



ANNO TERTIO

GEORGII V REGIS.

A.D. 1912.

No. 1106.

An Act to provide for the Protection of Wild Animals.

[*Assented to, December 19th, 1912.*]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as "The Animals Protection Act, 1912." Short title.

2. (1) The "Game Act, 1886," and "The Game Act Amendment Act, 1891," are hereby repealed. Repeal and saving clause.

No. 378 of 1886.

No. 527 of 1891.

(2) Such repeal shall not affect—

(a) Anything done, suffered, or omitted under either of the said Acts, nor the effect of the doing, suffering, or omission thereof;

(b) Any right, privilege, obligation, or liability acquired, accrued, or incurred under either of the said Acts;

(c) Any penalty, forfeiture, or punishment incurred, or liable to be incurred in respect of any offence committed against either of the said Acts; or

(d) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment.

Any such investigation, legal proceeding, or remedy may be instituted, carried on, and prosecuted as if this Act had not been passed.

3. In

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Interpretation.

3. In this Act, except where the context otherwise requires or some other meaning is clearly intended—

“Animal” means any wild mammalian animal of any kind whether native or introduced:

“Carcass” means the carcass of an animal, and includes any part of the carcass of an animal:

“Close season” means, with regard to an animal of any kind, the period of time during which animals of that kind are protected:

“Closed area” means any area declared under this Act to be a closed area:

“Crown lands” means Crown lands as defined in “The Crown Lands Act, 1903,” or lands reserved for or dedicated to any public purpose:

“Inspector” means an Inspector appointed under this Act, and includes the Chief Inspector and any member of the Police Force:

“Minister” means the Minister of the Crown to whom, for the time being, the administration of this Act is committed by the Governor.

“Prescribed” means prescribed by this Act:

“Proclamation” means proclamation made by the Governor and published in the *Government Gazette*:

“Protected” means protected by this Act:

“Sale” includes barter and exchange; and to sell has a corresponding meaning:

“Skin” means the skin of an animal, and includes any part of the skin of an animal:

“Take” includes any act of hunting, catching, killing, or injuring, or of attempting or assisting to hunt, catch, kill, or injure:

“This Act” includes regulations and proclamations made under this Act.

Application of the Act.

4. Unless otherwise prescribed, the provisions of this Act shall apply throughout the whole of the State of South Australia.

Appointment of officers.

5. (1) The Governor may appoint a Chief Inspector and such Inspectors and other officers as he thinks fit to carry out the provisions of this Act.

(2) Every member of the Police Force shall, by virtue of his office, be an Inspector under this Act.

6. (1) The

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- 6.** (1) The animals mentioned in the First Schedule are hereby wholly protected. Animals protected wholly.
Cf. Birds Protection Act, 1900, s. 3.
- (2) The animals mentioned in the Second Schedule are hereby partly protected. Partly protected.
- (3) The animals mentioned in the Third Schedule are unprotected. Unprotected.
- 7.** (1) Wholly protected animals are protected animals at all times. Close season.
Ibid.
- (2) Partly protected animals are protected animals during the period specified in the Second Schedule, or during such other period as is prescribed.
- 8.** The Governor may from time to time by proclamation,— Powers of the Governor.
- I. Transfer any animal from any of the Schedules to either of the other Schedules: To alter Schedules.
Ibid.
 - II. Prescribe a close season for any partly protected animal, either in substitution for the period specified in the Second Schedule or otherwise: To prescribe close seasons.
Ibid.
 - III. Prescribe any area within which the provisions of this Act shall or shall not apply with respect to animals generally or to any particular animal or animals: To prescribe territorial application.
 - IV. Declare any Crown lands to be a closed area with respect to animals generally or to any particular animal or animals. To declare closed areas.
Cf. Fisheries Act, 1904, s. 4 (b).
- 9.** (1) All animals with respect to which a closed area has been declared shall, within such closed area, be deemed to be wholly protected animals, notwithstanding that they are elsewhere only partly protected or are unprotected. Closed areas.
- (2) Any dog found trespassing upon any closed area may be destroyed, and the destruction thereof shall not confer any right to compensation upon any person. Dogs trespassing thereon may be destroyed.
- 10.** (1) The Minister may grant permits for the taking on Crown lands or elsewhere, for scientific purposes, of any protected animals. Powers of the Minister.
Permits for scientific purposes.
Conditions of licence or permit.
Cf. Birds Protection Act, 1900, s. 7.
- (2) Every permit granted hereunder may be issued subject to such restrictions and upon such terms as the Minister thinks fit: Provided that— Revocation.
- (a) Every permit shall be liable to revocation by the Minister;
 - (b) Every permit shall specify a period during which the same will remain in force, unless otherwise revoked; and Duration.
 - (c) In no case shall such period exceed twelve months.
- 11.** Every

