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## Birds and Animals Protection (Amendment) Bill, 1935.

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### EXPLANATORY MEMORANDUM.

THE main object of this Bill is to tighten up the law with regard to the disposal of skins of protected birds and animals.

It is proposed to institute a system of licensing dealers and skin selling brokers. A dealer may purchase skins in certain circumstances, and may sell them through a skin selling broker only, or he may export same only after paying a royalty to the Crown. The royalty is to be such as is fixed by the regulations.

A skin-selling broker may accept for sale on commission and may sell skins received from a licensed dealer or skins taken under licenses issued under sections seven or eighteen of the Act or from persons who obtained the skins during an open season or from a person authorised to dispose of forfeited skins.

The power to make regulations is extended in various regards. Section 8 relating to offences is amended to relieve the Crown from the burden of proving guilty knowledge on the part of the accused and to define more clearly the circumstances in which a person may lawfully have protected birds or animals in his possession.

The provision for forfeiture of skins of protected animals is amplified in certain respects.

[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1935.

# A BILL

To regulate the sale of the skins of protected animals; to provide for the issue of licenses to dealers and selling brokers of such skins; to provide for the payment of royalties on skins of protected animals; to amend the Birds and Animals Protection Act, 1918-1930; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty; by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Birds and Animals Protection (Amendment) Act, 1935," and shall be read with the Birds and Animals Protection Act, 1918-1930, in this Act referred to as the Principal Act.

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—(4)

(2)

Short title:

*Birds and Animals Protection (Amendment).*

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(2) The Principal Act as amended by this Act may be cited as the Birds and Animals Protection Act, 1918-1935.

2. The Principal Act is amended—

Amendment of Act No. 21, 1918.

- (a) by omitting from subsection three of section seven the words “protected animals, and upon the publication of such proclamation such provisions shall apply accordingly” and by inserting in lieu thereof the words “the protected animals specified in the proclamation and upon the publication of the proclamation in the Gazette such provisions shall, mutatis mutandis, apply to and in respect of the protected animals so specified”;

Sec. 7 (3). (Licenses to take or kill for sale.)

- (b) by inserting the following new section next after section seven:—

New s. 7A.

7A. (1) The Minister may upon application made in the manner prescribed issue licenses to operate either as dealers or as skin selling brokers in respect of the skins of protected animals.

Dealers and skin selling brokers.

(2) Every such license shall be in the prescribed form, and shall, unless sooner revoked, continue in force for a period of twelve months from the date of issue thereof, but may be renewed from time to time upon application made in the manner prescribed. Every renewal of license shall take effect from the expiration of the license or last renewal and shall continue in force for a period of twelve months.

(3) A person who holds a dealer's license may purchase skins of protected animals prior to payment of the royalty thereon, from the holder of a license issued under section seven or section eighteen of this Act or (in the case of a protected animal to which the provisions of section seven of this Act have not been applied) from any person who has obtained such skins during any open season and may sell the same through the agency of a skin selling broker but not otherwise, or after payment of the prescribed royalty may export the same.

(4)

(4) A person who holds a skin selling broker's license may accept for the purpose of sale on commission, and may sell the skin of any protected animal received from any licensed dealer or from the holder of any license issued under section seven or section eighteen of this Act, or (in the case of a protected animal to which the provisions of section seven of this Act have not been applied) from any person who obtained such skin during any open season or (where the skin has been forfeited under this Act) from a person authorised by the regulations or by the court to dispose of the skin.

(5) Save as prescribed no person who does not hold a license under this section shall sell or dispose of or traffic in any skins of protected animals upon which the royalty payable under the provisions of this Act has not been paid, except by way of sale to a licensed dealer, or by consigning the same to a skin selling broker for the purpose of sale.

- (c) (i) by omitting from subsection one of section eight the word "knowingly";
- (ii) by inserting at the end of the same subsection the following new paragraph:—

Sec. 8.  
(Penalty for having protected bird or animal in possession.)

The conditions specified in any such proclamation—

- (a) may adopt in whole or in part any regulation made in relation to any of the matters referred to in paragraphs (c) to (h) inclusive of subsection (1A) of section twenty-five of this Act;
- (b) may impose any requirement which might be imposed by a regulation made in relation to any of such matters.
- (iii) by omitting paragraph (a) of subsection two of the same section;

(iv)

(iv) by inserting next after paragraph (b) of the same subsection the following new paragraphs:—

or (c) in any case where he is charged with having such bird or animal in his possession or with having it in his house or with having it in his control—

(i) that he did not know and had no reason to suspect that such bird or animal was in his possession, house or control; or

(ii) that he is the holder of a license issued under section seven or section eighteen of this Act, and that such bird or animal was taken or killed by him in accordance with his license; or

(iii) that the bird or animal was taken or killed in accordance with a license issued under section nineteen of this Act; or

(d) that he is a licensed dealer and has purchased the skin, the subject matter of the charge, from the holder of a license issued under section seven or section eighteen of this Act, or (in the case of an animal to which the provisions of section seven of this Act have not been applied) from a person who obtained such skin during an open season; or

(e) that he is a licensed skin selling broker and has received the skin, the subject matter of the charge, for the purpose of sale on commission from a licensed dealer or from the holder of a license issued under section seven or section eighteen of this Act, or (in the case of an animal to which the

the provisions of section seven of this Act have not been applied) from a person who obtained the skin during an open season or (where the skin has been forfeited under this Act) from a person authorised by the regulations or by the court to dispose of the skin.

3. (1) The Principal Act is further amended—

Further amendment of Act No. 21, 1918.

