



ANNO VICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1974

No. 130 of 1974

An Act to amend the National Parks and Wildlife Act, 1972.

[Assented to 12th December, 1974]

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

Short titles.

1. (1) This Act may be cited as the "National Parks and Wildlife Act Amendment Act, 1974".

(2) The National Parks and Wildlife Act, 1972, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "National Parks and Wildlife Act, 1972-1974".

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation

Amendment of
principal Act,
s. 4—
Arrangement
of Act.

3. Section 4 of the principal Act is amended by inserting after the item:

DIVISION VI—GENERAL PROVISIONS

the item:

PART VA—HUNTING.

Amendment of
principal Act,
s. 5—
Interpretation.

4. Section 5 of the principal Act is amended—

(a) by striking out the definition of "owner" and inserting in lieu thereof the following definition:—

"owner" in relation to land, means the holder of any estate or interest in the land, and includes—

(a) the occupier of the land;

or

(b) a person to whom the care, control and management of the land has been committed;;

(b) by striking out the definition of "private land" and inserting in lieu thereof the following definition:—

"private land" means any land except Crown lands;

(c) by inserting in paragraph (b) of the definition of "protected animal" after the word "periodically" the passage "or occasionally";

(d) by striking out paragraph (c) of the definition of "protected animal" and inserting in lieu thereof the following paragraphs:—

(c) any animal of a species referred to in the eighth or ninth schedule to this Act;

or

(d) any animal of a species declared by regulation to be a species of protected animals,;

(e) by striking out from the definition of "protected animal" the passage "animals of the species referred to in the ninth schedule to this Act, or" and inserting in lieu thereof the passage "animals of the species referred to in the tenth schedule to this Act";

and

(f) by inserting after the definition of "the repealed National Parks Act" the following definitions:—

"threatened species" means a species of animal referred to in the ninth schedule to this Act, or declared by regulation to be a species whose existence is threatened:

"to hunt" means to take any mammal or bird that has not been domesticated or brought into captivity:.

5. Section 9 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsections:—

Amendment of
principal Act,
s. 9—
Power of
acquisition.

(2) Where a notice of intention to acquire land has been served, any person who wilfully damages the land or destroys or damages any wildlife upon the land shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for twelve months.

(3) Where the Minister has reasonable cause to suspect that a person may act in contravention of subsection (2) of this section, he may authorize a warden to enter upon the land and to exercise such force as may be necessary or expedient to prevent the commission of an offence under that subsection.

(4) A warden authorized under subsection (3) of this section may enter upon the land and use such force as may be necessary or expedient to prevent the commission of an offence under this section.

6. Section 11 of the principal Act is amended—

Amendment of
principal Act,
s. 11—
Wildlife
Conservation
Fund.

(a) by striking out from subsection (2) the word "and" between paragraphs (a) and (b);

and

(b) by inserting after paragraph (b) of subsection (2) the following paragraphs:—

(c) any moneys arising from any sale that the Minister is authorized to make in pursuance of powers conferred by this Act;

and

(d) any fees paid for permits under Part VA of this Act.

Enactment of
s. 18a of
principal Act—

7. The following section is enacted and inserted in the principal Act immediately after section 18 thereof:—

Secretary.

18a. (1) There shall be a secretary to the Council.

(2) The secretary shall be appointed and hold office in accordance with the Public Service Act, 1967-1974.

(3) The office of secretary to the Council may be held in conjunction with any other office of the public service of the State.

Amendment of
principal Act,
s. 22—
Powers of
wardens.

8. Section 22 of the principal Act is amended—

(a) by striking out paragraph (d) of subsection (1) and inserting in lieu thereof the following paragraph:—

(d) enter and inspect any land, building, structure, vehicle, vessel or place in which any protected animals, or animals of a prohibited species, are kept;;

and

(b) by inserting after subsection (3) the following subsections:—

(4) A warden may request any suitable person to assist him in the exercise of his powers under this Act.

(5) A person, while assisting a warden in response to a request for assistance by the warden, shall have, and may exercise, all the powers of a warden under this Act.

Repeal of
s. 23 of
principal Act
and enactment
of section in
its place—
Confiscation of
prescribed
objects.

9. Section 23 of the principal Act is repealed and the following section is enacted and inserted in its place:—

23. (1) For the purposes of this section, a prescribed object is liable to confiscation under this section if—

(a) it has been used in the execution or furtherance, or intended execution or furtherance, of an offence against this Act;

(b) it furnishes evidence of the commission of an offence against this Act;

or

(c) in the case of an animal, carcass, egg, plant or wildflower—

(i) it has been taken in contravention of this Act;

or

(ii) it is, or has been, in the possession of a person in contravention of this Act.