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Powers of Inspectors.

11. Every Inspector may, at any time, without any warrant other than this Act—

To apprehend.

Fisheries Act, 1904,
s. 7 (b).

i. Apprehend any person offending against the provisions of this Act who refuses on demand to give his name and address, or who in the opinion of the Inspector gives a false name or address :

Search premises.

Cf. *ibid* (c).

ii. Enter and search any premises or place where there is, or he suspects there is, any animal, carcass, or skin taken, or which he suspects to have been taken, in contravention of the provisions of this Act, or where any animal, carcass, or skin is on sale or kept for the purposes of sale, or in which he believes any animal, carcass, or skin to be on sale, or to be kept for the purposes of sale :

Search vehicles.

Cf. *ibid*.

iii. Search any vehicle or any box, receptacle, or package, and open any box, receptacle, or package containing, or which he suspects to contain, any animal, carcass, or skin taken, or which he suspects to have been taken, in contravention of the provisions of this Act, and examine any such animal, carcass, or skin :

Seize forfeited property.

Cf. *ibid.*, s. 20.

iv. Seize any property forfeited by, or which he has reason to believe to be liable to forfeiture under this Act :

Demand permit.

Ibid., s. 8 (e).

v. Demand the production of any permit issued under this Act :

Require names and addresses.

vi Demand the name and address of any person whom he has reason to suspect of any offence against the provisions of this Act :

Generally.

vii. Do any other thing prescribed, or which may be necessary for enforcing the provisions of this Act, or for detecting offences against this Act.

Forfeiture.

Cf. *ibid.*, s. 18.

Birds' Protection Act,
1900, s. 5.

12. Every animal taken and the carcass and skin of every animal taken, and every gun, trap, or other instrument used, or intended to be used, in contravention of the provisions of this Act, is hereby forfeited to His Majesty and shall be disposed of as directed by the Minister; and the forfeiture and disposal thereof shall not confer any right to compensation upon any person.

Offences.

Taking protected animal.

Birds' Protection Act,
1900, s. 4.

In possession of protected animal or carcass.

Dealing in protected animals or carcasses.

Exporting.

13. Every person shall be guilty of an offence against this Act who—

- i. Takes any protected animal ;
- ii. Has any protected animal or the carcass or skin of any protected animal in his possession or control ;
- iii. Purchases or sells, offers, exposes, or has for sale, any protected animal or the carcass or skin of any protected animal ;
- iv. Exports, or keeps for the purpose of export, any protected animal or the carcass or skin of any protected animal ;