- (a) by inserting next after section eighteen the following new section:—

New s. 18A.

18A. A royalty shall be paid as prescribed on all skins of any protected animals lawfully taken or killed under this Act.

Royalty.

- (b) (i) by inserting in subsection one of section twenty-five after the word "licenses" where firstly occurring the words "under section seven, section eighteen or section nineteen of this Act";

Sec. 25. (Regulations.)

- (ii) by inserting in the same subsection after the word "issued" where firstly occurring the words "and the circumstances in which they may be revoked";

- (iii) by inserting in subsection one of section twenty-five after the words "forfeited by the court under this Act" the words "or the regulations."

- (iv) by inserting after the words "furthering the objects thereof" appearing in the same subsection the following new subsection:—

(1A) Regulations may also be made for or with respect to any of the following matters:—

- (a) prescribing the amount to be paid as royalty on all skins of protected animals lawfully taken or killed under this Act;

(b)

- (b) prescribing the times at or within which, the manner in which and the persons by whom royalty on such skins shall be paid;
- (c) requiring the production to police officers at or within such times and by such persons as may be prescribed, of skins of protected animals;
- (d) requiring that such statements and information with respect to skins so produced as may be prescribed shall be furnished in the prescribed manner and form and at or within the prescribed time;
- (e) providing for the placing by police officers of a distinguishing mark on all skins so produced and for the issue of a certificate or permit in respect of each separate parcel of such skins by police officers;
- (f) providing (in cases where it is proposed to subdivide or otherwise alter the parcel referred to in any such certificate or permit) for the issue by police officers of certificates or permits for such subdivided or altered parcels;
- (g) prescribing the conditions under and subject to which skins of protected animals may be consigned for sale or sold (including a condition that no such consignment or sale shall be lawful unless each parcel of skins consigned or sold is accompanied by a certificate or permit issued by a police officer);
- (h) prescribing the times at which and the manner in which sales of skins of protected animals shall be effected;

(i)

- (i) prescribing the forms of applications for licenses or for renewals of licenses under section 7A of this Act, the fees to be paid on such applications or in respect of such licenses or renewals, and the circumstances in which an application for a license or for renewal of a license may be refused or a license may be revoked;
- (j) prescribing the records to be kept by persons holding licenses issued under section 7A of this Act;
- (k) providing for the forfeiture of skins of protected animals held by or being in the possession or within the control of any person in contravention of the provisions of this Act or the regulations.

A regulation made in relation to any of the matters referred to in this subsection—

- (i) may be made generally or with respect to the skins of any specified class of protected animals, or with respect to the skins of all protected animals other than a specified class;
- (ii) may make different provisions with respect to the skins of different classes of protected animals;
- (iii) may be made to apply or to have operation throughout the whole or any part of the State, and may be of general or specially limited application according to time, place or circumstances;
- (iv) may (without prejudice to the generality of any provision contained in this Act other than this subsection) impose a penalty upon any person who holds or has in his possession

or



or within his control, any parcel of skins of a protected animal, but who does not hold a certificate or permit issued in respect of that parcel by a police officer in accordance with the regulations or who neglects or refuses to produce such certificate or permit upon demand made by a police officer.

(2) That part of subsection one of section twenty-five of the Principal Act which commences with the words "The regulations may impose a penalty" and continues to the end of that subsection shall, after the commencement of this Act, be read as subsection (1B) of that section and shall be numbered accordingly.

4. The Principal Act is further amended—

(a) by omitting subsection three of section eight;

Further amendment of Act No. 21, 1918. Sec. 8. (Penalty for having protected birds or animals in possession.)

(b) (i) by omitting from section 24B the words "under section twenty-one, twenty-four, or 24A, any protected bird or animal, or any part of such bird or animal," and by inserting in lieu thereof the words "against this Act or the regulations any protected bird or animal or the skin or any part of such bird or animal or the eggs of any such bird";

Sec. 24B. (Forfeiture of skins of protected animals.)

(ii) by inserting at the end of the same section the following new subsection:—

(2) Where any skins of protected animals have been seized by a police officer and no proceedings have been taken within fourteen days after such seizure against any person for an offence against this Act or the regulations the following provisions shall have effect—

(a) Forthwith after the expiration of such fourteen days the officer in charge of police for the district in which

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which the skins were seized may give notice claiming the skins as forfeited.

Such notice shall be given personally or sent by post in a prepaid registered letter addressed to the person who, immediately before the skins were seized, held such skins or had the same in his possession or within his control, or where there is no such person or where the name or address of such person is not known to such officer, by publishing a copy of the notice once in the Government Gazette and in at least two issues of a newspaper circulating in the locality in which the skins were seized.

- (b) Any person who claims to be entitled to the skins may, within fourteen days after notice has been given to the person who, immediately before the skins were seized, held such skins or had the same in his possession or within his control, or within fourteen days after the last publication of the notice, as the case may be, lodge with the officer in charge of police who gave or published the notice, an instrument in writing disputing the forfeiture.

Such instrument shall furnish an address at which notice of proceedings for forfeiture may be served.

- (c) If no such instrument is lodged within the time prescribed by paragraph (b) of this subsection the skins referred to in the notice may be forfeited after the expiration of the time so prescribed upon the order of a police or stipendiary magistrate.

(d)

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- (d) If any person lodges such an instrument within the time so prescribed proceedings for forfeiture of the skins shall be taken against such person.
  - (e) Proceedings for forfeiture may be taken before a stipendiary or police magistrate or any two justices, and such magistrate or justices may hear and determine the matter and may declare the skins forfeited.
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