

No. , 1916.

A BILL

To provide for the protection of certain animals and birds; to repeal the Birds Protection Act, 1901, and the Native Animals Protection Act, 1903; to amend certain other Acts; and for other purposes consequent thereon or incidental thereto.

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
5 the same, as follows :—

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Preliminary.

Preliminary.

Short title and application.

1. (1) This Act may be cited as the "Birds and Animals Protection Act, 1916," and shall come into force on a date to be fixed by proclamation of the Governor. 5

(2) This Act shall not apply to domestic birds or animals or to reptiles, or to rats or mice of any species.

Repeal.

2. The Birds Protection Act, 1901, and the Native Animals Protection Act, 1903, are hereby repealed.

Interpretation.

3. In this Act, if not inconsistent with the context,— 10

"Court" means any stipendiary or police magistrate or any two justices of the peace sitting in petty sessions.

"District" means district constituted or proclaimed under this Act. 15

"Land" includes any land covered by water, or any waters within the territorial jurisdiction of New South Wales.

"License" means a license issued in pursuance of this Act. 20

"Proclamation" means proclamation in the Gazette.

"Protected bird or animal" means and includes any bird or animal not mentioned in or not hereafter added to the First or Second Schedule hereto, and the eggs of any such bird. 25

"Ranger" means any person appointed or constituted a ranger under this Act.

"Regulations" means any regulations made under or by virtue of this Act.

"Scheduled animal" means any animal mentioned in or hereafter added to the Second Schedule hereto. 30

"Scheduled bird" means any bird mentioned in or hereafter added to the First Schedule hereto, or the eggs of any such bird. 35

"State" means State of New South Wales.

"Take or kill" means the hunting, shooting, killing, poisoning, netting, snaring, spearing, pursuing, taking, disturbing, or injuring of any protected bird or animal. 40

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“The Minister” means the Minister for the time being charged with the administration of this Act.

Scheduled birds and animals.

5 4. The Minister may, by notice in the Gazette, add the names of any birds or animals to the First or Second Schedules of this Act respectively for any particular locality described in such notice or for the whole State, and may remove the names of any birds
10 or animals therefrom for any particular locality described in such notice or for the whole State.

Alteration of Schedules.

The production of the Gazette containing such notice shall be conclusive evidence of such addition or removal.

15 5. The Minister may by notice in the Gazette declare a close season for the protection of any specified scheduled bird or animal.

Close season for scheduled birds and animals.

Such notice may refer to the whole State or to any locality specified therein.

20 Notwithstanding anything contained in the Pastures Protection Act, 1912, or in any other Act, any person who during such close season and in such locality willfully kills, captures, or injures, or attempts or uses any means whatever to kill, capture, or injure any such bird or animal, shall, for every such offence, be liable
25 to a penalty not exceeding five pounds.

Protected birds and animals.

6. (1) The Minister may by notice in the Gazette declare an open season for certain protected birds and animals specified in such notice.

Open season.

30 Such notice may refer to the whole State or to any locality specified therein.

(2) Any person who, except during such open season, takes or kills any protected bird or animal, or uses any gun, explosive, dog, net, or instrument or means
35 whatsoever for the purpose of taking or killing any protected bird or animal, shall, upon conviction, be liable to a penalty not exceeding five pounds for each bird or animal in respect of which such offence has been committed, and not exceeding twenty pounds for the use of
40 any gun, explosive, dog, net, instrument, or means whatsoever in breach of this section.

Penalty for killing, &c., any protected bird or animal.

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Licenses to
kill game for
market
purposes.

7. (1) The Minister may, in the prescribed form and subject to any limitations as to locality and to any other conditions he may think proper, issue licenses authorising the holders thereof to take or kill the protected birds specified therein during an open season, for the purpose of selling the same. 5

(2) Any person who except in pursuance of such a license takes or kills any protected bird for purposes of sale shall be liable to a penalty not exceeding *five* pounds for each bird in respect of which such offence has been committed. 10

Penalty for
having pro-
tected birds
or animals in
possession.

8. Any person who knowingly buys, sells, offers, or consigns for sale, or has in his possession, house, or control, any protected bird or animal or the skin of such bird or animal or any part of such bird or animal at any time shall be liable to a penalty not exceeding *five* pounds for each bird or animal, or skin, or part of a bird or animal in respect of which such offence has been committed. 15

Provided that a person shall not be convicted of an offence against this section if he proves— 20

(a) that such bird or animal, or the bird or animal from which such skin or part was taken, was killed, taken, bought, or received either during an open season, and, in the case of birds, not for purposes of sale, or in pursuance of a license or in or from another State, Dominion, or country; 25
or

(b) that he had such bird or animal, or skin or part thereof in his possession legally before the commencement of this Act, or that he purchased the same legally within six months after such commencement from some person who possessed the same before such commencement. 30
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Districts.

