it;
 - (i) may require a person to produce to him a licence, permit, certificate or other authority under this Act granted and issued to that person or alleged by that person to have been granted and issued to him, and may inspect, examine and make copies of or extracts from a licence, permit, certificate or other authority so produced;
 - (j) may call to his aid—
 - (i) another officer in a case where he is obstructed or has reasonable grounds to believe that he will be obstructed in the exercise of his powers or the discharge of his functions and duties;
 - (ii) a person who he thinks is competent to assist him in the exercise of his powers or the discharge of his functions and duties;

- (k) may use such force as is reasonably necessary in the exercise of the powers or the performance of the functions and duties conferred or imposed by this section;
 - (l) where and only where he is a member of the Police Force of the State, may arrest a person found committing an offence against this Act;
 - (m) may, for the purposes of this Act, stop any aircraft (whilst on the ground or the water), any vehicle, caravan, trailer, boat or other conveyance;
 - (n) may, by order in writing, require a person who has failed to comply with this Act to take such steps as are specified and within such time as is specified to remedy those matters in respect of which the non-compliance has occurred;
 - (o) may exercise such other powers and perform such other functions and duties as are prescribed.
- (2) An order pursuant to subparagraph (n) of subsection (1)—
- (a) shall be in the prescribed form;
 - (b) shall not prejudice or affect in any way a proceeding or action that has been or may be taken for the failure to comply that resulted in the order, save that the person to whom the order is given is not liable for a continuance of the failure to comply during the time specified therein.
- (3) (a) Before a fauna officer enters any part of premises which part is being used exclusively as a dwelling-house he shall, save where he has the permission of the occupier of that part to his entry, obtain from a justice a warrant to enter.
- (b) A justice who is satisfied upon the complaint of a fauna officer that there is reasonable cause to suspect—
- (i) that there is in any place fauna, a carcass of fauna, or an appliance or other thing of any kind used, apparently used or capable of being used for the taking of fauna; and
 - (ii) that in respect of that fauna, carcass, appliance or other thing an offence against this Act has been committed, is being committed or is likely to be committed,
- may issue his warrant directed to the fauna officer to enter the place specified in the warrant for the purpose of exercising therein the powers conferred on a fauna officer under this Act.
- (c) A warrant shall be for the period of one month from the date of its issue sufficient authority for the fauna officer and all persons acting in aid of him—
- (i) to enter the place specified in the warrant; and
 - (ii) to exercise therein the powers conferred on a fauna officer by this Act.
- (d) In this subsection premises that are used as a dwelling-house do not include the curtilage of those premises.
- (4) For the purposes of gaining entry to any place a fauna officer may call to his aid such persons as he thinks necessary and those persons, while acting in aid of a fauna officer in the lawful exercise by him of his power of entry, shall have a like power of entry.

15. Powers of honorary protectors. Subject to the terms, conditions or restrictions imposed by the Governor in Council upon his appointment, an honorary protector—

- (a) may require a person found by him committing or suspected on reasonable grounds to have committed an offence against this Act—
 - (i) to state his full name and the address of his usual place of residence;
 - (ii) to produce evidence of the correctness of a name or address given, if he suspects on reasonable grounds that it is false;
 - (iii) to deliver up the fauna, if any, in respect of which the offence is being or is suspected to have been committed, and any appliance or other thing of any kind that is being or is suspected on reasonable grounds to have been used in the commission of the offence;
- (b) may seize, detain and remove to such place as he determines any fauna, appliance or other thing delivered up in compliance with a requirement under subparagraph (a);
- (c) may require a person to produce to him a licence, permit, certificate or other authority under this Act granted and issued to that person or alleged by that person to have been granted and issued to him, and may inspect, examine and make copies of or extracts from a licence, permit, certificate or other authority so produced;
- (d) may call to his aid a fauna officer in a case where he is obstructed or has reasonable grounds for believing that he will be obstructed in the exercise of his powers or the discharge of his functions and duties;
- (e) may exercise such other powers and discharge such other functions and duties as are prescribed.

16. Prohibition in respect of dealing in fauna. (1) An officer or honorary protector—

- (a) shall not acquire or hold an interest in a licence, permit, certificate or other authority granted and issued under this Act for the purpose of dealing in fauna, or in any place at which the business of dealing in fauna is or is likely to be conducted;
- (b) shall not acquire or hold an interest in any contract or agreement made for the purposes of dealing in fauna or be or become entitled to participate in any profits, benefit or emolument of any kind arising therefrom.

(2) Notwithstanding subsection (1), the Conservator may grant and issue to an officer or honorary protector a permit or certificate to take fauna for purposes other than dealing in that fauna.

17. Offences with respect to officers and honorary protectors. A person—

- (a) shall not assault, obstruct, threaten, abuse, insult or intimidate an officer or honorary protector in the exercise of his powers or the discharge of his functions and duties under this Act, or attempt so to do;

- (b) shall not fail to answer any question put to him for the purposes of this Act by an officer or honorary protector or give a false or misleading answer to any question so put;
- (c) shall not fail to comply with a lawful requisition or order of an officer or honorary protector;
- (d) shall not, when required by or under this Act to render assistance or furnish information, fail to do so, or furnish information that is false or misleading;
- (e) shall not fail, upon demand made verbally by an officer or honorary protector, to deliver up to him fauna, or an appliance or other thing authorized under this Act to be seized or delivered up to him;
- (f) shall not take or retake possession of, remove or otherwise deal with, fauna or an appliance or other thing seized or delivered up under this Act or attempt so to do;
- (g) shall not fail, without reasonable excuse the proof whereof shall lie upon him, to produce a license, permit, certificate or other authority under this Act that he is required under this Act to produce or fail to allow an officer or honorary protector to make a copy of or an extract from a licence, permit, certificate or other authority;
- (h) shall not prevent a person from appearing before or being interrogated by an officer or attempt so to do.

PART III—PERMANENTLY PROTECTED FAUNA

18. Declaration of permanently protected fauna. (1) The fauna specified in the Schedule shall be throughout the State permanently protected fauna.

(2) The Governor in Council may from time to time by Order in Council declare specified fauna to be permanently protected fauna, and thereupon fauna so declared shall be throughout the State permanently protected fauna.

(3) On and from the date of commencement of this Act there shall be in respect of permanently protected fauna a close season extending without limit of time.

19. Duty of person keeping permanently protected fauna. (1) A person who keeps or has in possession fauna that is declared permanently protected fauna by or under section 18, shall within 60 days after the date of commencement of this Act or the date on which the declaration takes effect, as the case requires, forward a notification in writing to the Conservator setting out particulars of fauna so kept or had in possession.

(2) The Conservator may by notice in writing direct a person to whom subsection (1) applies to deliver up to a fauna officer permanently protected fauna kept or had in possession.

(3) Where the Under Secretary is satisfied that fauna delivered to a fauna officer pursuant to this section has been taken or kept otherwise than in contravention of this Act, he may pay to the person concerned by way of compensation a sum not exceeding the amount of royalty paid in respect of that fauna.

(4) Fauna delivered to a fauna officer pursuant to this section shall be dealt with in such manner as the Minister directs.

20. Offences with respect to permanently protected fauna. (1) A person who save in accordance with a permit granted pursuant to section 53—

- (a) takes, keeps or has in possession permanently protected fauna;
- (b) uses, attempts to use or permits to be used any appliance for the purpose of taking permanently protected fauna,

is guilty of an offence against this Act.

(2) Notwithstanding subsection (1), a person who takes, keeps or has in possession permanently protected fauna that is injured or in a sick or emaciated condition is not guilty of an offence against this Act if he notifies a fauna officer within 24 hours of the taking or of the date when he first kept or had that fauna in possession, of the taking, keeping or having in possession, or if that fauna is sooner released.

Fauna in respect of which notification has been given to a fauna officer under this subsection shall be released or otherwise dealt with in such manner as the Conservator directs.

21. Penalties. A person who is guilty of an offence against this Part is liable for a first offence to a penalty of not less than \$100 nor more than \$1,000 and for a second or subsequent offence to a penalty of not less than \$200 nor more than \$3,000, and in any case to an additional penalty of \$200 for each fauna in respect of which the offence is committed.

PART IV—PROTECTED FAUNA

22. Classification. Fauna other than permanently protected fauna, non-protected fauna and prohibited fauna shall without further or other declaration be protected fauna for the purposes of this Act.

23. Close season. Subject to a declaration under this Act of an open season in force at any material time with respect to protected fauna, there shall be, on and from the date of commencement of this Act with respect to protected fauna, a close season throughout the State extending without limit of time.

24. Exemption from liability in respect of injured or sick fauna. Notwithstanding this Act, a person who takes or keeps protected fauna that is injured or in a sick or emaciated condition is not guilty of an offence against this Act if he notifies a fauna officer within 24 hours of the taking or of the date when he first kept that fauna, of the taking or keeping or if that fauna is sooner released.

