

Queensland



ANNO TRICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 24 of 1985

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

[ASSENTED TO 15TH APRIL, 1985]

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 *Deer Farming Act* 1985.

2. **Commencement.** (1) This section and section 1 shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act shall commence on a day appointed by Proclamation.

3. **Arrangement of Act.** This Act is arranged as follows:—

PART I—PRELIMINARY (ss. 1-8);

PART II—ADMINISTRATION (ss. 9-11);

PART III—CONTROL OF FARM DEER (ss. 12-19);

PART IV—LICENSING OF DEER FARMS (ss. 20-26);

PART V—POWERS (ss. 27-30);

PART VI—MISCELLANEOUS (ss. 31-44).

4. **Amendments.** (1) The *Fauna Conservation Act* 1974-1984 is amended as indicated in the Second Schedule.

That Act as so amended may be cited as the *Fauna Conservation Act* 1974-1985.

(2) The *Stock Act* 1915-1984 is amended as indicated in the Third Schedule.

That Act as so amended may be cited as the *Stock Act* 1915-1985.

5. **Interpretation.** In this Act, save where the contrary appears—

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

“Chief Inspector” means the Chief Inspector of Stock within the meaning of the *Stock Act* 1915-1985;

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

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

“farm” when used as a verb in relation to the activity of farming deer means the depasturing or raising of deer for their sale or slaughter or the harvesting of velvet or other deer products, as the predominant purpose thereof;

- “ feral area ” means an area constituted under section 10 to be a feral area for a particular species of deer;
- “ have in possession ” includes having under control in any place, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual custody of the thing in question;
- “ inspector ” means an inspector appointed or holding office under this Act: the term includes the Chief Inspector;
- “ honorary inspector ” means an honorary inspector appointed under this Act;
- “ licence ” means a deer farming licence within the meaning of section 20;
- “ licence holder ” means a person to whom has been issued or transferred under this Act, a licence which is in force at the material time;
- “ Minister ” means the Minister of the Crown who, at the material time, is charged with the administration of this Act and includes any Minister of the Crown who is temporarily performing the duties of the Minister;
- “ obstruct ” includes assault, threaten, abuse, insult, intimidate and attempt to obstruct;
- “ prescribed earmark ” means a mark or cut of the prescribed shape and size made in the prescribed ear of deer;
- “ prescribed species of deer ” means species of deer prescribed pursuant to section 8;
- “ vehicle ” includes a conveyance of any kind, whether or not it is at the material time capable of being operated or moved in any manner and includes any caravan or trailer;

6. Farm deer definition. In this Act, unless the contrary intention appears, “ farm deer ” means—

- (a) deer upon which a prescribed earmark has been duly made in accordance with section 13; and
- (b) deer which is the young of a dam that is a farm deer and is less than three months old.

7. Displaced farm deer definition. In this Act, unless the contrary intention appears, “ displaced farm deer ” means a farm deer that is at a place that is—

- (a) not within a feral area for its species; and
- (b) not within a licensed deer farm that is licensed with respect to its species,

otherwise than in accordance with a permit issued under section 18 of this Act.

The term “ displaced ” when used with respect to farm deer has a corresponding meaning.

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

- (a) Red Deer (*Cervus elaphus*);
- (b) Fallow Deer (*Dama dama*);
- (c) Chital Deer (*Axis axis*);
- (d) Rusa Deer (*Cervus timorensis*).

(2) The Governor in Council may, from time to time by Order in Council, prescribe deer of any other description as species for the purpose of this Act.

PART II—ADMINISTRATION

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

(2) An inspector or officer referred to in subsection (1) shall be appointed under and shall hold office subject to the *Public Service Act* 1922–1978.

(3) For the purposes of this Act an inspector, other than an honorary inspector or acting inspector, holding office under the *Stock Act* 1915–1985 shall, by virtue of his office and without further appointment hold office as an inspector under this Act.

(4) The Minister may from time to time by notification published in the Gazette appoint such persons as are appointed as field officers under the *National Parks and Wildlife Act* 1975–1984 as honorary inspectors for the purposes of this Act and may in like manner revoke any such appointment.

An appointment as an honorary inspector under this subsection shall be subject to such terms and conditions as are set forth in the notification.

10. Feral areas. The Governor in Council may, by Order in Council, with respect to a prescribed species of deer, constitute a part of the State a feral area for that species and assign to it a name, and may in like manner—

- (a) abolish a feral area;
- (b) alter the boundaries of a feral area;
- (c) alter the name of a feral area.