(2) A warden may seize any prescribed object that he reasonably suspects to be liable to confiscation under this section.

(3) Subject to subsection (4) of this section, where any person from whose possession any prescribed object is seized under this section satisfies the Minister within three months after the day on which it was seized that it is not, in fact, liable to confiscation under this section, it shall be returned to that person, but otherwise the Minister may, by instrument in writing, forfeit the prescribed object to the Crown.

(4) Where a living animal is seized under this section, the warden may release it from captivity.

(5) In this section—

“prescribed object” means any animal, carcass, egg, plant, cage, container, firearm, device, poison, substance or document.

10. Section 44 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 44—
Establishment of sanctuaries.

(2) The Minister—

(a) may revoke any declaration under this section;

and

(b) where private land constitutes a sanctuary, and the owner of that land, by instrument in writing, requests that the land should cease to be a sanctuary, shall revoke the declaration under which that land is constituted a sanctuary.

11. Section 45 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsections:—

Amendment of principal Act, s. 45—
Protection of animals within a sanctuary.

(1) Subject to this section, a person shall not take any animal within a sanctuary.

Penalty: Two hundred dollars.

(1a) The owner of land constituting a sanctuary, or a person who holds a written authority granted by the owner, or a warden, may take an animal of a prescribed species within a sanctuary.

(1b) A written authority granted for the purposes of subsection (1a) of this section shall (unless earlier revoked) expire at the expiration of six months from the day on which it was granted.

12. Section 51 of the principal Act is amended by inserting after subsection (1) the following subsection:—

Amendment of principal Act, s. 51—
Protected animals.

(1a) Subject to this Part, a person shall not take—

(a) a protected animal;

or

(b) the eggs of a protected animal,

of a species referred to in the eighth or ninth schedule to this Act.

Penalty: One thousand dollars or imprisonment for six months.

13. Section 52 of the principal Act is amended by striking out from paragraph (b) of subsection (4) the passage “or recreation park” and inserting in lieu thereof the passage “, recreation park or sanctuary”.

Amendment of principal Act, s. 52—
Open season.

14. Section 54 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “to take” and inserting in lieu thereof the passage “to kill”;

and

Amendment of principal Act, s. 54—
Certain animals may be destroyed.

(b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) It shall be lawful for any person without any permit or other authority under this Act, to kill any poisonous reptile that—

(a) has attacked, is attacking or is likely to attack, any person;

(b) is in dangerous proximity to any person;

or

(c) is, or has been, in such proximity to a person as to cause reasonable anxiety to that person.

Amendment of
principal Act,
s. 58—
Keeping and
sale of
protected
animals.

15. Section 58 of the principal Act is amended by inserting after subsection (1) the following subsections:—

(1a) Subsection (1) does not apply to an act done in the course of interstate trade or commerce.

(1b) In any proceedings for an offence against subsection (1) of this section it shall be presumed, in the absence of proof to the contrary, that an act with which the defendant is charged was not done in the course of interstate trade or commerce.

(1c) In this section—

“interstate trade or commerce” means trade or commerce between States of the Commonwealth or between a Territory and a State of the Commonwealth.

Amendment of
principal Act,
s. 59—
Export and
import of
protected
animals.

16. Section 59 of the principal Act is amended by striking out subsections (3) and (4) and inserting in lieu thereof the following subsections:—

(3) Where an applicant for a permit under this section requires the permit for the purpose of trade, commerce or intercourse between States of the Commonwealth, or between a Territory and State of the Commonwealth, the Minister shall grant a permit under this section.

(4) No fee shall be charged for a permit granted under subsection (3) of this section and no condition shall be attached to any such permit that is inconsistent with freedom of the trade, commerce or intercourse for which the permit is sought but, subject to the foregoing, conditions may be attached to the permit for the purpose of ensuring—

(a) that the Minister is properly informed of the passage of protected animals, or carcasses or eggs of protected animals, into, through or from the State and of the provenance and destination of any animal, carcass or egg to which the permit relates;

and

(b) that the public interest in the conservation of native animals in the State, or any part of the State, is properly protected.

17. Section 60 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of
s. 60 of
principal Act
and enactment
of section in
its place—
Illegal
possession of
animals, etc.

60. (1) A person shall not have in his possession or under his control—

(a) an animal, or the carcass of an animal;

or

(b) an egg,

illegally taken or acquired.