Fauna in respect of which notification has been given to a fauna officer under this section shall be released or otherwise dealt with in such manner as the Conservator directs.

25. Power to take protected fauna causing or likely to cause damage or injury. (1) Upon proof to his satisfaction that protected fauna—

- (a) is causing significant damage to property (including crops and livestock) on a holding;
 - (b) is otherwise causing significant personal loss to the owner or occupier of a holding;
 - (c) is causing or likely to cause injury to a person in any place, an officer authorized in writing by the Conservator in that behalf may, subject to the direction of the Minister generally or in a particular case, grant and issue a permit in writing subject to such terms, conditions or restrictions as he thinks fit authorizing—
 - (d) in the case of a holding, the owner or occupier thereof or his authorized agent, if any;
 - (e) in any other case, such persons as he thinks fit,
- to take protected fauna found upon the holding or, as the case may be, place.

This subsection applies whether or not a close season or open season is in force at any material time with respect to the protected fauna in question or the holding, place or protected fauna is within a sanctuary or refuge.

(2) Save where the permit otherwise expressly provides with respect thereto, the keeping and disposal of protected fauna taken pursuant to this section are subject to this Act.

PART V—NON-PROTECTED AND PROHIBITED FAUNA

26. Power to declare non-protected and prohibited fauna. (1) The Governor in Council may from time to time by Order in Council declare specified fauna to be non-protected fauna or prohibited fauna for the purposes of this Act.

(2) Specified fauna may be so declared throughout the State or within one or more districts or any area defined in the Order in Council.

(3) On and from the date of commencement of this Act, fauna shall not be declared to be pests, vermin or the like throughout the State or within a specified area by or under any Act or law unless—

- (a) that fauna is non-protected fauna or prohibited fauna; and
- (b) the recommendation of the Minister has been first obtained.

27. Taking non-protected fauna and keeping prohibited fauna. (1) Subject to this Act, a person who takes fauna at a time and place when and where that fauna is non-protected fauna does not commit an offence against this Act.

(2) A person shall not keep fauna at a time and place when and where that fauna is prohibited fauna unless he is the holder of a permit under section 53.

PART VI—OPEN SEASONS

28. Application. (1) Unless otherwise expressly provided, this Part applies only with respect to protected fauna.

(2) Nothing in this Part nor any declaration of an open season nor the granting or holding of an open season fauna permit under this Part shall authorize or be deemed to authorize the taking of protected fauna within a sanctuary, refuge or reserve.

29. Power of Governor in Council. (1) Upon being satisfied at any time that a particular species of protected fauna is present in a district in numbers in excess of sufficient numbers to ensure its satisfactory survival, the Governor in Council may from time to time by Order in Council declare with reference to that district an open season in respect of that species of protected fauna for such period as he thinks fit.

(2) An Order in Council made pursuant to subsection (1) shall specify the district to which the open season refers and the period during which the open season operates, and may specify generally or in a particular case such terms, conditions or restrictions as the Governor in Council thinks necessary or desirable with respect to the taking of protected fauna during an open season in respect of that protected fauna.

30. Open season fauna permits. (1) Except as otherwise expressly provided in this Act, a person shall not take protected fauna, nor use, nor attempt to use, nor permit to be used any appliance for the purpose of taking protected fauna during an open season in respect of that protected fauna in any place to which that open season refers unless he is the holder of an open season fauna permit granted and issued under this section.

(2) (a) An application for an open season fauna permit—

(i) shall be made to the Conservator or to an officer authorized in writing by him in that behalf;

(ii) shall be in the prescribed form;

(iii) shall contain the prescribed particulars;

(iv) shall be accompanied by the prescribed fee.

(b) The Conservator or authorized officer shall consider each application and may grant or refuse it.

(c) When an application is granted pursuant to this section, the Conservator or authorized officer shall issue an open season fauna permit.

(3) If in respect of any open season, the number of applicants for open season fauna permits in respect of any place to which that open season refers exceeds the number of such permits that in the opinion of the Conservator or authorized officer is reasonable or desirable, the Conservator or authorized officer may limit the number of permits granted in respect of that place to the number he considers reasonable or desirable.

(4) An open season fauna permit—

(a) shall be in the prescribed form;

(b) shall contain the prescribed particulars;

(c) shall not be transferable;

- (d) shall be subject to such terms, conditions or restrictions as the Conservator or authorized officer thinks fit and specified therein, and to such other terms, conditions or restrictions as are prescribed.

31. Offences by open season fauna permit holders. The holder of an open season fauna permit issued under this Act who—

- (a) takes protected fauna in or on a place that is outside the place in which he is authorized by the permit to operate;
- (b) takes protected fauna in excess of the number that he is authorized by the permit to take;
- (c) takes fauna of a species not specified in the permit;
- (d) takes protected fauna otherwise than in accordance with any other term, condition or restriction to which the permit is subject,

is guilty of an offence against this Act.

32. Penalties. A person who is guilty of an offence against this Part is liable to a penalty of not less than \$50 nor more than \$1,000 and in addition to a penalty not exceeding \$200 for each fauna in respect of which the offence is committed.

33. Saving. This Part shall be read and construed so as not to derogate from any other provision of this Act with respect to the taking of fauna.

PART VII—SANCTUARIES, REFUGES AND RESERVES

Division I—Sanctuaries

34. Declaration. (1) The Governor in Council may from time to time by Order in Council, for the purposes of this Act—

- (a) declare any land to be a sanctuary;
- (b) assign to a sanctuary a name;
- (c) alter the name of a sanctuary.

(2) Land permanently set apart and declared to be a State Forest or a National Park under the *Forestry Act* 1959–1973 shall without further or other declaration be a sanctuary under and for the purposes of this Act.

(3) Every island lying off the coast of the State that forms part of the State shall, without further or other declaration, be a sanctuary under and for the purposes of this Act.

35. Offences. (1) Notwithstanding any other Act or law, a person who, save by or under the authority of this Act—

- (a) takes fauna within a sanctuary;
- (b) uses, attempts to use or permits to be used an appliance for the purpose of taking fauna within a sanctuary;
- (c) brings into or places upon or permits to be brought into or placed upon a sanctuary any appliance for the purpose of taking fauna within a sanctuary;

- (d) brings into or places upon or permits to be brought into or placed upon a sanctuary any poisonous material injurious to fauna;
- (e) enters or is within a sanctuary for the purpose of committing any act referred to in this subsection,

is guilty of an offence against this Act.

Penalty: Minimum \$100; maximum \$1,000.

This subsection applies to all fauna and does not affect any other provision of this Act with respect to the taking of fauna.

(2) Subsection (1) does not apply with respect to the taking, within the boundary of a holding situated within a sanctuary subject to the restrictions prescribed as to the use of appliances for the taking of that fauna, of non-protected fauna or prohibited fauna by the owner or occupier of that holding or his authorized agents.

Division II—Refuges

36. Declaration. (1) The Governor in Council may from time to time by Order in Council for the purpose of conserving one or more species of fauna—

- (a) declare any land to be a refuge;
- (b) assign to a refuge a name;
- (c) alter the name of a refuge;
- (d) place a refuge under the control of the Under Secretary, the Permanent Head of any other Department of the State or the Local Authority having jurisdiction in the area in which the refuge is situated, as trustee;
- (e) specify such terms, conditions or restrictions as he thinks fit with respect to the use of a refuge for a purpose other than fauna conservation.

37. Offences. Notwithstanding any other Act or law, a person who, save by or under the authority of this Act—

- (a) takes fauna or flora within a refuge;
- (b) uses or attempts to use or permits to be used any appliance for the purpose of taking fauna or flora within a refuge;
- (c) brings into or places upon or permits to be brought into or placed upon a refuge an appliance for the purpose of taking fauna or flora within a refuge;
- (d) brings into or places upon or permits to be brought into or placed upon a refuge any poisonous material injurious to fauna;
- (e) save with the authority of the Conservator, lights a fire in a refuge or permits a fire to enter a refuge;
- (f) not being the owner or occupier of the land, enters a refuge that comprises that land or part thereof, save under the authority of this Act or a permit granted and issued by the Conservator for an approved purpose;

(g) disturbs in any manner the biological matter or physical environment within a refuge,
is guilty of an offence against this Act.

Penalty: Minimum \$200; maximum \$3,000.

Division III—Reserves

38. Declaration. (1) The Governor in Council may from time to time by Order in Council, for the purposes of this Act—

- (a) declare land that has been reserved and set apart under the *Land Act* 1962–1973 for Departmental purposes to be a reserve;
- (b) assign to a reserve a name;
- (c) alter the name of a reserve;
- (d) place a reserve under the control of the Under Secretary as trustee.

(2) The Minister shall cause notice of the declaration of land as a reserve to be published at least once in one newspaper at least that circulates in the locality of the land so declared.