11. Power of delegation. (1) The Minister may, either generally or otherwise as provided by the instrument of delegation by writing signed by him, delegate—

- (a) to any person;
- (b) to the holder of an office, specifying its title but not the name of the holder for the time being,

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 performed or discharged, as the case may be, by the delegate, shall be exercised performed or discharged in accordance with the instrument of delegation.

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

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

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

PART III—CONTROL OF FARM DEER

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

(2) It is not a defence to a charge of an offence defined in subsection (1) that in connexion with the farming there was in force at the material time a licence, permit or other instrument of authority provided for under the *Fauna Conservation Act 1974–1985*.

13. Earmarking. (1) A person may make the prescribed earmark on deer in his possession for the purpose of making it farm deer if the deer is one of the prescribed species and—

- (a) in respect of the deer he holds a permit issued to him under section 53A of the *Fauna Conservation Act 1974–1985*, which is in force at the material time, and he has paid any royalty payable under section 67 of that Act;
- (b) it is the young of a dam that is a farm deer of which he is the owner; or
- (c) he holds a permit to make the prescribed earmark issued to him pursuant to section 14, which is in force at the material time.

(2) The prescribed earmark provided for by this section shall be made with pliers approved by the Chief Inspector, and not otherwise.

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

14. Permit to earmark established herds. (1) In a case where a person is, at the commencement of this Act, in possession of a deer, the property of the Crown by reason only of section 7 of the *Fauna Conservation Act 1974–1985*, that is one of the prescribed species, he may make an

application to the Chief Inspector to be issued with a permit to make the prescribed earmark on the deer in accordance with section 13 for the purpose of making it farm deer.

(2) The application may be made at any time within three months of the commencement of this Act, and shall be in the prescribed form and accompanied by the prescribed fee (if any).

(3) The Chief Inspector shall consider each application and may refuse or grant it.

(4) Where he refuses an application he shall refund to the person who made it the amount of any fee paid in respect thereof less the amount of any cost incurred in considering it that in his opinion is reasonable.

(5) Where he grants an application he shall issue a permit in the prescribed form.

(6) A permit issued under this section shall remain in force for a period of one month and shall then terminate.

(7) The Chief Inspector shall not grant an application unless he is satisfied—

- (a) that the deer the subject of the application—
 - (i) was in the possession of the applicant at the commencement of this Act and remains in his possession; and
 - (ii) is deer in relation to which he was carrying on farming at the commencement of this Act and continues so to do; and
- (b) that there is no person other than the applicant who has a better claim to the ownership conferred by section 15 by virtue of the degree of control exercised, or rights obtained, over the deer the subject of the application.

15. Farm deer as the subject of property. (1) This subsection applies only with respect to deer that, but for the provisions of this subsection, would be the property of the Crown by reason only of section 7 of the *Fauna Conservation Act 1974–1985*.

Upon a deer becoming farm deer by reason of its being earmarked in accordance with section 13, the property rights therein had by the Crown by reason of section 7 of the *Fauna Conservation Act 1974–1985* shall thereby terminate and the deer shall thereby become the property of the person who, being duly authorized under that section, has made the earmark in accordance with that section, subject however to the rights of any other person (other than the Crown) in that deer.

A deer that is farm deer by reason that—

- it is the young of a dam that is farm deer; and
- it is less than three months old,

is the property of the owner of the dam, subject however to the rights of any other person (other than the Crown) in that deer and any property rights therein had by the Crown by reason of section 7 of the *Fauna Conservation Act 1974–1985* are terminated.

(2) Notwithstanding the provisions of subsection (1), where a deer to which that subsection applies ceases to be farm deer by reason that—
it has become three months old; and

it has not been earmarked in accordance with section 13,
the Crown shall thereupon have property rights therein as provided for by section 7 of the *Fauna Conservation Act 1974* to the exclusion of the rights had by any other person therein.

(3) For the purpose of determining the nature of property rights in or in respect of farm deer that a person may have or dispose of or that a person may be deprived of it shall be deemed that a farm deer is a domestic animal.

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

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

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

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

An owner, and a prescribed person, is deemed to receive information that a farm deer is displaced when he or his employees or agents receive information from which it ought reasonably to be suspected that the farm deer is displaced.

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

A requirement may be made under this subsection against two or more persons with respect to the same displaced farm deer.