District to be
absolutely
protected.

9. The land mentioned in the Third Schedule hereto is hereby constituted a district for the purposes of this Act.

The Governor may, by proclamation, declare any other land in New South Wales to be a district or districts. 40

The Governor may, by proclamation, declare what birds and animals may be taken or killed within a district. Any

Any person who, except in pursuance of a license, takes or kills, or attempts to take or kill, any bird or animal not so proclaimed, whether protected or scheduled, in any district shall be liable to a penalty not exceeding 5 twenty pounds.

10. If any person, not acting in pursuance of a license, enters any district in search or pursuit of or for the purpose of taking or killing any animal or bird not proclaimed under the provisions of the last preceding section he shall, on conviction, be liable to a penalty not exceeding *twenty* pounds; and having in his possession when so trespassing any implements or means for taking or killing birds or animals, or being accompanied by dogs, shall be prima facie evidence of such purpose.

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Rangers.

11. The Minister may from time to time appoint such persons as he shall think fit to be rangers, or honorary rangers, who shall do all necessary acts for carrying into effect the provisions of this Act, and for preventing and punishing any breach thereof.

Every member of the police force shall by virtue of his office be a ranger.

12. Any ranger who has reason to suspect that a breach of any of the provisions of this Act or the regulations has been committed, and that any bird or animal in respect of which such breach has been committed is likely to be in any tent, house, vessel, boat, conveyance, or other place, may enter and search, and if found seize such bird or animal.

13. Every ranger is hereby empowered, for the enforcement of the provisions of this Act, to exercise the powers and authority of a constable, and may at all times and seasons, without any let or hindrance whatsoever, enter any land or premises, and examine any nets, traps, or other instruments which are being used or could be used in contravention of this Act, and do all such other acts and things as he is required to do by this Act or the regulations; the production by him of his appointment shall be sufficient

warrant for so acting.

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Penalty for refusing to give name, place of abode, &c.

14. (1) Any ranger may require any person reasonably suspected to be offending against any of the provisions of this Act or of the regulations to give his name in full and place of abode.

(2) If such person, after being so required, and on production of the necessary authority, refuses to give his real name or place of abode, or gives a false or fictitious name or place of abode, he may be at once arrested and taken before a court, and shall be liable for every such offence to a penalty not exceeding *five* pounds.

Arrest.

15. If any person is found offending against the provisions of this Act, and refuses to deliver up any bird or animal, instrument, gun, net, or other means of destruction or capture to any ranger who demand the same, such ranger may, with any assistance he may require, take such person into custody and take him before any court to be dealt with according to law.

Assaulting or resisting rangers.
Penalty.

16. Any person who assaults, resists, or obstructs, or encourages any other person to assault, resist, or obstruct, or who uses abusive language to a ranger, or to any other person in the execution of his duty or authority under this Act or the regulations, shall be liable to a penalty not exceeding *ten* pounds.

Exemptions.

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Exemption of owner.

17. Nothing in this Act shall extend or be construed to extend to prevent any person who, at the commencement of this Act, is the owner of any protected bird or animal, from keeping the same in confinement or in a domesticated state, or from offering for sale or selling, or taking or killing the same.

Destructive game.

18. The Minister may, by license, authorise any person, at any time, to kill any bird or animal found on his land which may be destroying or injuring or be likely to become injurious to his property.

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Collections for museums, &c.

19. The Minister may, by license, authorise any person to take or kill certain protected birds and animals as specimens of natural history for any scientific institution or museum, or for the purpose of carrying on any scientific investigation, or for any purpose specified in such license.

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20. In all cases where the defendant or person charged with any offence under this Act pleads any of the exemptions therein contained, the proof thereof shall be upon such defendant or person charged. Exemption to be proved by person pleading same.

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General.

21. (1) Any person who uses or carries for other than naval or military purposes a firearm having a greater length of barrel than forty-two inches, or having a bore exceeding eight gauge (.835 inch), or having more than two barrels, or being of a weight exceeding sixteen pounds avoirdupois, shall be liable to a penalty not exceeding *twenty* pounds. Restriction on methods of shooting birds and animals.

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(2) Any person who, for the purpose of shooting any protected bird or animal,—

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(a) affixes to any boat, punt, or floating vessel of any kind a firearm of any description; or

(b) loads with a charge exceeding four drachms of black gunpowder, or its equivalent in smokeless powder, or two ounces of shot a firearm of any description; or

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(c) uses any gun or fowling-piece of a kind other than the kind which are habitually raised at arms' length and fired from the shoulders without other support,

shall be liable to a penalty not exceeding *twenty* pounds.