39. Report by Under Secretary. The Under Secretary shall, in respect of each reserve, furnish to the Minister once at the least in each period of 15 years after its declaration as a reserve a report setting out the results of biological surveys conducted in respect thereof during the period under review.

The Minister shall lay the report before the Legislative Assembly.

40. Offences. Notwithstanding any other Act or law, a person who, save by or under the authority of this Act—

- (a) takes fauna or flora within a reserve;
- (b) mines, quarries or otherwise disturbs or interferes with minerals, quarry material, earth or soil within a reserve;
- (c) uses or attempts to use or permits to be used an appliance for the purpose of taking fauna or flora within a reserve;
- (d) brings into or places upon or permits to be brought into or placed upon a reserve an appliance for the purpose of taking fauna or flora;
- (e) brings into or places upon or permits to be brought into or placed upon a reserve any poisonous material injurious to fauna or flora;
- (f) causes or permits any live animal to enter a reserve;
- (g) lights a fire in or causes or permits a fire to enter a reserve;
- (h) enters a reserve save under the authority of this Act or of a permit granted and issued by the Conservator for an approved purpose;
- (i) disturbs in any manner the biological matter or physical environment within a reserve;
- (j) erects a structure of any kind within a reserve,

is guilty of an offence against this Act.

Penalty: Minimum \$300; maximum \$3,000.

41. Revocation of declaration of reserve. (1) The declaration of a reserve shall not be revoked in whole or in part save in accordance with this section.

(2) (a) The Minister may cause to be laid before the Legislative Assembly a notice of a proposal that the declaration of a reserve be revoked in whole or in part.

(b) The notice shall specify the extent of the proposed revocation and the purpose or purposes to which the land in question is to be put.

(c) If the Legislative Assembly approves of the proposal by resolution on a motion of which not less than 14 days' notice has been given, the Governor in Council may by Order in Council revoke the declaration to the extent specified in the proposal approved.

(d) The land affected by such revocation shall become and be a reserve (or part thereof) for Departmental purposes and may be dealt with as prescribed by law for the purpose or purposes specified in the proposal approved.

Division IV—General

42. Notices indicating sanctuary, refuge or reserve. (1) The Conservator or a person authorized by him in that behalf may from time to time cause to be erected on suitable sites on or close to the boundary of a sanctuary, refuge or reserve notices in such form and of such construction as he considers necessary or desirable indicating—

(a) the existence and extent of the sanctuary, refuge or reserve, as the case may be;

(b) the liability of a person contravening this Act with respect to the sanctuary, refuge or reserve, as the case may be,

and may from time to time cause any notice so erected to be removed, demolished or erased.

(2) A person acting under the instructions of the Conservator or person authorized by him shall have authority to enter upon a sanctuary, refuge or reserve for the purpose of erecting, removing, demolishing or erasing a notice pursuant to this section.

(3) Nothing in this Act shall require the erection of a notice pursuant to this section, and the fact that a notice is not so erected does not prejudice or otherwise affect proceedings instituted under this Act with respect to a sanctuary, refuge or reserve.

(4) A person who, without the authority of the Conservator or person authorized by him in that behalf, demolishes, destroys, erases, removes, defaces or otherwise damages or interferes with a notice erected pursuant to this section is guilty of an offence against this Act.

43. Power to authorize the taking of non-protected or prohibited fauna on refuges or reserves. Notwithstanding any other Act or law, if at any time the Conservator is of opinion that non-protected fauna or prohibited fauna within a refuge or reserve is of such number as to cause damage to the refuge, reserve or surrounding land, or to property on the refuge, reserve or surrounding land, he may grant and issue a permit in writing to such persons and subject to such terms, conditions or restrictions as he thinks fit, authorizing them to enter that refuge or reserve and take therein such non-protected fauna or prohibited fauna as is specified in the permit.

44. Power to require persons to quit a sanctuary, refuge or reserve.

(1) An officer or honorary protector may require a person other than the owner or occupier thereof found in or upon a sanctuary, refuge or reserve under circumstances indicating—

- (a) that the person is committing or has committed an offence against this Act;
- (b) that there are reasonable grounds for believing that the person is committing, has committed or is likely to commit an offence against this Act,

to quit that sanctuary, refuge or reserve.

(2) A person who—

- (a) refuses or otherwise fails to quit a sanctuary, refuge or reserve when required under this section to do so;
- (b) re-enters a sanctuary, refuge or reserve after quitting it when required under this section to do so,

is guilty of an offence against this Act.

45. Power to carry out works for fauna conservation. The Minister or an officer or person authorized in that behalf may within a refuge or reserve carry out works or do any act or make such provision as he considers necessary or desirable for the conservation of fauna in that refuge or reserve.

46. Procedure prior to declaration of refuge or reserve. (1) A submission by the Under Secretary to the Governor in Council for the declaration of land as a refuge or reserve for the purposes of this Act shall not be made save in accordance with this section.

(2) (a) Where the Under Secretary considers that land should be declared a refuge or reserve he shall, before taking any other action, refer the proposal to the Permanent Head of every Department of the State the interests of which are affected thereby and, in addition, where the proposal is the declaration of land as a refuge, to every owner or lessee of a holding whose interests are affected thereby.

(b) The Permanent Head of each such Department shall submit to the Under Secretary the views of his Department, and every such owner or lessee shall submit to the Under Secretary his views, on the proposal.

(c) The Under Secretary shall consider the views submitted by each Permanent Head and each owner or lessee and, where there is no objection thereto, may proceed to have the proposal presented to the Governor in Council.

(3) Where a Permanent Head or an owner or a lessee indicates to the Under Secretary that he does not agree with the proposal, negotiations shall be entered into between the Under Secretary and the Permanent Head, owner or lessee and, if necessary, a joint investigation of the matter shall be undertaken.

(4) Where there is no agreement on the proposal following negotiations and the joint investigation, if any, referred to in subsection (3), the Under Secretary may appoint a time within which submissions in writing may be made to him for reference to the Minister, and the Permanent Head, owner or lessee, if he desires to make a submission, shall make it within that time.

(5) The Under Secretary shall refer to the Minister all submissions duly made, and the Minister may in his discretion present those submissions and his recommendation thereon to the Governor in Council, or may remit the submissions to the Under Secretary for further consideration.

(6) A person who fails to make a submission within the appointed time shall, for the purposes of this Part, be deemed to agree with the proposal.

PART VIII—PROHIBITED APPLIANCES AND METHODS FOR
THE TAKING OF FAUNA

47. Application. Save where a contrary intention appears, this Part—

(a) shall apply with respect to—

(i) fauna of any kind;

(ii) any person (including the holder of a permit or other authority under this Act to take fauna);

(b) shall apply notwithstanding any other Act or law;

(c) shall not prejudice or in any way affect any other provision of this Act with respect to the taking of fauna.

48. Prohibition of use of poisons. (1) A person who for the purpose of taking permanently protected fauna or protected fauna keeps, uses, attempts to use or permits to be used—

(a) a poison specified in Schedule 7 of The Poisons Regulations of 1967 as subsequently amended, made under the *Health Act 1937-1973*;

(b) a poison specified in an Order in Council made under subsection (2),

is guilty of an offence against this Act.

Penalty: Minimum \$100; maximum \$1,000.

(2) The Governor in Council may from time to time by Order in Council specify poisons for the purposes of subsection (1).

(3) In a prosecution for the offence of keeping in contravention of this section any poison, proof that such poison was kept by the person charged with the offence shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that it was kept in contravention of this section.

49. Prohibition of use of bird-lime and the like. (1) A person who for the purpose of taking fauna keeps, uses, attempts to use or permits to be used bird-lime or any viscid or adhesive substance is guilty of an offence against this Act.

(2) A person who uses or permits to be used bird-lime or any viscid or adhesive substance in such manner or circumstances as to take or be likely to take fauna is guilty of an offence against this Act.

(3) In a prosecution for the offence of keeping, in contravention of this section, bird-lime or any viscid or adhesive substance, proof that such bird-lime or viscid or adhesive substance was kept by the person charged with the offence shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that such bird-lime or viscid or adhesive substance was kept in contravention of this section.

50. Prohibition of use of other appliances or methods. (1) A person who for the purpose of taking fauna keeps, uses, attempts to use or permits to be used—

- (a) save where otherwise prescribed by Order in Council, an electric, acetylene or other lamp, flashlight, torch or other artificial light of any description;
- (b) a prohibited gun;
- (c) an appliance specified in an Order in Council made under subsection (3),

is guilty of an offence against this Act.

(2) A person who uses, attempts to use or permits to be used for the purpose of taking fauna any method specified in an Order in Council made under subsection (3) is guilty of an offence against this Act.

(3) The Governor in Council may from time to time by Order in Council—

- (a) prescribe fauna in respect of the taking of which and the circumstances in which an appliance referred to in subparagraph (a) of subsection (1) may be used;
- (b) specify appliances and methods for the taking of fauna to which this section applies.