(5) When an owner of a displaced farm deer, or a prescribed person, cannot be located after reasonable inquiry, or when a person against whom a requirement under this subsection has been duly made fails to comply with it, an inspector or honorary inspector, with the authority of the Chief Inspector, may take such steps as he thinks fit to ensure that the farm deer ceases to be displaced.

The power to take steps includes the power to seize.

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

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

(7) In this section the term “prescribed person” means—

- (a) when the farm deer is displaced because it is at a licensed deer farm which is not licensed with respect to its species, the licence holder, and the person in charge, of that licensed deer farm;
- (b) when the farm deer is displaced as a result of escaping or being released from a licensed deer farm, the licence holder with respect to the licensed deer farm and the person in charge of the licensed deer farm;
- (c) when the farm deer is displaced as a result of being abandoned by an owner, that owner;
- (d) a person who is in possession of the farm deer when it escapes or is released and as a result is displaced, including the person in charge of any vehicle from which it escapes or is released and as a result is displaced; and
- (e) any person who has the displaced farm deer in his possession.

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

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

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

The power to take steps includes the power to seize.

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

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

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

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

- (a) be paid to the owner; or
- (b) in the event that the owner cannot be located after reasonable inquiries, be paid into the Consolidated Revenue Fund.

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

(a) to any one owner; or

(b) to each of the owners or some of the owners in such proportions as it thinks fit,

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

This subsection shall not be construed so as to bar the right of a person entitled to recover by action moneys payable under subsection (5) from a person to whom those moneys have been paid by the Crown under this subsection.

18. Displaced farm deer permit. (1) An inspector may issue to a person a short term displaced farm deer permit authorizing farm deer, for a period not exceeding thirty days, to be outside a licensed deer farm that is licensed with respect to its species in a place or places not within a feral area for its species.

(2) The Chief Inspector may issue to a person a long term displaced farm deer permit authorizing farm deer, for a period in excess of thirty days, to be outside a licensed deer farm that is licensed with respect to its species in a place or places not within a feral area for its species.

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

(4) A short term displaced farm deer permit issued under this section—

(a) shall be in the prescribed form;

(b) shall be subject to such terms and conditions as are prescribed and such further terms and conditions as the inspector who issues it thinks fit and specifies therein;

(c) may be altered by an inspector from time to time by specifying therein the alterations;

(d) may be cancelled at any time by an inspector;

(e) may be a permit with respect to particular farm deer or farm deer generally;

(f) may be a permit with respect to a particular occasion or class of occasions.

(5) A long term displaced farm deer permit issued under this section—

(a) shall be in the prescribed form;

(b) shall be subject to such terms and conditions as are prescribed and such further terms and conditions as the Chief Inspector thinks fit and specifies therein;

(c) may be altered by the Chief Inspector from time to time by specifying therein the alterations;

(d) may be cancelled at any time by the Chief Inspector.

(6) When a permit issued under this section is cancelled in accordance with this section, the permit shall thereupon terminate.

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

(2) The licence holder and person in charge of a licensed deer farm which is located in a place that is not within a feral area for any species of deer kept at the licensed deer farm shall, in addition to performing any duty imposed upon him by subsection (1), maintain such fencing as shall prevent the movement out of the licensed deer farm of deer of that species.

(3) The term "maintain" in subsections (1) and (2) includes "erect and maintain".

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

In this subsection "opening" means an opening which might allow farm deer to move out of the licensed deer farm.

(5) Where there is not maintained at a licensed deer farm the fencing required by subsection (1) or subsection (2), an inspector may, by order in writing, require the licence holder and person in charge of the licensed deer farm to take within such time as is therein specified, such steps as are therein specified, to carry out the fencing necessary for compliance with subsection (1) or subsection (2) as the case may be.

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

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

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

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

PART IV—LICENSING OF DEER FARMS

20. Deer farming licences. The Chief Inspector may issue—

- (a) A feral area deer farming licence permitting the farming of prescribed species of deer specified in the licence at a place specified in the licence within an area constituted a feral area with respect to the deer specified;

- (b) a non-feral area deer farming licence permitting the farming of prescribed species of deer specified in the licence at a place specified in the licence that is not within an area constituted a feral area with respect to the deer specified; or
- (c) a combined deer farming licence permitting at a place specified in the licence both the farming mentioned in paragraph (a) and the farming mentioned in paragraph (b),

and may renew or transfer a licence previously issued.