Penalty: Five hundred dollars.

(2) For the purposes of this section, an animal, carcass or egg is illegally taken or acquired if taken or acquired in contravention of this Act, or any previous enactment, or in contravention of the law of any State or Territory of the Commonwealth.

(3) In any proceedings under this section, an allegation in a complaint that an animal or an egg was illegally taken or acquired shall be accepted as proved in the absence of proof to the contrary.

18. Section 65 of the principal Act is amended—

Amendment of
principal Act,
s. 65—
Use of poison.

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Where a person, without a permit granted by the Minister, uses poison for the purpose of taking a protected animal, he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.;

(b) by striking out from subsection (2) the passage “killed or injured” and inserting in lieu thereof the word “taken”;

and

(c) by striking out from subsection (3) the word “or” between paragraphs

(a) and (b) and inserting in lieu thereof the word “and”.

19. Section 67 of the principal Act is amended—

Amendment of
principal Act,
s. 67—
Device.

(a) by striking out from subsection (1) the word “trap” and inserting in lieu thereof the word “device”;

and

(b) by striking out from subsection (2) the word “trap” and inserting in lieu thereof the word “device”.

20. Section 68 of the principal Act is amended by striking out the passage “cause or permit a dog to injure or molest” and inserting in lieu thereof the passage “injure or molest, or cause or permit the injury or molestation of”.

Amendment of
principal Act,
s. 68—
Molestation of
protected
animals.

Enactment of
Part VA of
principal Act—

21. The following Part comprising the following sections is enacted and inserted in the principal Act immediately after section 68 thereof:—

PART VA

HUNTING

Hunting
permits.

68a. (1) Except as provided in subsection (5) of this section, a person shall not hunt, or have in his possession any firearm or device for the purpose of hunting, unless he holds a permit under this section.

Penalty: Two hundred dollars.

(2) The Minister may grant to any person a permit under this section.

(3) A permit shall, subject to this Act, be in force for a term, not exceeding twelve months, specified in the permit.

(4) Where it is proved, in any proceedings for an offence against this section, that the defendant had in his possession any firearm or device capable of being used for the purpose of hunting in circumstances that lead to a reasonable suspicion that he had the firearm or device in his possession for that purpose, it shall be presumed, in the absence of proof to the contrary, that he had that firearm or device in his possession for the purpose of hunting.

(5) No permit is required under this section for the purpose of—

(a) the destruction of animals that are endangering human life;

(b) the destruction of animals (other than protected animals) by the owner of any land, a member of his household, or an employee of the owner, that are causing damage to crops, stock or other property on the land;

or

(c) the taking of an animal in pursuance of any other permit under this Act.

Unlawful entry
on land.

68b. (1) A person shall not be on any private land for the purpose of hunting unless the owner of that land has given him, not more than six months beforehand, permission in writing to be on the land for that purpose.

Penalty: One hundred dollars.

(2) If the owner or occupier of any land, or a servant or agent of the owner or occupier of the land, suspects that a person on the land has committed, is committing, or is about to commit an offence against this Act, he may request that person—

(a) to state his full name and usual place of residence;

and

(b) to leave the land.

(3) A person of whom a request is made under subsection (2) of this section shall comply with it forthwith.

Penalty: Two hundred dollars.

(4) A person who has been requested to leave land under this section shall not re-enter the land without the permission of the owner.

Penalty: Two hundred dollars.

(5) Where it is proved, in any proceedings for an offence against this section, that a person had in his possession or control any animal, firearm, device, poison or bait capable of being used for hunting it shall be presumed, in the absence of proof to the contrary, that that person was on the land for the purpose of hunting.

(6) It shall be a defence to a charge for an offence against this section that the defendant was acting in good faith and for the purpose of destroying vermin in pursuance of a requirement of the Vermin Act, 1931-1967.

22. Section 69 of the principal Act is amended—

(a) by striking out from subsection (3) the word “and” between paragraphs (a) and (b);

and

(b) by inserting after paragraph (b) of subsection (3) the following paragraph:—

and

(c) may be revoked by the Minister by instrument in writing served personally or by post upon the holder of the permit if, in the opinion of the Minister, it is in the interests of conservation to do so.

Amendment of
principal Act,
s. 69—
Permits.

23. Section 73 of the principal Act is amended—

(a) by striking out the passage “proclamation, or permit” and inserting in lieu thereof the passage “a proclamation”;

and

(b) by inserting after the present contents thereof, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) Where the holder of a permit under this Act, or a person acting in his employment or upon his authority contravenes or fails to comply with any provision or condition of the permit, the holder of the permit shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Amendment of
principal Act,
s. 73—
Offences against
provisions of
proclamations
and permits.