51. Restriction of use of dogs or other animals. A person who for the purpose of—

- (a) taking permanently protected fauna;
- (b) taking protected fauna otherwise than during an open season with respect to that protected fauna and in the place to which that open season refers,

uses, attempts to use or permits to be used a dog or other animal is guilty of an offence against this Act.

PART IX—TAKING AND KEEPING OF FAUNA

52. Application. (1) This Part applies to fauna of any kind and any provision thereof with respect to the keeping of fauna applies to fauna taken or kept before or after the date of commencement of this Act.

(2) The regulations may exclude exotic fauna or species variations of fauna not found in the wild state from the application of this Part and may prescribe the terms or conditions under which those exclusions shall operate.

(3) This Part shall not prejudice or otherwise affect any other Act or law regulating or controlling the keeping of non-protected fauna.

53. Power to permit taking or keeping of fauna for particular purposes.

(1) The Minister or Conservator may at any time upon application, by writing signed by him, permit—

- (a) the taking of fauna;
- (b) the keeping of fauna in or upon any place,

by—

- (c) the trustees or directors of a scientific institution, museum or exhibition or of zoological gardens;

(d) a person who collects fauna for scientific or educational purposes.

In the case of permanently protected fauna, or fauna of any kind within a refuge or reserve, the Minister only may grant an application for a permit under this section.

(2) Where the number of applicants for permits under this section in respect of any place exceeds the number of permits that in the opinion of the Minister or Conservator is reasonable or desirable, the Minister or Conservator, as the case may be, may limit the number of permits granted in respect of that place to the number he considers reasonable or desirable.

(3) (a) An application for a permit under this section shall be in the prescribed form, shall contain the prescribed particulars and shall be accompanied by the prescribed fee, if any.

(b) The Minister or Conservator shall consider each application and may grant or refuse it.

(c) When an application is granted pursuant to this section the Minister or Conservator shall cause to be issued a permit.

(4) A permit under this section—

(a) shall be in the prescribed form;

(b) shall contain the prescribed particulars;

(c) shall not be transferable;

(d) shall be subject to the terms, conditions or restrictions prescribed and to such other terms, conditions or restrictions as the Minister or Conservator thinks fit and specified therein;

(e) shall be in force for a period of up to but not exceeding 12 months from the date of its grant;

(f) may be revoked at any time.

(5) (a) Where a permit granted under this section is revoked, it shall thereupon cease to be of any force or effect and shall be treated as if the period for which it was granted had expired.

(b) Upon the revocation or expiry of a permit granted under this section the Minister or Conservator may give such directions as to the disposal of fauna taken thereunder as he thinks fit.

54. Offences. (1) (a) A person shall not take, keep or attempt to take or keep fauna of any kind unless he is the holder of a licence, permit, certificate or other authority granted and issued under this Act.

(b) Save as is otherwise expressly provided by this Act, a person who—

(i) keeps protected fauna taken otherwise than in contravention of this Act during an open season with respect to that protected fauna in a place to which that open season refers;

(ii) takes fauna at a time and place when and where that fauna is non-protected fauna;

(iii) continues to keep fauna taken and kept lawfully prior to the date of commencement of this Act;

(iv) keeps aviary birds,

does not commit an offence against this Act.

(2) A person who commits an offence against this section is liable to a penalty of not less than \$50 and not more than \$1,000, and in addition to a penalty of twice the royalty payable on each fauna in respect of which the offence is committed.

PART X—DEALING IN, DISPOSAL OF AND MOVEMENT OF FAUNA

Division I—Fauna Dealers

55. Limitation of authority under licence. A licence granted and issued under this Division shall not authorize the taking of fauna of any kind.

56. Fauna dealers. (1) The Under Secretary or Conservator or other officer authorized by him in that behalf may from time to time grant and issue fauna dealers' licences.

(2) (a) An application for a licence under this section—

- (i) shall be made to the Under Secretary;
- (ii) shall be in the prescribed form;
- (iii) shall specify each of the premises at or upon which the applicant carries on or intends to carry on business;
- (iv) shall contain such other particulars as are prescribed;
- (v) shall be accompanied by the prescribed fee.

(b) The Under Secretary, Conservator or authorized officer shall consider each application and may grant or refuse it.

(c) When an application is granted, the Under Secretary, Conservator or authorized officer shall issue a fauna dealer's licence.

(3) A licence under this section—

- (a) shall be in the prescribed form;
- (b) shall contain the prescribed particulars;
- (c) shall not be transferable;
- (d) shall be in force for a period of up to but not exceeding 12 months from the date of its grant;
- (e) shall be subject to such terms, conditions or restrictions as are prescribed;
- (f) shall specify the fauna or parts thereof in which the holder may deal;
- (g) shall authorize the holder to deal in the fauna or parts thereof so specified.

(4) Where an application for a licence is granted under this section, the Under Secretary or Conservator shall cause to be registered each of the premises at or upon which the holder is authorized by the licence to carry on business, and shall thereupon grant and issue to the holder a certificate of registration.

(5) (a) Where the holder of a licence under this section—

- (i) intends to remove his business to other premises;
- (ii) intends to open new premises,

he shall give to the Under Secretary or Conservator seven days' notice in writing of his intention, and at the same time—

- (iii) return the certificate of registration held by him; and
- (iv) make application in the form and manner prescribed for a fresh certificate of registration.

(b) The Under Secretary or Conservator may grant and issue a fresh certificate of registration in accordance with the application and thereupon the former certificate shall be of no further force or effect.

(c) Where the holder of a licence under this section intends to cease carrying on business under his licence, he shall give to the Under Secretary or Conservator seven days' notice in writing of his intention, and shall at the same time return the certificate of registration held by him, and after the date specified by the holder in the notice as the date of cessation of business that certificate shall be of no force or effect.

(6) Upon conviction for an offence against this Act of a person licensed under this section, the Under Secretary—

(a) may revoke;

(b) may suspend for such period (not exceeding the balance of the term of the licence) as he determines,

any licence or certificate of registration held by that person under this section.

(7) (a) A person who feels aggrieved by a decision of the Under Secretary, Conservator or authorized officer under this section may appeal to the Minister from that decision.

(b) An appeal shall be by way of notice in writing given within 21 days after notification of the decision has been communicated to the person aggrieved and no later.

(c) The notice shall set out briefly the grounds of appeal.

(d) The Minister shall, upon making such enquiries as he considers necessary, determine the appeal and his decision shall be final and binding on all parties.

(e) The Minister may at any time refuse to determine an appeal or to take any action on an appeal if he is of the opinion that the appeal is frivolous or vexatious.

57. Offences by fauna dealers and other persons dealing in fauna.

(1) The holder of a fauna dealer's licence who keeps or deals in fauna other than fauna that he is permitted to keep or deal in under that licence—

(a) taken at a time and place when and where that fauna is non-protected fauna;

(b) taken otherwise than in contravention of this Act during an open season with respect to that fauna at a place to which that open season refers;

(c) taken pursuant to a permit (other than an open season fauna permit) that permits the sale of that fauna;

(d) that is exotic fauna, other than prohibited fauna; or

(e) that is hybrid, mutated or in colour form not found in the wild state, other than prohibited fauna,

is guilty of an offence against this Act.

Penalty: Minimum \$200; maximum \$3,000.

(2) The holder of a fauna dealer's licence who—

(a) save in accordance with a permit under section 60 keeps, buys, sells, forwards or receives on consignment or otherwise disposes of protected fauna at a time other than during an open season with respect to that protected fauna;

- (b) sells, forwards on consignment or otherwise disposes of fauna with respect to which royalty payable under this Act remains unpaid,

is guilty of an offence against this Act.

Penalty: Minimum \$200; maximum \$3,000.

- (3) The holder of a fauna dealer's licence who—

- (a) fails to carry on the business authorized by the licence in accordance with the terms, conditions or restrictions imposed by that licence;
- (b) carries on business at or upon premises in respect of which a certificate of registration has not been granted and issued;
- (c) at any time keeps, buys, sells, forwards or receives on consignment or otherwise conveys or disposes of live fauna that is permanently protected fauna (whether or not bred in captivity) or the carcass or skin thereof or an article made wholly or partly from the skin thereof.

is guilty of an offence against this Act.

Penalty: Minimum \$200; maximum \$3,000.

(4) A person shall not sell or advertise for sale or notify by any means whatever that he has for sale fauna other than aviary birds, or engage in, or advertise or represent by any means that he engages in, the business of dealing in fauna whether on his own behalf or on behalf of another person unless he is the holder of a fauna dealer's licence.

A person commits an offence against this subsection if he does the act complained of on one occasion only.

Penalty: Minimum \$200; maximum \$3,000; and in addition \$10 for each fauna in respect of which the offence is committed.

(5) A person shall not remove from the premises of a fauna dealer fauna or any part thereof on which royalty payable under this Act remains unpaid.