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

(2) An application shall be in the prescribed form and shall be accompanied by the prescribed fee (if any).

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

(3) The Chief Inspector shall consider each application and shall refuse or grant it.

Where he refuses an application he shall refund to the person who made it the amount of any fee paid with respect to it less the amount of any cost incurred in considering it that in his opinion is reasonable.

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

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

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

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

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

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

23. Suspension or cancellation. (1) The Chief Inspector may, at any time during the currency of a licence, by notice in writing served on the licence holder, suspend it for such period as he thinks fit (not exceeding the balance of the period for which it would otherwise be in force), or cancel it, if—

- (a) it was issued in error or in consequence of a false or misleading document or representation;
- (b) the licence holder is convicted of an offence against this Act;
- (c) for any reason it is the opinion of the Chief Inspector that the licence holder is not a fit and proper person to hold a licence.

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

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

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

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

26. Register of licences. In a register kept for the purpose the Chief Inspector shall record—

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

PART V—POWERS

27. General powers. (1) An inspector or honorary inspector may, at any time, with such assistants, vehicles and equipment as he considers necessary for the proper discharge of his duties—

- (a) subject to this Act, enter and remain in any place—
 - (i) if he suspects or believes on reasonable grounds that in that place there is any deer, fence, crush, race or other thing with respect to which an offence against this Act has been committed, is being committed or is likely to be committed, or any deer or other thing with respect to which he has a power of seizure;
 - (ii) if it is necessary in order to ascertain whether the provisions of this Act are being complied with or to exercise a power conferred upon him by this Act;

- (b) search any place entered pursuant to paragraph (a) and make such inspection, investigation or inquiry as is necessary for the purposes of this Act;
- (c) in the exercise of the power conferred by paragraph (b) break open and search any box, receptacle or package of any kind at that place;
- (d) at any place, seize any deer or other thing with respect to which he has reasonable grounds for believing that an offence against this Act has been committed or is being committed or that he believes will afford evidence as to the commission of an offence against this Act;
- (e) remove deer and any other thing seized by him from the place where it was seized to such place as he determines or allow it to remain at the place of seizure and in the latter case make such arrangements as he considers necessary to protect its seizure;
- (f) require the licence holder with respect to any licensed deer farm to hold at the licensed deer farm any deer which has been seized by the inspector or honorary inspector pursuant to this Act, whether or not the licence holder has any interest in, or was in any way responsible for the seized deer before it was seized;
- (g) require any person to furnish for inspection at such times and places as he specifies—
 - (i) books or copies thereof that person has in his possession that were prepared or are kept for a purpose connected with this Act; or
 - (ii) any licence, permit or other instrument of authority issued to that person under this Act or which he has in his possession, or any copy thereof;
- (h) take notes or copies of or extracts from, books furnished pursuant to paragraph (g);
- (i) stop, detain, or search for deer any vehicle that he suspects on reasonable grounds contains deer;
- (j) for the purposes of exercising the power in paragraph (e)—
 - (i) require any person in possession of a vehicle containing seized deer to remove that vehicle to such place as he determines; or
 - (ii) remove any vehicle, or authorize any person to remove any vehicle, containing seized deer to such place as he determines;
- (k) require—
 - (i) the licence holder or a person apparently in charge of a licensed deer farm to muster or hold for inspection any or all deer or farm deer at the licensed deer farm or in his possession (including deer outside the deer farm);
 - (ii) any person who is the owner of farm deer, or apparently in possession of deer, to muster or hold for inspection any or all of those deer or farm deer;

- (l) question a person—
 - (i) found by him in any place entered pursuant to paragraph (a);
 - (ii) found by him with or near deer;
 - (iii) found by him in or near a vehicle stopped, detained or searched pursuant to paragraph (i);
 - (iv) who is a licence holder;
 - (v) who is the owner of, or apparently in charge of a place where there is any deer or where he suspects on reasonable grounds there is any deer;
 - (vi) who is the owner of farm deer, or apparently in possession of deer,
 - to ascertain whether this Act is being complied with and, subject to section 38, require that person to answer the questions put;
 - (m) require a person being questioned by him pursuant to paragraph (l) to state his name and usual place of residence;
 - (n) by order in writing, require a person who has failed to comply with this Act to take within such time as is therein specified such steps as are therein specified and to remedy those matters in respect of which non-compliance has occurred.
- (2) An order pursuant to paragraph (n) of subsection (1)—
- (a) shall be in the prescribed form;
 - (b) shall not prejudice or affect in any way any proceeding or action that has been or may be taken for the failure to comply that has resulted in the order, save that the person to whom the order is given is not liable for a continuation of the failure to comply during the time specified therein.