24. Section 74 of the principal Act is amended by striking out the passage “a fine for the principal offence” and inserting in lieu thereof the passage “a penalty authorized by the provisions of this Act under which the offence arises,”.

Amendment of
principal Act,
s. 74—
Additional
penalty.

25. Section 75 of the principal Act is amended by inserting after subsection (3) the following subsections:—

(4) In any proceedings for an offence against this Act, an allegation in the complaint that a person named in the complaint is, or was at a time specified in the complaint, a warden shall be accepted as proved in the absence of proof to the contrary.

Amendment of
principal Act,
s. 75—
Evidentiary
provisions.

(5) In proceedings for an offence against this Act, an allegation in the complaint that an animal referred to in the complaint was a protected animal, or that a carcass or egg referred to in the complaint was the carcass or egg of a protected animal, shall be accepted as proved in the absence of proof to the contrary.

(6) In any proceedings for an offence against this Act, an allegation in the complaint that an animal referred to in the complaint was of a specified species, or that a carcass or egg referred to in the complaint was the carcass or egg of an animal of a specified species, shall be accepted as proved in the absence of proof to the contrary.

**Amendment of
principal Act
s. 80—
Regulations**

26. Section 80 of the principal Act is amended by inserting after subsection (2) the following subsection:—

(3) Any fees prescribed under this Act may be differential, varying according to any factor stated in the regulation.

**Repeal of
eighth and
ninth schedules
of principal
Act and
enactment of
schedules in
their place.**

27. The eighth and ninth schedules to the principal Act are repealed and the following schedules are enacted and inserted in their place:—

EIGHTH SCHEDULE

RARE SPECIES

Mammals—

Toolache Wallaby (*Macropus greyi*)
 Mainland and Flinders Island races of the Dama Wallaby (*Macropus eugentii*)
 Parma Wallaby (*Macropus parma*)
 Rufous-bellied Pademelon (*Thylogale billardieri*)
 Crescent Nail-Tailed Wallaby (*Onychogalea lunata*)
 Bridle Nail-Tailed Wallaby (*Onychogalea fraenata*)
 Western Hare-Wallaby (*Lagorchestes hirsutus*)
 Brown Hare-Wallaby (*Lagorchestes leporides*)
 Brush-Tailed Rock-Wallaby (*Petrogale penicillata*)
 Desert Rat-Kangaroo (*Caloprymnus campestris*)
 Brush-Tailed Rat-Kangaroo (*Bettongia penicillata*)
 Northern Rat-Kangaroo (*Bettongia tropica*)
 Lesueur's Rat-Kangaroo (*Bettongia lesueur*)
 Southern Potoroo (*Potorous apicalis*)
 Scaly-Tailed Possum (*Wyulda squamicaudata*)
 Mountain Pigmy-Possum (*Burramys parvus*)
 Barnard's Wombat (*Lasiorhinus barnardi*)
 Golden Bandicoot (*Isoodon auratus*)
 Gunn's Bandicoot (*Perameles gunnii*)
 Barred Bandicoot (*Perameles bougainville*)
 Desert Bandicoot (*Perameles eremiana*)
 Pig-footed Bandicoot (*Chaeropus ecaudatus*)
 Rabbit-eared Bandicoot (*Macrotis lagotis*)
 Lesser Rabbit-eared Bandicoot (*Macrotis leucura*)
 Tiger Cat (*Dasyurus maculatus*)
 Eastern Native Cat (*Dasyurus viverrinus*)
 Western Native Cat (*Dasyurus geoffroii*)
 Red-tailed Phascogale (*Phascogale calura*)
 Little Planigale (*Planigale subtilissima*)
 Narrow-Nosed Planigale (*Planigale tenuirostris*)
 Dibbler (*Antechinus apicalis*)
 Long-Tailed Marsupial-Mouse (*Sminthopsis longicaudata*)
 Large Desert Marsupial-Mouse (*Sminthopsis psammophila*)
 Eastern Marsupial-Mouse (*Antechinomus laniger*)
 Numbat (*Myrmecobius fasciatus*)
 Rusty Numbat (*Myrmecobius fasciatus rufus*)
 Tasmanian Tiger (*Thylacinus cynocephalus*)
 False Swamp-Rat (*Xeromys myoides*)
 White-footed Tree-Rat (*Conilurus albipes*)
 Stick-nest Rat (*Leporillus conditor*)
 White-tipped Stick-nest Rat (*Leporillus apicalis*)
 Northern Hopping-Mouse (*Notomys aquilo*)
 MacDonnell Range Rock-Rat (*Zyzomys pedunculatus*)
 New Holland Mouse (*Pseudomys novaehollandiae*)
 Smoky Mouse (*Pseudomys fumeus*)
 Western Mouse (*Pseudomys occidentalis*)
 Shark Bay Mouse (*Pseudomys praeconis*)
 Alice Springs Mouse (*Pseudomys fieldi*)
 Shortridge's Native Mouse (*Pseudomys shortridgei*)