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(3) Any firearm used in contravention of this section shall, on the conviction of the person so using it, be liable to be forfeited by the court, and to be disposed of as such court may direct. Forfeiture of firearms.

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22. If any person fails or neglects to observe all or any of the provisions of this Act, or does or commits anything contrary to the true intent and meaning thereof, he shall, for every such offence, if no other penalty is provided therefor, be liable to a penalty not exceeding

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twenty pounds. Unspecified penalties.

23. All prosecutions and proceedings under this Act or the regulations may be made and instituted in the name of the Minister, or of any ranger or other officer appointed under this Act, or of any person aggrieved, and may be heard and determined in a summary way before any court. Summary proceedings.

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Use of poison
prohibited.

24. Any person who uses cyanide of potassium or any other poison for the destruction or attempted destruction of any protected bird or animal shall for every such offence be liable to a penalty not exceeding *fifty* pounds.

Any poison found in the possession of the person so offending shall on his conviction be liable to be forfeited by the court, and to be disposed of as the court may direct.

Regulations.

25. (1) The Governor may make regulations—
for the issue of licenses, the fees to be paid for such licenses, and the conditions subject to which they are issued;
for the preservation and propagation of any bird or animal;
prescribing the maximum number of any specified protected bird or animal which any person may kill or destroy on any one day or within any specified period;
for preventing interference with, injury to, or contamination, pollution, or obstruction of any lands or waters, or the birds and animals therein, which have been brought under the operation of this Act;
for defining the duties of rangers or other officers who may be appointed under this Act; and
generally for carrying out the provisions of this Act, and furthering the objects thereof.

The regulations may impose a penalty not exceeding *twenty* pounds for any breach thereof.

(2) Such regulations shall—

- (i) be published in the Gazette; 30
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (iii) 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. If either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

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SCHEDULES.

FIRST SCHEDULE.

	Common name.	Scientific name.
	Sparrow	Passer domesticus.
5	Starlings	Sturnus vulgaris.
	Silver Eye	Zosterops coerulescens.
	Cormorants	Genus Phalacrocorax.
	Crow	Corvus coronoides.
	Raven	Corone australis.
10	Leatherheads	Tropidorhynchus and Philemon.
	Grey Crow Shrike or "Grey Magpie"	Strepera cuneicaudata.
	Pied Crow Shrike or "Black Magpie"	Strepera graculina.
15	Garrulous Honey Eater, Miner, or "Soldier Bird"	Myzantha garrula.
	Sulphur-crested Cockatoo	Cacatua galerita.
	Galah	Cacatua roseicapilla.
	Lory	Platycercus elegans.
20	Rose Hill or "Rosella"	Platycercus eximius.
	Blue-bellied Lorikeet or "Blue Mountain Parrot"	Trichoglossus novæ-hollandiæ.
	Red-rumped Grass Parakeet ...	Psephotus hæmatonotus.
	Eagle Hawks.	

SECOND SCHEDULE.

	Common name.	Scientific name.
25	Rabbit	Lepus cuniculus.
	Native Dog or "Dingo"	Canis dingo.
	Fox	Vulpes alopecurus.
30	Tiger Cat	Dasyurus maculatus.
	Native Cat	Dasyurus viverrinus.
	Hare	Lepus europæus.
	Frugivorous Bat or "Flying Fox"	Pteropus poliocephalus.
	Kangaroo Rats.	
35	Wombats.	
	Bandicoots.	
	Wallabies of every species.	

THIRD SCHEDULE.

Embracing part of the county of Cumberland :—Commencing on the South Pacific Ocean at the eastern extremity of Barranjoey Head ; and thence bounded by the shores of that Head, a line westerly to West Head ; by the waters of the Hawkesbury River and lines 5 westerly from Flint and Steel Point to Juno Head, and from that Head to Green Point, and by a line northerly to Flat Rock Point ; again by the waters of the aforesaid river to the right bank of Berowra Creek, by that creek and Tunk's Creek upwards and the boundary of the parish of South Colah generally westerly and southerly to the 10 northern boundary of the parish of Castle Hill ; by that boundary generally westerly and southerly to the Old Windsor Road ; by that road south-easterly, the northern boundary of the parish of Prospect westerly, Eastern Creek upwards, by part of the southern boundary of the last-mentioned parish easterly, by the eastern boundary of the 15 parish of St. Luke, the Old Cowpasture Road and the western boundary of the municipality of Campbelltown generally southerly ; by the southern boundary of that municipality generally easterly to Woronora River ; by that river downwards to the southern boundary of the Sutherland Shire ; by that boundary partly forming the southern 20 boundary of National Park generally easterly to the South Pacific Ocean ; and by the South Pacific Ocean generally northerly to the point of commencement.