Penalty: minimum \$200; maximum \$3,000; and in addition \$10 for each fauna or part thereof in respect of which the offence is committed.

This section is in addition to and not in derogation from any other provision of this Act with respect to keeping, buying, selling or otherwise disposing of permanently protected fauna.

Division II—Disposal of fauna

58. Prohibition of dealings in permanently protected fauna. A person who buys or sells or attempts to buy or sell, keeps for sale, prepares for sale, manufactures, takes for sale, otherwise deals in, receives or forwards on consignment or otherwise conveys permanently protected fauna or any part thereof or any article wholly or partly made from the skin thereof or processes permanently protected fauna is guilty of an offence against this Act.

A person commits an offence against this section if he does the act complained of on one occasion only.

Penalty: First offence—minimum \$100; maximum \$1,000; second or subsequent offence—minimum \$200; maximum \$3,000; and in addition in any case \$200 for each fauna in respect of which the offence is committed.

59. Prohibition of dealings in fauna other than permanently protected fauna. (1) A person who save by or under the authority of this Act—

- (a) buys or sells or attempts to buy or sell, keeps for sale, prepares for sale, manufactures, takes for sale, otherwise deals in, receives or forwards on consignment or otherwise conveys, fauna other than permanently protected fauna or any part thereof or any article made wholly or partly from the skin or feathers of that fauna or processes fauna other than permanently protected fauna;
- (b) sells fauna other than permanently protected fauna or fauna obtained from fauna other than permanently protected fauna taken pursuant to a permit other than an open season fauna permit, save where that permit allows such a sale,

is guilty of an offence against this Act.

Penalty: Minimum \$200; maximum \$3,000; and in addition twice the royalty payable on each fauna in respect of which the offence is committed.

(2) A person commits an offence against this section if he does the act complained of on one occasion only.

60. Power to permit keeping and disposal of fauna during close season.

(1) The Under Secretary or Conservator may, upon application and upon being satisfied that an offence against this Act has not been committed with respect thereto, grant and issue a permit in writing to the holder of a fauna dealer's licence, authorizing him to keep, sell or otherwise dispose of protected fauna at a time other than during an open season with respect to that protected fauna.

(2) A permit granted and issued under subsection (1) shall contain such particulars and be subject to such terms, conditions or restrictions as are prescribed or so far as not prescribed as the Under Secretary or Conservator thinks fit.

61. Furnishing of information by dealers. (1) An officer may require the holder of a fauna dealer's licence to furnish to that officer such information as he requires with respect to fauna received, bought, kept, sold or otherwise disposed of by that holder.

(2) Any holder who fails to furnish to an officer information or who furnishes information that is false or misleading, upon being required to do so under subsection (1), is guilty of an offence against this Act.

Penalty: Minimum \$200; maximum \$1,000.

Division III—Movement of Fauna

62. Removal of fauna within the State. (1) An officer may, upon application, grant and issue a permit in writing to any person, authorizing him to remove from one part of the State to another part thereof—

- (a) permanently protected fauna;
- (b) protected fauna;
- (c) non-protected fauna other than such as is being taken for meat or skins;
- (d) prohibited fauna,

that has been taken otherwise than in contravention of this Act.

(2) A permit granted and issued under subsection (1) shall contain such particulars and be subject to such terms, conditions or restrictions as are prescribed or so far as not prescribed as the officer thinks fit.

(3) Save as is provided in subsection (4) and prescribed in the regulations, a person who, save in accordance with a permit under this section, at any time removes, attempts to remove or permits to be removed from one part of the State to another part thereof any fauna specified in subsection (1) is guilty of an offence.

Penalty: Minimum \$200; maximum \$3,000.

(4) The Under Secretary or Conservator may for the purposes of this section specify areas within which prescribed species of fauna may be removed without a permit under this section.

63. Removal of fauna from the State. (1) An officer may, upon application and upon being satisfied—

- (a) that an offence against this Act has not been committed with respect to the fauna in question; and
- (b) that authority for the importation of the fauna into the State or Territory of the Commonwealth, or country, if required, has been obtained,

grant and issue a permit in writing to any person, authorizing him to remove from a place in the State of Queensland to a place outside that State—

- (c) permanently protected fauna;
- (d) protected fauna;
- (e) non-protected fauna.

(2) A permit granted and issued under subsection (1) shall contain such particulars and be subject to such terms, conditions or restrictions as are prescribed or so far as not prescribed as the officer thinks fit.

(3) A person who, save in accordance with a permit under this section, at any time removes, attempts to remove or permits to be removed from a place in the State of Queensland to a place outside that State any of the fauna specified in subsection (1), is guilty of an offence.

Penalty: Minimum \$200; maximum \$3,000.

64. Introduction of fauna into the State. (1) The Under Secretary, Conservator or other officer authorized by either of them in that behalf may, upon application and upon being satisfied that authority for the exportation of the fauna from the State or Territory of the Commonwealth, or country, if required, has been obtained, grant and issue a permit in writing to any person authorizing him to send or bring into the State of Queensland fauna of any kind.

(2) A permit granted and issued under subsection (1) shall contain such particulars and be subject to such terms, conditions or restrictions as are prescribed or so far as not prescribed as the Under Secretary or Conservator thinks fit.

(3) A person who, save in accordance with a permit under this section, at any time sends or brings, attempts to send or bring or permits to be sent or brought into the State of Queensland from outside that State fauna of any kind is guilty of an offence.

Penalty: Minimum \$200; maximum \$3,000.

65. Prohibition of liberation of non-indigenous fauna. (1) Subject to subsection (2), a person shall not liberate or permit to be liberated in the State fauna that is not indigenous to the State.

Penalty: Minimum \$250; maximum \$3,000; and in addition \$50 for each fauna in respect of which the offence is committed.

(2) The Governor in Council may from time to time by Order in Council permit the liberation in the State of fauna specified therein that is not indigenous to the State, for any scientific purpose.

66. Breeding of fauna for sale. (1) This section shall commence on a date appointed by Proclamation and shall apply with respect to such species of fauna as is prescribed from time to time.

(2) (a) The Minister may, in respect of species of fauna prescribed under subsection (1), upon application, grant and issue to any person a permit authorizing that person—

- (i) to breed fauna specified therein for gain or reward;
- (ii) to sell fauna so bred or fauna obtained from fauna so bred.

(b) An application for a permit under this section shall be in the prescribed form, shall contain the prescribed particulars and shall be accompanied by the prescribed fee, if any.

(c) A permit granted and issued under paragraph (a)—

- (i) shall be in the prescribed form;
- (ii) shall contain the prescribed particulars;
- (iii) shall not be transferable;
- (iv) shall be subject to the terms, conditions or restrictions prescribed and to such other terms, conditions or restrictions as the Minister thinks fit and specified therein;
- (v) shall be in force for a period of up to but not exceeding 12 months from the date of its grant;
- (vi) may be revoked at any time.

(3) A person who, save in accordance with a permit under subsection (2), breeds fauna prescribed under subsection (1) for gain or reward or sells fauna so bred or fauna obtained from fauna so bred is guilty of an offence against this Act.

Penalty: Minimum \$100; maximum \$1,000.

PART XI—ROYALTY

67. Payment to Crown. (1) Subject to subsection (4), royalty at the rates prescribed shall be payable to the Crown on prescribed fauna.

(2) Notwithstanding this Act or any other Act or law, payment of royalty on fauna pursuant to this Act does not transfer property in that fauna from the Crown.

(3) Rates of royalty may vary in respect of different species of fauna.

(4) The regulations may exempt from the payment of royalty species of fauna specified therein in cases where that fauna is taken otherwise than in contravention of this Act.

68. Persons liable for payment of royalty. (1) The following persons shall be jointly and severally liable for the payment of royalty:—

- (a) the person who takes the fauna;

- (b) a fauna dealer or other person who at any time after the taking of the fauna receives or keeps the fauna or fauna obtained therefrom.

Liability for the payment of royalty arises—

- (c) in a case to which subparagraph (a) applies, immediately upon the taking of the fauna in question;
- (d) in a case to which subparagraph (b) applies, immediately upon the receipt of the fauna in question.

(2) Royalty shall be paid immediately upon becoming payable but, save by way of penalty in connexion with an offence against this Act, royalty shall not be paid more than once on any fauna.

(3) Where fauna in respect of which royalty payable under this Act remains unpaid is lawfully received by a person liable for the payment thereof, then, notwithstanding any other Act or law, he may deduct from moneys due and owing by him to the person from whom he received that fauna the amount of unpaid royalty and, upon payment to the Crown of the amount so deducted, he shall be discharged of his obligation to that other person to the extent of the amount so paid.

69. Offences. (1) A person who fails to pay royalty that he is liable to pay under this Act is guilty of an offence against this Act.