Birds—

Plains-wanderer (*Pedionomus torquatus*)
 Australian Bustard (*Ardeotis australis*)
 Glossy Black Cockatoo (*Calyptorhynchus lathami*)
 Golden Shouldered Parrot (*Psephotus chrysopterygius chrysopterygius*)
 Paradise Parrot (*Psephotus pulcherrimus*)
 Orange-bellied Parrot (*Neophema chrysogaster*)
 Ground Parrot (*Pezoporus wallicus*)
 Night Parrot (*Geopsittacus occidentalis*)
 Noisy Scrub-bird (*Atrichornis clamosus*)
 Spotted Quail-Thrush (*Cinlosoma punctatum*)
 Grey-crowned Babbler (*Pomatostomus temporalis*)
 Western Bristle-Bird (*Dasyornis brachypterus longirostris*)
 Western Rufous Bristle-Bird (*Dasyornis broadbenti littoralis*)
 Eyrean Grass-Wren (*Amytornis goyderi*)
 Western Whipbird (*Psophodes nigrogularis*)
 Helmeted Honeyeater (*Meliphaga cassidix*)

Reptiles—

Adelaide Bluetongue (*Tiliqua adelaidensis*)
 Swamp Tortoise (*Pseudemydura umbrina*)

NINTH SCHEDULE

THREATENED SPECIES

Mammals—

Yellow-footed Rock-Wallaby (*Petrogale xanthopus*)
 Feathertail Glider (*Acrobates pygmaeus*)
 Eastern Pigmy-Possum (*Cercartetus nanus*)
 Little Pigmy-Possum (*Cercartetus lepidus*)
 Koala (*Phascolarctos cinereus*)
 Brush-tailed Phascogale (*Phascogale tapoatafa*)
 Byrne's Pouched-Mouse (*Dasyuroides byrnei*)
 Swamp Antechinus (*Antechinus minimus*)
 Cinnamon Planigale (*Planigale gilesi*)
 Hairy-footed Marsupial-Mouse (*Sminthopsis hirtipes*)
 Marsupial-Mole (*Notoryctes typhlops*)
 Large-footed Myotis (*Myotis adversus*)
 Platypus (*Ornithorhynchus anatinus*)

Birds—

White-breasted Sea-Eagle (*Haliaeetus leucogaster*)
 Mallee-fowl (*Leipoa ocellata*)
 Brolga (*Grus rubicundus*)
 Southern Stone-Curlew (*Burhinus magnirostris*)
 Gang-Gang Cockatoo (*Callocephalon fimbriatum*)
 Major Mitchell Cockatoo (*Cacatua leadbeateri*)
 Princess Parrot (*Polytelis alexandrae*)
 Naretha Blue Bonnet (*Northiella haematogaster narethae*)
 Hooded Parrot (*Psephotus chrysopterygius dissimilis*)
 Scarlet-chested Parrot (*Neophema splendida*)
 Mountain-Thrush (*Zoothera dauma*)
 Red-lored Whistler (*Pachycephala rufogularis*)
 Black-eared Miner (*Myzantha melanotis*)
 Spotted Bower-Bird (*Chlamydera maculata*)
 Western Bower-Bird (*Chlamydera guttata*)

TENTH SCHEDULE

UNPROTECTED SPECIES

Zebra Finch (*Poephila guttata*)
 Budgerygah (*Melopsittacus undulatus*)
 Red Wattlebird (*Anthochaera chrysoptera*)
 Grey-backed Silvereye (*Zosterops lateralis halmaturina*)
 Galah (*Cacatua roseicapilla*)
 Little Corella (*Cacatua sanguinea*)
 Australian Raven (*Corvus coronoides*)
 Little Crow (*Corvus bennetti*)
 Australian Crow (*Corvus orru cecillae*)
 Little Raven (*Corvus mellori*)
 Wild Dog (Dingo) (*Canis familiaris*)

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

M. L. OLIPHANT, Governor