v. Enters,

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- v. Enters, or is upon, any closed area with any gun, trap, or other instrument capable of being used for the purpose of taking any animal: Provided that this subdivision shall not apply to any person so acting under authority from the Minister, or from any person or body, corporate or otherwise, in whom the control of such closed area is vested. Entering closed area with gun, &c.
- vi. Refuses to give his name or address when lawfully demanded under this Act; Refusal to give name.
- vii. Refuses to deliver up to any Inspector any property forfeited by, or liable to forfeiture under this Act; or Refusal to deliver forfeited property.
- viii. Resists or in any way interferes with or hinders any Inspector in the execution of his duty. Resisting Inspector.
- 14.** In the case of partly protected animals, every carcass or skin, as to which during the close season any question arises, shall be deemed to be and to have been the carcass or skin of a protected animal, unless it is proved that the animal was in fact taken before the commencement of such close season. Presumption as to carcasses of partly protected animals.
- 15.** Every person who uses any artificial light for the purpose of taking any opossum shall be guilty of an offence against this Act. Use of artificial light for taking opossums an offence.
- 16.** The owner or occupier of any land, or the servant or agent of such owner or occupier, may demand the name and address of any person trespassing upon such land whom he suspects of any offence against this Act, and may require any such trespasser to quit such land. Trespasser to give name, &c., and quit when required.
- 17.** (1) Every person shall be guilty of an offence against this Act who— Offences by trespasser.
- i. Enters or is upon any land, other than Crown lands, for the purpose of taking any animal without the permission of the owner or occupier of such land; Trespassing to take animals. Cf. Game Amendment Act, 1891, s. 7.
- ii. Refuses to give his name and address, or gives a false name or address when lawfully demanded under section 16; Refusal to give name.
- iii. Refuses to quit any land when lawfully required under section 16; or Refusal to quit.
- iv. Re-enters upon any land after having been lawfully required under section 16 to quit the same. Re-entering.
- (2) In any proceeding for any offence under this section the onus of proving the permission of the owner or occupier shall lie upon the defendant.
- (3) In any proceeding for any offence under subdivision i. of subsection (1) of this section the fact that any person has with him Presumption as to purpose of trespass. Game Protection Act, 1886, s. 10.
OR

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or in his possession any dog, gun, or other instrument capable of being used for the purpose of taking any animal shall be *prima facie* evidence that such person entered or was upon such lands for the purpose of taking some animal.

Exemption in certain cases.

Aboriginal may take for food.

Cf. Birds Protection Act, 1900, s. 4. i.

Animals in confinement.

Cf. *ibid.* iii.

Protection of cultivated lands.

Cf. *ibid.* iv.

18. Notwithstanding anything in this Act it shall be lawful for—

- i. Any full-blooded aboriginal to take any animal upon any Crown lands, other than a closed area, sufficient only for food for himself or his family, but not for sale:
- ii. Any person to keep any animal as a domestic pet:
- iii. Any person being the owner or occupier of any garden, plantation, or cultivated land, or any person authorised by such owner or occupier, to take any animal therein for the *bona fide* protection of such garden, plantation, or cultivated land, or anything growing, planted, or sown therein: Provided that no carcass or skin of any protected animal so taken shall be sold, or offered, exposed, or kept for sale.

Exemption to permittees for scientific purposes.

19. Nothing in this Act—

- (a) Shall render unlawful anything done by any person to whom a permit has been granted by the Minister to take any animals for scientific purposes: Provided that such thing is within the authority conferred by such permit and that such permit is produced for inspection whenever lawfully demanded; or
- (b) Shall apply in respect of any animal taken for or kept by the South Australian Zoological and Acclimatisation Society Incorporated.

South Australian Zoological Society.

Regulations.

20. (1) The Governor may make any regulations which may be necessary or convenient for carrying out or giving effect to the provisions or objects of this Act, including regulations prescribing the payment of fees, and imposing penalties not exceeding Ten Pounds for any one offence against any regulation.

Publication and effect of regulations.

(2) All regulations—

- (a) Shall be published in the *Government Gazette* ;
- (b) From the date of such publication, or from a later date fixed by the order making the same, shall (subject to subsection (2) hereof) be of the same effect as if they were contained in this Act; and
- (c) Shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is in Session, and if not, then within fourteen days after the commencement of the next Session of Parliament.

Disallowance by Parliament.