(2) A person who is convicted of an offence against this section shall, in addition to the penalty that may be imposed for that offence, be liable to a penalty of twice the royalty in respect of which he is convicted.

70. Recovery of royalty. (1) Royalty payable under this Act and not paid may be recovered—

- (a) by a summary proceeding under the *Justices Act* 1886–1973 on complaint by the Under Secretary or Conservator or a person thereunto authorized in writing by either of them; or
- (b) by action as for a debt due to the Crown in any court of competent jurisdiction by the Minister or person thereunto authorized in writing by the Minister.

(2) Proceedings taken for the recovery of royalty against one person shall not be a bar to the recovery of the same royalty from another person, save that in no case, except a case to which subsection (2) of section 68 refers, shall royalty be payable more than once in respect of any fauna.

(3) Proceedings may be taken under this section against a person for the recovery of royalty payable under this Act but not paid whether or not—

- (a) proceedings have been taken against that person for an offence in respect of such non-payment; or
- (b) that person has been convicted of an offence in respect of such non-payment.

(4) Proceedings to recover royalty payable under this Act and not paid may be brought in a court of competent jurisdiction in the City of Brisbane or within the Magistrates Courts District within which, or within 35 kilometres of the boundary of which, the defendant resides or the fauna in question was taken or kept.

(5) The court may, upon convicting a person on a charge for an offence against this Act with respect to fauna, if it is satisfied that royalty payable under this Act by that person with respect to fauna (whether fauna the subject of the charge or not) remains unpaid, in addition to any penalty to which that person is liable upon conviction, order that person to pay such royalty as the court determines.

Failure to make such an order shall not be a bar to proceedings under this section for the recovery of royalty not paid.

71. Power to detain fauna seized until royalty is paid. (1) Fauna, in respect of which royalty payable under this Act is not paid, that is seized by a fauna officer may be detained by him until that royalty is paid.

(2) Fauna so seized and detained shall, without further or other authority, be forfeited to Her Majesty, unless all royalty payable thereon is paid within one month of its seizure and detention.

(3) A seizure and detention or forfeiture under this section shall not prejudice or affect in any way proceedings under this Act for the recovery of royalty or for an offence in respect of the non-payment thereof.

PART XII—MISCELLANEOUS PROVISIONS.

72. Offence by holder. The holder of a licence, permit, certificate or other authority granted and issued under this Act who fails to comply with any term, condition or restriction to which that licence, permit, certificate or other authority is subject is guilty of an offence against this Act.

73. Requirement as to carrying permit or other authority. The holder of a permit or other authority granted and issued under this Act authorizing him to take fauna shall, at all times while he is engaged in doing anything for the doing of which that permit or other authority is required, carry that permit or authority with him.

74. Inspection of appliances. (1) A person who lawfully uses an appliance for the taking of fauna shall inspect that appliance or cause it to be inspected at intervals of not more than 36 hours from the time when that appliance was last set, placed in position or inspected.

(2) A person making an inspection pursuant to subsection (1) shall remove from an appliance fauna taken thereby.

75. Requirement as to proof of the lawful taking or keeping of fauna. (1) An officer may require a person found at any time by him keeping fauna to furnish to the Conservator, within such time as is prescribed or such extended time as the officer specifies, proof that such fauna was taken or is being kept in accordance with this Act.

Failure by a person to whom a requirement under this section is directed to furnish proof in accordance therewith shall be evidence that the fauna was taken or is being kept in contravention of this Act.

(2) In a proceeding for an offence in respect of the fauna so kept, the court shall convict the person charged unless he proves to the court's satisfaction that the fauna was taken or is being kept in accordance with this Act.

(3) Where proceedings taken are dismissed upon the proof required by subsection (2) being given, the court shall not award costs to the person charged if it is of opinion that—

- (a) he failed to furnish proof to the Conservator in compliance with the requirement of an officer; or
- (b) he furnished proof to the Conservator that differed in any respect from the proof given to the court.

76. Power of Minister to revoke or suspend licence or other authority.

(1) Notwithstanding this Act, the Minister may at any time during the currency of a licence, permit, certificate or other authority under this Act—

- (a) revoke;
- (b) suspend for such period as he thinks fit (not exceeding the balance of the term thereof),

that licence, permit, certificate or other authority and thereupon it shall be revoked or suspended, as the case may be, accordingly.

(2) A decision of the Minister under this section shall be final and conclusive and shall not be subject to any appeal.

(3) Where the holder of a licence, permit, certificate or other authority under this Act is convicted of an offence against this Act, the Minister may order that such holder be disqualified from obtaining or holding a further licence, permit, certificate or other authority for a period of two years from the date of that conviction.

(4) This section shall not prejudice or otherwise affect in any way an action or proceeding against any person or an act of authority done, under this Act.

77. Power of court to revoke or suspend licence or other authority.

(1) Where the holder of a licence, permit, certificate or other authority under this Act is convicted of an offence upon indictment or of an offence against this Act or any other Act summarily, the Judge of the Supreme Court or a District Court presiding at his trial upon indictment or the justices before whom he is convicted, as the case may be, is or are satisfied upon the evidence (or in a case where the person charged has pleaded guilty, upon the facts submitted by the prosecutor admitted or not disputed)—

- (a) that the licence, permit, certificate or other authority was instrumental in enabling, aiding or facilitating the commission of the offence;
- (b) that, having regard to the nature of the offence or the circumstances in which the offence was committed, the offender should be prohibited from holding the licence, permit, certificate or other authority;
- (c) that for any other reason the licence, permit, certificate or other authority should not continue in force,

the Judge or justices may, in addition to imposing a penalty that may be imposed, order that the licence, permit, certificate or other authority be revoked, or suspended for such period not exceeding the balance of the term thereof as the Judge or justices thinks or think fit, and thereupon it shall be revoked or, as the case may be, suspended in accordance with that order.

(2) This section shall not prejudice or otherwise affect in any way any other provision of this Act with respect to the revocation or suspension of a licence, permit, certificate or other authority under this Act and failure by a Judge or justices to make an order under this section shall not prevent the Minister from exercising the power conferred upon him by section 76.

(3) A copy of any order made pursuant to this section shall be transmitted to the Under Secretary by the proper officer of the court that recorded the conviction.

78. Effect of suspension. Where a licence, permit, certificate or other authority under this Act is suspended, it shall be of no force or effect during the period of suspension, and shall remain in force only for the period during which it would have remained in force but for the suspension.

79. Surrender of licence or other authority revoked or suspended. (1) Where a licence, permit, certificate or other authority under this Act is revoked or suspended, the person to whom that licence, permit, certificate or other authority was granted and issued shall within seven days after demand made upon him by a fauna officer deliver up the same to that fauna officer.

(2) If a person who is convicted of an offence that consists of a failure to comply with a demand made pursuant to this section fails to deliver up the licence, permit, certificate or other authority, as the case requires, within 14 days after the date of that conviction, he commits a further offence and is liable to a penalty of \$10 for every day during which that offence continues.

80. Forgery and like offences with respect to a licence or other authority. A person—

- (a) shall not forge or counterfeit a licence, permit, certificate or other authority;
- (b) shall not utter a licence, permit, certificate or other authority so forged or counterfeited;
- (c) shall not personate any person named in a licence, permit, certificate or other authority;
- (d) shall not falsely represent himself to be a fauna officer or honorary protector;
- (e) shall not connive at any of the offences specified in subparagraphs (a), (b), (c) or (d);
- (f) shall not knowingly make a false statement in any application under this Act for a licence, permit, certificate or other authority.

Penalty: \$1,000 or imprisonment for 12 months.

81. Offences generally and penalty. (1) A person who contravenes or fails to comply with any provision of this Act is guilty of an offence against this Act.

(2) A person who—

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

by a person acting under the authority of this Act commits an offence against this Act.

(3) (a) Where no penalty is expressly provided, a person who is guilty of an offence against this Act is liable to a penalty of \$1,000.

(b) Notwithstanding any other Act, where a person is convicted of an offence against this Act the penalty to which he is liable is in addition to a forfeiture under this Act.

82. Proceedings for offences. (1) Prosecution for offences against this Act shall be taken by way of summary proceedings under the *Justices Act 1886-1973* within 12 months after the offence is committed or within 12 months after the commission of the offence comes to the knowledge of the complainant, whichever period is the later to expire.

(2) A prosecution for an offence against this Act may be instituted—

(a) by a person authorized in writing in that behalf by the Minister;

(b) in a case where the offender is arrested under this Act, by the person who made the arrest.

(3) A complaint for an offence against this Act in respect of the taking or keeping of fauna may be heard and determined at a place appointed for holding Magistrates Courts within the Magistrates Courts District within which, or within 35 kilometres of the boundary of which, the fauna was taken or kept or within which, or within 35 kilometres of the boundary of which, the fauna or any part thereof is subsequently found.

It is immaterial for the purposes of this section that the person charged with an offence is not the person in whose keeping the fauna or any part thereof is found.

