



BIRDS PROTECTION AMENDMENT ACT 1988

Act No. 8 of 1988

An Act to amend the *Birds Protection Act 1913*

[Assented to 18 May 1988]

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows —

Short title

1. This Act may be cited as the Birds Protection Amendment Act 1988.

Commencement

2. This Act shall come into operation on a date fixed by the Administrator by notice published in the Gazette.

New sections

3. The *Birds Protection Act 1913* is amended by omitting sections 2 to 10 and substituting —

Interpretation

- “ 2. In this Act, unless the contrary intention appears —
- ‘authorisation’ means an authorisation in force under section 5;
- ‘permit’ means a permit in force under section 3;
- ‘protected bird’ means a bird, alive or dead, of a prescribed species or sub-species, and includes —
- (a) eggs or parts of eggs; and
 - (b) the skin, feathers or another part,
- of such a bird;
- ‘take’ means take, capture or keep and includes, in relation to a live bird, kill or injure (whether or not for the purpose of taking).

Permit to take protected birds

3. (1) A person may apply in writing to the executive member for the grant of a permit to take protected birds of a species or sub-species specified in the application.

(2) The application shall state the purpose for which the permit is sought, being —

- (a) a scientific purpose;
- (b) an educational purpose;
- (c) a purpose relating to propagation;

(d) a purpose relating to the protection of persons or property from interference, nuisance or damage caused by birds; or

(e) a prescribed purpose.

(3) Where the executive member is satisfied that —

(a) the birds to be taken under the permit and under other permits in force under this section will be replaced by natural reproduction; and

(b) the variety of species and the balance of natural ecological systems in Norfolk Island will not be affected by the grant of the permit,

the executive member may grant the permit applied for.

(4) A permit granted under this section —

(a) shall specify the species or sub-species of protected bird to which the permit relates and the purpose for which birds of that species or sub-species may be taken; and

(b) is subject to —

(i) the condition that the holder of the permit shall not take birds of the species or sub-species to which the permit relates except for the purpose specified in the permit; and

(ii) other conditions, if any, specified in the permit.

(5) A permit granted under this section has effect for the period specified in the permit or, if no period is specified, until the permit is cancelled.

Cancellation of permits

4. (1) Subject to this section, the executive member may cancel a permit.

(2) A permit may be cancelled before the end of the period, if any, specified in the permit for which the permit has effect.

(3) A permit shall not be cancelled unless —

(a) the executive member considers that the variety of species and the balance of natural ecological systems in Norfolk Island will be adversely affected if the permit is not cancelled;

(b) the person to whom the permit was granted is convicted of, or found by a Court to have committed, an offence against this Act or a law in force in Norfolk Island relating to the protection or conservation of wildlife; or

(c) the person to whom the permit was granted applies to the executive member for the cancellation of the permit.

Authorisations

5. (1) The executive member may authorise in writing a person or class of persons to take —

(a) any protected bird; or

(b) protected birds of a specified species or sub-species,

for —

- (c) a scientific purpose;
- (d) a purpose relating to propagation; or
- (e) a prescribed purpose.

(2) An authorisation is subject to such conditions, if any, as the executive member specifies in the authorisation.

(3) An authorisation has effect until the authorisation is cancelled.

(4) The executive member may, in the executive member's discretion, cancel an authorisation.

Open seasons

6. (1) The executive member may, by instrument in writing published in the Gazette, declare a period to be an open season in relation to protected birds of a specified species or sub-species.

(2) A declaration under subsection (1) may be limited to the taking of eggs of protected birds of the species or sub-species to which the declaration relates.

(3) A declaration under subsection (1) may be revoked by the executive member, in the executive member's discretion, before the end of the period specified in the declaration.

(4) A revocation under subsection (3) shall be published in the Gazette, and has effect from the date of publication or from a later date specified in the revocation.

Offence

7. (1) A person shall not take a protected bird.

Penalty: 10 penalty units.

(2) Subsection (1) does not apply to —

- (a) the taking by a person of a protected bird in accordance with —
 - (i) a permit granted to the person; and
 - (ii) conditions to which the permit is subject;

- (b) the taking of a protected bird in accordance with —
 - (i) an authorisation; and
 - (ii) conditions, if any, specified in the authorisation,

by the person, or person included in the class of persons, to which the authorisation relates; or

- (c) the taking by a person during a period in which a declaration under subsection 6(1) is in force -
 - (i) where the declaration is limited to the taking of eggs - of eggs or parts of eggs of a species or sub-species of protected bird specified in the declaration; or
 - (ii) where the declaration is not limited to the taking of eggs - of a protected bird of a species or sub-species specified in the declaration.

Forfeiture

8. A protected bird in respect of which an offence has been committed under this Act is forfeited to the Administration.

Regulations

9. The Administrator may make Regulations, not inconsistent with this Act, prescribing matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.”.

Notified Gazette No. 25, 26 May 1988.

Commenced 1 September 1988 (Gazette No. 43, 1 September 1988).

This enactment amends Act No. 3 of 1913 as previously amended by Act No. 9 of 1929; 8 of 1934; 9 of 1954; 6 of 1964; 1 of 1965; 3 of 1976; 13 of 1979; 8 and 31 of 1980; 13 of 1981; 9 of 1985 and 35 of 1986.

Printed on the authority of the Administrator.

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