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

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

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

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

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

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

(4) In this section the term "inspector" includes "honorary inspector".

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

The term "maintain" in this subsection includes "erect and maintain".

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

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

An authorization which generally authorizes an inspector to make an order of the kind provided for in this section at a particular licensed deer farm shall be sufficient authorization for the purposes of this section.

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

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

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

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

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

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

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

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

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

Where the Minister orders a disposal of a seized deer or other thing there shall be paid out of the proceeds (if any) any costs, charges or expenses in connexion with the seizure, retention or disposal of the deer or thing in question, and the remainder of the proceeds (if any) shall be paid into the Consolidated Revenue Fund.

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

PART VI—MISCELLANEOUS

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

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

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

33. Duty to convert stored data to writing. Where a person records or stores any matter by means of a mechanical, electronic or other device, any duty imposed by this Act to make available any books containing those matters shall be construed as a duty to make the matters available in written form.

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

34. Obstruction. A person shall not obstruct an inspector or honorary inspector in the exercise of his powers under this Act.

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

(2) In this section—

- (a) the term “interferes with” means removes, obliterates, damages, obscures, alters or otherwise interferes with;
- (b) the term “identification marking” means a prescribed earmark, eartag, other device or mark, provided for or required under this Act.

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

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

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

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

shall be taken to have the intent to defeat the purposes of this Act.

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

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

(4) It is immaterial—

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

(5) In this section the term—

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

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

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

38. Offences in relation to information. A person shall not—

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

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

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

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

(2) A person who—

- (a) fails to do that which 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 or by any term or condition to which any licence, permit or other authority under this Act is subject, commits an offence against this Act.

(3) Unless a specific penalty is otherwise prescribed a person who commits an offence against this Act is liable to a penalty of \$1 000.

40. Proceedings for offences. Proceedings in respect of an offence against the Act shall be taken in a summary way under the *Justices Act* 1886–1982 within 12 months after the offence is committed or within

6 months after the offence comes to the knowledge of the complainant whichever period is the later to expire, upon the complaint of—

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

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

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

- (a) by delivering it or a copy to that person;
- (b) by leaving it or a copy at his usual or last known place of residence or business; or
- (c) by forwarding it or a copy by post addressed to that person at his usual or last known place of residence or business.

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

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

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

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

- (a) it shall not be necessary to prove the appointment of the Chief Inspector, any inspector, any honorary inspector or other officer or his authority to do any act, take any proceeding, or make any requirement or give any order;
- (b) a signature purporting to be that of the Minister, Chief Inspector, any inspector, or any honorary inspector or other officer shall be taken to be the signature it purports to be until the contrary is proved;
- (c) a document purporting to be a copy of a licence, permit, other instrument of authority, requirement, order or notice under this Act shall upon its production in that proceeding be evidence, and in the absence of evidence to the contrary

- conclusive evidence, of that licence, permit, authority, requirement, order or notice and of the due making, issuing, or giving of the original of which it purports to be a copy;
- (d) a certificate purporting to be that of the Chief Inspector as to any of the following matters shall upon its production be accepted as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein—
- (i) that at a specified time or during a specified period there was or was not in force a licence, permit or other instrument of authority provided for under this Act, as described in the certificate, issued to a specified person or with respect to a specified place or thing, and that any such instrument of authority was or was not subject to terms and conditions described in the certificate;
 - (ii) that there had not been received during a specified period or at any time a return or other matter specified therein required under this Act to be furnished to the Chief Inspector, or that a specified return or other matter has been received (or is the only return or other matter received) during a specified period or at any time;
 - (iii) that the person named therein holds the appointment or authority described therein;
- (e) an allegation or averment in a complaint—
- (i) that any place is or is not, or that any act, matter or thing was done or omitted to be done within or outside a particular feral area or any feral area;
 - (ii) that the commission of an offence against this Act came to the knowledge of the complainant at a specified time, shall be evidence, and in the absence of evidence to the contrary conclusive evidence, of that allegation or averment.

44. Regulations. (1) The Governor in Council may make regulations not inconsistent with this Act providing for all matters or things (whether general or to meet particular cases) that are necessary or convenient for the administration of this Act or for carrying this Act into effect.