(4) Notwithstanding this Act or any other Act, in a proceeding on a complaint, the court may make an order on any matter within its jurisdiction though no application or complaint is made in respect thereof.

(5) On a conviction for an offence against this Act, the court may order such payment as it thinks fit by way of compensation for loss of time or in recoupment of expenses incurred in consequence of the offence of which the offender is convicted or in connexion with the proceedings to secure that conviction.

(6) Proceedings for an offence against this Act or for the recovery of royalty payable under this Act and not paid, involving a body corporate, may be taken against a director, manager or secretary, or public officer thereof and that person shall be personally liable in those proceedings for the offence or, as the case may be, payment of the royalty in question.

This subsection applies so as not to affect in any way the liability of a body corporate for an offence against this Act or for the payment of royalty under this Act.

83. Detention, forfeiture, disposal of fauna, appliances or other things seized. (1) Fauna, appliances or other things seized under this Act may be detained for a period of 12 months, unless—

(a) it is sooner established to the satisfaction of the Under Secretary that, at the time of seizure and detention, no offence against this Act in relation to the fauna, appliance or other thing seized had been committed, in which case that fauna, appliance or other thing shall be returned to the person from whom it was taken; or

(b) within that period—

- (i) proceedings for an offence against this Act in relation to the fauna, appliance or other thing seized; or
- (ii) proceedings for an offence against this Act in which the fauna, appliance or other thing seized may be used as evidence, have been instituted, in which case the fauna, appliance or other thing seized shall be detained until the final determination of those proceedings if that period exceeds 12 months.

(2) (a) Where a person is convicted of an offence against this Act, any fauna, appliance or other thing in respect of which the offence was committed shall by virtue of such conviction be forfeited to Her Majesty.

(b) Where the Minister so orders, forfeiture under this subsection shall extend to and include fauna and every appliance or other thing seized with the fauna, appliance or other thing in respect of which the offence was committed but, notwithstanding this provision, the Minister, upon being satisfied—

- (i) that such appliance or other thing is the property of a person (other than the person convicted) who has used due diligence to prevent a contravention of this Act; and
- (ii) that the offence has been committed without that person's knowledge, consent or connivance,

may order that such appliance or other thing be delivered up to that person on such terms or conditions, if any, as the Minister thinks fit.

A person who fails to comply with a term or condition imposed by the Minister under this subsection is guilty of an offence against this Act.

(3) Notwithstanding this Act, the Minister may order that any fauna, appliance or other thing seized under this Act be forfeited to Her Majesty though proceedings have not been taken for, nor any person convicted of, an offence against this Act in respect thereof.

(4) Fauna and every appliance or other thing forfeited to Her Majesty under this Act shall be dealt with or disposed of in such manner as the Minister directs.

(5) A forfeiture, dealing with or disposal of fauna, or of any appliance or other thing under this section shall not confer upon any person a right to compensation.

84. Saving of rights of Crown in respect of fauna. The provisions of this Act with respect to the seizure, detention or forfeiture of fauna shall not prejudice or affect in any way the rights of the Crown with respect to fauna that by virtue of section 7 is the property of the Crown, and those rights may be exercised at any time.

85. Appropriation of penalties and other moneys. Unless otherwise expressly provided, all penalties, costs, fees, royalty and compensation recovered under this Act shall be paid into and form part of the Consolidated Revenue Fund.

86. Appropriation for costs of administration. The costs of administration of this Act shall be paid out of moneys from time to time appropriated by Parliament for the purpose.

87. Penalties enacted by way of notice to offender. (1) Where an officer finds—

- (a) a person committing an offence against this Act;
- (b) that an offence against this Act has been committed in or on any place,

and having regard to the nature of the offence, the place where the offence is or has been committed and the circumstances in which the offence is or has been committed, that officer believes that proceedings under this section are adequate, he may, upon ascertaining the name and the address of the usual place of residence of—

- (c) the person found committing the offence; or
- (d) the owner or occupier of the place in or on which the officer found the offence to have been committed,

as the case requires, give that person the notice specified in this section, or, in a case to which subparagraph (b) applies, affix that notice in a conspicuous position in or on the place where the offence has been committed.

(2) The notice—

- (a) shall be identified by a serial number;
- (b) shall identify the person to whom it is given by his name and the address of his usual place of residence;
- (c) shall state in general terms the offence that the person has been found committing or that the officer has found to have been committed, as the case may be;
- (d) shall inform the person in general terms that if he does not desire the matter to be determined in a court hearing he may complete the form attached to or appearing upon the notice and forward or deliver that form together with a prescribed sum by way of penalty to the person named therein within the time appointed in the notice (which shall not be less than 10 days from the date of the giving of the notice) whereupon he will not be liable to a further penalty or costs in the matter;
- (e) shall inform the person in general terms that he has the right to decline to proceed in the manner described in subparagraph (d) and to allow the matter to be determined in a court hearing—
 - (i) if he desires to contest the question whether the offence alleged was in fact committed;
 - (ii) if he wishes to submit to the court matters in extenuation of penalty; or
 - (iii) for any other reason, in which event he need not reply or take further action in respect of the notice and that in such case court process will issue against him in due course.

(3) Where a person to whom a notice is given pursuant to subsection (1) proceeds in the manner described in paragraph (d) of subsection (2) within the time appointed in the notice, a proceeding against him by way of prosecution for the offence alleged in the notice shall not be competent but otherwise such a proceeding may be commenced as if the notice had not been given.

(4) Subject to paragraph (b) of subsection (5), where an officer finds that an offence against this Act has been committed in or on any place,

the owner or occupier of that place at the time the commission of the offence was discovered shall be deemed to have committed that offence and may be proceeded against and shall be punishable accordingly.

(5) (a) Subject to paragraph (b), where a notice has been given or affixed in or on any place under this section, and the sum of money by way of penalty is not paid to the person named therein within the time appointed therein, the alleged offence may, notwithstanding any other provision of this Act, be prosecuted upon the complaint of an officer authorized in writing by the Minister in that behalf against the owner or occupier or any other person alleged to be guilty of that offence.

(b) An owner or occupier of any place shall not by virtue of subsection (4) be deemed guilty of an offence not actually committed by him if, not later than 10 days after the date of service upon him of a summons for that offence, he supplies to the Conservator a statement in writing verified upon oath or by statutory declaration stating facts that prove to the satisfaction of the Conservator that some other person actually committed the offence and, if known, the name of that other person and the address at which he may be located.

88. Evidentiary provisions. (1) In a proceeding for the purposes of this Act—

- (a) it shall not be necessary to prove the appointment of an officer or honorary protector nor the authority of an officer or honorary protector to do any act or give any direction or order;
- (b) a signature purporting to be that of an officer or honorary protector shall be taken to be the signature it purports to be until the contrary is proved;
- (c) it shall not be necessary to prove the limits of any locality or area or that any place is within a district, sanctuary, refuge, reserve, locality or an area, but this provision shall not prejudice the right of a defendant to prove the limits of the locality or area or that any place is not within the district, sanctuary, refuge, reserve, locality or area in question;
- (d) proof that fauna is kept by a person shall be evidence of the unlawful taking thereof by him;
- (e) a document purporting to be a copy of a licence, permit, certificate or other authority 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, certificate or other authority;
- (f) a document purporting to be signed by the Under Secretary stating that at a specified time or during a specified period there was or was not in force a licence, permit, certificate or other authority under this Act and that such licence, permit, certificate or other authority was or was not subject to the terms, conditions or restrictions set out shall upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in that document;
- (g) a certificate purporting to be signed by the Under Secretary certifying as to the receipt or otherwise of a notice, application or payment or any other thing required by this Act to be given or made shall upon its production in that proceeding be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in that certificate;

- (h) proof of the bringing or sending into, or the placing, using or keeping in or upon a sanctuary, refuge, reserve or other place of any appliance shall be evidence that the appliance was brought or sent into or placed, used or kept for the purpose of unlawfully taking fauna therein or thereon;
- (i) proof that a gun was fired in or from any place without having been raised at arm's length and fired from the shoulder without other support shall be evidence **that the gun is a prohibited gun**;
- (j) an allegation or averment in a **complaint** that a person committed the act in respect of which the complaint is made for a specified purpose or that fauna is permanently protected fauna, protected fauna or non-protected fauna or that any carcass, feather, skin, egg or nest is of or from permanently protected fauna, protected fauna or non-protected fauna shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of that allegation or averment.

(2) Where a person is liable under this Act to punishment for taking fauna or flora it is immaterial that the fauna or flora in question was not taken into possession by the person liable or any other person.

(3) This section shall not prejudice or in any way affect other means of proving the elements of an alleged offence nor lessen nor affect the onus of proof falling on an offender.