(3) If either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any

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any time within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not occur in the same Session or Parliament as that in which the regulation is laid before such House.

(4) When a resolution has been passed as mentioned in subsection (3) hereof, notice of such resolution shall forthwith be published in the *Government Gazette*.

Resolution to be notified in *Gazette*.

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21. Every person who is guilty of an offence against this Act, shall, except where otherwise prescribed, be liable—

Penalties.

(a) For the first offence to a penalty of not less than One Pound nor more than Five Pounds ;

(b) For a second or subsequent offence to a penalty of not less than Two Pounds nor more than Twenty Pounds ; and

(c) In the case of any offence against subdivision I., II., III., or IV. of section 13, to an additional penalty in respect of every animal, carcass, or skin improperly taken, held, or dealt with, not exceeding Five Pounds if a wholly protected animal or the carcass or skin of a wholly protected animal, or otherwise not exceeding Two Pounds.

Additional Penalties.
Cf. Birds Protection Act, 1900, s. 8.

22. (1) Proceedings in respect of any offence against this Act shall be by information, which shall be heard and determined in a summary way, by any Special Magistrate or two Justices of the Peace, under the provisions of the Ordinance No. 6 of 1850, and any amendments thereof, or of any other Act for the time being in force regulating summary proceedings before Justices of the Peace.

Proceedings for offences.

(2) All convictions and orders made by any such Magistrate or Justices in such proceedings may be enforced as provided by the said Ordinance and amendments or other Act as aforesaid.

23. There shall be an appeal from—

Appeal.

(a) Any order of a Special Magistrate or Justices;

(b) Any conviction by a Special Magistrate or Justices;

(c) Any order dismissing an information ;

under this Act.

(2) Such appeal shall be to the Local Court of Adelaide in its Full Jurisdiction, and shall be regulated by the said Ordinance No. 6 of 1850, and any amendments thereof, or any other Act for the time being in force regulating appeals to Local Courts.

(3) The

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(3) The Local Court shall have power to make such order as to costs as it thinks fit, and the amount of costs ordered may exceed Ten Pounds.

Local Court may state a case for opinion of Supreme Court.

24. (1) The Local Court may state a special case for the opinion of the Supreme Court.

(2) The Supreme Court shall deal with such special case according to the practice of the Supreme Court on special cases, and may make such order therein, including any order as to costs, as to the said Court appears just.

(3) The Supreme Court may send the special case back for amendment, or may itself amend the same.

(4) The Justices, or the Local Court, shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the said Supreme Court, or a Judge thereof.

(5) Such order of the Justices or Local Court, shall be enforced in manner provided by section 22 or otherwise by law.

Protection to officers.

25. No action shall be brought against any Inspector or other person for or on account of any matter or thing done or committed by him in the execution, or intended execution, of his duty or office under this Act, unless such action is commenced within six months after the cause of action arises.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

DAY H. BOSANQUET, Governor.

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SCHEDULES.

FIRST SCHEDULE.

Sec. 6.

ANIMALS WHOLLY PROTECTED.

Bandicoot
Flying Squirrel
Banded Ant-eater
Native Bear
Opossum

Dormouse Opossum
Duck-billed Platypus
Native Porcupine
Rock Wallaby
Kangaroo Mouse

SECOND SCHEDULE.

Sec. 6.

ANIMALS PARTLY PROTECTED.

Kind of Animal.	Close Season.
Seal, Hair and Fur Kangaroo Wallaby of all kinds, with the exception of Rock Wallaby Kangaroo Rat Deer All other animals native to Australia, excepting only those included in the First and Third Schedules.	1st July to 31st December (both dates included).

THIRD SCHEDULE.

Sec. 6.

ANIMALS UNPROTECTED.

Foxes
Hares
Domestic Cats run wild
Rabbits

Wild Dogs
Rats and Mice.
Wombat

And all other animals introduced into Australia, excepting only those included in the
First and Second Schedules.