Regulations may be made to apply generally throughout the State or within any part of the State or feral area or otherwise to be of such limited application as is indicated therein.

Regulations may provide for the approval of the Chief Inspector to be the standard to be applicable with respect to a particular matter.

(2) Without limiting the generality of the power conferred upon the Governor in Council by subsection (1), regulations may be made with respect to the matters set forth in the First Schedule.

(3) For the purposes of this Act the power to regulate includes the power to prohibit.

FIRST SCHEDULE

s. 44

SUBJECT MATTER FOR REGULATIONS

1. Persons administering Act. The powers, authorities, functions and duties of the Minister, Chief Inspector, inspectors, honorary inspectors and other officers engaged in the administration of this Act.

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

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

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

(d) the terms and conditions to which licences, permits or other instruments of authority issued under this Act are subject;

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

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

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

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

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

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

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

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

(a) prohibition or regulation of the keeping of farm deer outside a licensed deer farm whether or not in a place which is within a feral area for its species;

(b) prohibition or regulation of the movement of farm deer into or out of particular parts of the State;

(c) special controls with respect to farm deer which have not been bred in captivity.

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

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

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

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

10. Proof of certain matters. (a) The manner in which the matters set forth in section 14 (7) are to be proven to the satisfaction of the Chief Inspector;

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

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

12. Prescription. All matters required or permitted by this Act to be prescribed.

13. Penalties. Penalties with respect to offences against the regulations not exceeding \$1000 in any case.

SECOND SCHEDULE

s. 4

Amendments of the *Fauna Conservation Act* 1974-1984

Provision amended	Amendments
Section 5 Interpretation	Section 5 is amended by in the definition "mammal" inserting at the end thereof the words "or farm deer within the meaning of the <i>Deer Farming Act</i> 1985".
New Section 53A .. Power to permit fauna to be made farm deer.	<p>The following section is inserted after section 53:—</p> <p>"53A. Power to permit fauna to be made farm deer. (1) In the case of fauna that is deer, the Conservator may at any time upon application, by writing signed by him, permit the deer to be made farm deer in accordance with section 13 of the <i>Deer Farming Act</i> 1985.</p> <p>(2) An application for a permit under this section shall be in the prescribed form and shall be accompanied by the prescribed fee, if any.</p> <p>The Conservator shall consider each application and may grant or refuse it.</p> <p>The Conservator shall not grant an application unless he is satisfied that the applicant is—</p> <ol style="list-style-type: none"> (a) the owner of the deer; or (b) in a case where the deer is the property of the Crown by reason of the provisions of section 7, that there is no person other than the applicant who has a better claim to the ownership conferred by section 15 of the <i>Deer Farming Act</i> 1985 by virtue of the degree of control exercised, or rights obtained, in respect of the deer. <p>When the application is granted pursuant to this section the Conservator shall cause to be issued a permit.</p> <p>(3) A permit under this section—</p> <ol style="list-style-type: none"> (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 Conservator thinks fit and specifies therein; (e) shall be in force for a prescribed period; (f) may be revoked at any time.

SECOND SCHEDULE—*continued*

Provision amended	Amendments
	<p>(4) Where a permit issued 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 issued had expired.</p> <p>(5) A form of application or permit prescribed under this section may be prescribed as part of an application or permit, as the case may be, provided for in sections 53, 62 and 64.”.</p>
Section 75	<p>Section 75 is amended by omitting subsection (1) and inserting the following subsection:—</p> <p>“(1) An officer may require a person found at any time by him—</p> <p>(a) keeping fauna; or</p> <p>(b) keeping any deer,</p> <p>to furnish to the Conservator, within such time as is prescribed or such extended time as the officer specifies, proof that the fauna or deer was not taken or is not being kept in contravention of this Act.</p> <p>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 or deer were fauna taken or being kept in contravention of this Act.”.</p>

THIRD SCHEDULE

Amendments of the *Stock Act* 1915–1984

s. 4

Provision amended	Amendments
Section 3	<p>Section 3 is amended by—</p> <p>(a) inserting after the definition of “Drover” the following definition ““ Farm deer ” — Farm deer within the meaning of the <i>Deer Farming Act</i> 1985;”;</p> <p>(b) in the definition “Stock”, after the word and expression “poultry,”, inserting the word and expression “deer,”.</p>