89. Power to delegate. The Minister, Under Secretary or Conservator may either generally or otherwise as provided by the instrument of delegation, by writing signed by him, delegate to any person all or any of his powers, authorities, functions and duties under this Act except this power of delegation.

(2) A power, authority, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms or limitations as the Minister, Under Secretary or Conservator thinks fit including a requirement that the delegate shall report to him upon the exercise or performance of the delegated power, authority, function or duty.

(4) The Minister, Under Secretary or Conservator may make such and so many delegations of the same power, authority, function or duty and to such number of persons as he considers necessary or desirable.

(5) A delegation is revocable at the will of the Minister, Under Secretary or Conservator and does not prevent the exercise of a power or authority or the performance of a function or duty by him.

90. Protection of Crown, Minister and officers. (1) Liability at law shall not attach to the Crown, the Minister, Under Secretary, Conservator or person acting with the authority of the Minister, Under Secretary, Conservator or any other officer or honorary protector on account of anything done for the purposes of this Act or done in good faith and purporting to be for the purposes of this Act.

(2) The provisions of this Act with respect to offences in relation to fauna do not apply to the Minister or any officer while acting for a purpose connected with the conservation of fauna or to an honorary protector while exercising the powers or performing the functions or duties conferred or imposed upon him by or under this Act.

91. Trespassing on holding. (1) If the owner or occupier of a holding or his authorized agent suspects that a person trespassing on that holding is committing, has committed or is on that holding for the purpose of committing, an offence against this Act, he—

- (a) may demand from that person his full name and the address of his usual place of residence; and
- (b) may require him to quit the holding.

(2) A person who—

- (a) save under this Act or any other Act, enters or is on a holding for the purpose of taking fauna without the permission of the owner or occupier thereof;
- (b) refuses or otherwise fails to give his full name and the address of his usual place of residence upon demand made under subsection (1);
- (c) refuses or otherwise fails to quit a holding when required under subsection (1) to do so,

is guilty of an offence against this Act.

(3) In a proceeding for an offence against subparagraph (a) of subsection (2), proof that a person on the holding had in his possession any appliance shall be evidence that that person entered or was on the holding for the purpose of taking fauna.

(4) This section does not prejudice or in any way affect any right or remedy that the owner or occupier of a holding might have had against a trespasser thereon independently of this Act.

92. Mode of service of documents. A notice, requisition or other writing authorized or required by this Act to be given to any person shall be duly given if—

- (a) it is served personally on the person to whom it is directed;
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives it;
- (c) it is sent by post to the place of residence or business of the person to whom it is directed last known to the person who gives it.

93. Regulations. (1) The Governor in Council may make regulations not inconsistent with this Act for or with respect to—

- (a) the powers and duties of fauna officers, other officers and honorary protectors;
- (b) applications for and the grant and issue of licences, permits, certificates or other authorities under this Act and duplicates thereof; the terms, conditions or restrictions subject to which licences, permits, certificates or other authorities under this Act are granted, and subject to which fauna may be taken and kept thereunder; all matters and things relating to the surrender, transfer, revocation, suspension or endorsement of such licences, permits, certificates or other authorities;
- (c) records to be kept and returns to be furnished by holders of licences, permits, certificates or other authorities under this Act; requirements as to keeping and inspection by officers of those records;
- (d) all matters and things necessary for the conservation of fauna in the State; the introduction into, the keeping and liberation in

the State of fauna not found ordinarily in a condition of natural liberty in the State; the removal within or from the State of fauna;

- (e) all matters and things relating to sanctuaries, refuges and reserves, including, but without limiting the generality of this provision, their control; placing them under the control of Local Authorities (and in that event prescribing terms, conditions or restrictions with respect thereto); prevention of interference with or injury to or scaring of fauna thereon or therein; prevention of contamination of or pollution thereof; prohibition against or control of persons or classes of persons entering them;
- (f) delegation to a Local Authority (or any officer thereof) of any power, authority or function under this Act conferred or imposed upon any person; the powers, authorities or functions that may be so delegated and all matters or things necessary either generally or in a particular case to give effect to a delegation so made; prescribing the officers of a Local Authority to whom a delegation may be made;
- (g) approval of the constitution and rules of a society that has for one of its objects the furtherance of this Act; defining the powers, functions, duties and privileges of such society;
- (h) all matters and things relating to exotic fauna and aviary birds;
- (i) the buying, keeping, selling or other disposal of fauna bred in captivity or obtained from fauna bred in captivity;
- (j) the buying, keeping, exhibiting or selling of any fauna or the prohibition thereof either permanently or for a specified period; the taking, keeping, preparing, manufacturing, processing, transporting, displaying, buying, selling or having in possession for any purpose fauna by a taxidermist, preparator or other person or the prohibition of any of those things;
- (k) methods of laying poison for any lawful purpose; safeguards in connexion therewith to prevent destruction of permanently protected fauna and protected fauna;
- (l) the conditions under which fauna may be consigned, sold or transported and the proper caging of such fauna;
- (m) the inspection of premises of fauna dealers; inspection and registration of any class of premises (including aviaries or other enclosures) where fauna is housed whether for private purposes or public exhibition purposes; cleansing and the sanitary conditions of premises where fauna is housed; construction of premises including design and size of aviaries and other enclosures, materials to be used in constructing, painting, preserving and maintaining premises; aesthetic presentation and display of fauna; ensuring a proper food and water supply to fauna in captivity and generally to safeguard such fauna;
- (n) the inspection and identification of all fauna wherever taken or kept;
- (o) fees (including royalty) payable under this Act; matters in respect of which fees and royalty are payable; methods of collection thereof; manner, time and place of payment thereof; persons by whom and the fauna in respect of which fees and royalty are payable; all matters relating to the recovery thereof;

- (p) the production and delivery of tickets, invoices or delivery notes relating to fauna consigned or sold; the particulars that those tickets, invoices or delivery notes are to contain;
- (q) the preservation of good order among persons engaged in taking, keeping or dealing in fauna pursuant to this Act;
- (r) the entry (with or without horses or dogs) by holders of open season fauna permits upon holdings within the areas in which operations are permitted; the terms, conditions or restrictions governing such entry generally or in any particular case;
- (s) the terms, conditions or restrictions generally or in any particular case governing the taking of protected fauna during an open season (or any specified period thereof) or under an open season fauna permit including, but without limiting the generality of this provision, the following—
 - (i) the number of that fauna that a person may take;
 - (ii) the methods of taking that fauna;
 - (iii) prohibition of or restrictions on the use of specified appliances for the taking of that fauna;
- (t) all matters pertaining to the institution and conduct of appeals against decisions for the purposes of this Act;
- (u) offences under this Act in respect of which a notice may be given to an offender or affixed in or on any place advising that a prescribed penalty may be paid for any such offences without involving court proceedings, which offences may be prescribed separately or by reference to a particular Part of this Act or by a general statement incorporating reference to offences against any provision of this Act or any offence except specified offences against the provisions of this Act;
- (v) the sums of money that shall be payable as penalties in respect of offences prescribed under subparagraph (u), which sums may be prescribed differently in relation to different offences or differently in relation to any such offence according to previous like offences or the time, place or circumstances related to the commission of the offence; persons to whom those penalties shall be paid and the procedure with respect to payment: generally;
- (w) all such other matters as shall be shown on a notice given to an offender or affixed in or on any place;
- (x) penalties not exceeding \$1,000 for any contravention of or failure to comply with the regulations;
- (y) the forms to be used for the purposes of this Act and the particular purposes for which those forms shall respectively be used;
- (z) all matters required or permitted by this Act to be prescribed where the manner of prescription is not specified;
- (aa) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

The power to regulate conferred by the provisions of this subsection includes the power to prohibit.

(2) Regulations may be made—

- (a) to apply generally or to meet a particular case or class of case;
- (b) to apply throughout the State or within any part of the State.

94. **Orders in Council.** Section 28A of the *Acts Interpretation Act* 1954–1971 shall apply with respect to Orders in Council made for the purposes of this Act and, for the purposes of such application, the said section shall be read as if references to “regulations” or a “regulation” were references to Orders in Council made for the purposes of this Act or, as the case may be, such an Order.

SCHEDULE

[s. 18]

PERMANENTLY PROTECTED FAUNA

Mammals

Common Name	Scientific Name
Bennett's tree kangaroo	<i>Dendrolagus bennettianus</i>
Echidna or spiny ant-eater	<i>Tachyglossus aculeatus</i>
Koala	<i>Phascolarctus cinereus</i>
Platypus	<i>Ornithorhynchus anatinus</i>
Queensland hairy-nosed wombat	<i>Lasiorhinus latifrons</i>
Queensland rat kangaroo	<i>Bettongia tropica</i>
Yellow-footed rock wallaby	<i>Petrogale xanthopus</i>

Birds

Common Name	Scientific Name
Golden-winged parrot	<i>Psephotus chrysopterygius</i>
Paradise parrot	<i>Psephotus pulcherrimus</i>