

CHAPTER 170

BIRDS AND GAME PROTECTION

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*Ordinances Nos. 20 of 1923, 15 of 1939, 2 of 1945, 18 of 1953,
27 of 1959, 26 of 1966, Legal Notices Nos. 112 of 1970, 114 of 1975,
Act No. 10 of 1978, Legal Notices Nos. 80 of 1979,
46 of 1981, 33 of 1982, 60 of 1984*

AN ACT TO MAKE PROVISION FOR THE PROTECTION OF
BIRDS AND GAME

[27 December 1923]

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Birds and Game Protection Act.

Interpretation

2. In this Act, unless the context otherwise requires—
“protected bird” means any bird other than those specified in the First Schedule but does not include any tame or domestic bird or any bird defined as “game” in this Act;
“game” means any bird or animal specified in the Second Schedule;
“close season” in relation to any particular kind of game means the period stated in the Third Schedule to be the close season for that kind of game.

(Amended by Ordinance 18 of 1953, s. 2, and 26 of 1966, s. 2.)

PART II—PROTECTED BIRDS

Protection of birds, nests and eggs

3. Any person who—
(a) wilfully kills, wounds or takes any protected bird;
(b) takes, removes, injures or destroys any nest or egg of such protected bird;
(c) exposes for sale or knowingly has in his possession any such protected bird or any part of such protected bird killed, wounded or taken in Fiji subsequent to 27 December 1923, or the nest or eggs of any such protected bird taken in Fiji;
(d) exports or attempts to export the skin or plumage of any such protected bird killed, wounded or taken, or the nest or eggs of any such protected bird taken in Fiji,

shall be guilty of an offence against this Act.

Onus of proof on person in possession

4. When any person is proceeded against for exposing or offering for sale or having in his possession or exporting or attempting to export any protected bird or any part of any protected bird or the nest or eggs of any protected bird, the proof that such protected bird was killed, wounded or taken, or the nest or eggs taken, without the limits of Fiji shall be on such person.

Authority for scientific purposes

5. Notwithstanding anything contained in this Act, the Minister* may by writing under his hand authorise any person for such time and subject to such conditions as he thinks fit for scientific or other purposes to kill, take or keep any protected bird or to take or remove the nest or eggs of any protected bird, and he

*Delegated to Permanent Secretary by Notification 11 November 1965.

may also authorise any such person to export the skins or any part of such protected bird.

(Amended by Legal Notice 112 of 1970; Act 10 of 1978, s. 2.)

PART III—GAME

Game not to be killed, etc., without licence

6. Every person commits an offence against this Act who kills, wounds or takes, or attempts to kill, wound or take, any game, or who uses any gun, net or other instrument whatsoever for such purpose, without having previously obtained a licence as hereinafter provided.

Close season for game

7.—(1) No person shall, save with the permission in writing of the Minister*, during the close season for any particular kind of game kill, wound or take game of that kind or purchase game of that kind or expose or offer for sale game of that kind.

(2) Any person contravening the provisions of subsection (1) shall be guilty of an offence against this Act. (Substituted by Ordinance 18 of 1953, s. 3; Subsec. (1) amended by Legal Notice 112 of 1970.)

Onus of proof

8. When any person is prosecuted for an offence against the provisions of section 7, the proof that the game in respect of which the offence is charged was killed, wounded or taken otherwise than during the close season shall lie on such person.

Licences

9.—(1) Licences to kill or take game shall be in force for one year only and may be issued in the form contained in the Fourth Schedule by a licensing officer appointed by the Chief Accountant by notice in the Gazette on payment of such fee therefor as the Minister may by notice in the Gazette prescribe. All such licence fees shall be paid into the Consolidation Fund.

(Amended by Legal Notice 112 of 1970; Ordinance 2 of 1945, s. 67; 27 of 1959, s. 2.)

(2) A person holding a licence to kill or take game issued under subsection (1) shall not in any one day take or kill more than such number of birds as may for the purposes of this subsection be specified by the Minister from time to time by notice in the Gazette. Any person contravening the provisions of this subsection shall be guilty of an offence. (Substituted by Ordinance 18 of 1953, s. 4; amended by Legal Notice 112 of 1970.)

(3) Every person holding a licence to possess, use or carry arms and ammunition issued under the provisions of the Arms and Ammunition Act and a licence to kill or take game issued under the provisions of subsection (1), shall carry the same on his person at all times whilst engaged in killing or taking game, and shall produce the same on demand by a game ranger. Any person failing to comply with the provisions of this subsection shall be guilty of an offence against this Act. (Inserted by Ordinance 15 of 1939, s. 3.) (Cap. 188.)

*Delegated to Permanent Secretary by Notification 11 November 1965.

Game rangers

10. The Minister* may appoint any person or persons to act as game rangers in any Division or Divisions, and may prescribe the duties and fix the remuneration of such persons. Any person interfering with, obstructing or resisting a game ranger in the execution of his duty shall be guilty of an offence against this Act.

(Amended by Legal Notice 112 of 1970.)

Definition of reserved area

11.—(1) Notwithstanding that any person may have been licensed to kill or take game, the Minister may, by order, define an area or areas, to be specifically described in such order, within which it shall be unlawful for any person without the written permission of the Minister to shoot, capture, take or destroy any particular kind of game, or to take or destroy the nest or eggs of any such game:

Provided that the areas defined in the Fifth Schedule shall, until revoked or varied by order by the Minister, be reserved areas within the meaning of this section in respect of the particular kinds of game specified therein. (Amended by Legal Notice 112 of 1970.)

(2) Any person unlawfully shooting, capturing, taking or destroying, or attempting to shoot, capture, take or destroy, any game, or taking or destroying the nest or eggs of any game, within any such area, shall be guilty of an offence against this Act.

PART IV—GENERAL

Offender must give name, etc.

12. In the case of an offence against this Act any person may require the offender to give his name, description and place of abode, and if such offender does not truly give his name, description and place of abode, he shall be guilty of an offence against this Act in addition to that which he shall have been found committing.

Amendment of Schedules

13. The Minister may from time to time by order replace, add to, revoke, amend or vary any of the Schedules.

(Amended by Ordinance 18 of 1953; s. 5; Legal Notice 112 of 1970.)

Offences committed at sea—how heard

14. An offence committed against this Act at sea shall be deemed to have been committed on the sea coast adjoining the sea, or to have been committed in any place where the offender is found, and may be heard and determined accordingly.

General penalty

15. Every person who is guilty of an offence against this Act shall be liable to a fine not exceeding \$50 and in default of payment of such fine to imprisonment for any period not exceeding three months.

(Amended by Ordinance 2 of 1945, s. 67; 26 of 1966, s. 4.)

* Delegated to Permanent Secretary by Legal Notice No. 94 of 1968.

Forfeiture

16. Any protected bird or game, or any part of any protected bird or game, or the nest or eggs of any protected bird or game, in respect of which a conviction takes place shall be forfeited, and any gun, net or other instrument used for the purpose of the offence may also be forfeited.

Accused must prove licence

17. In any prosecution under this Act charging any person with killing or taking game without a licence, the charge shall be held to be proved if it is shown to the satisfaction of the court that the accused did actually kill or take game, unless the accused can produce his licence in court or can otherwise show to the satisfaction of the court that such licence was duly taken out.

Powers of rangers

18.—(1) Whenever any game ranger thinks it necessary for the purpose of verifying the licence or registration of any person, or suspects upon reasonable grounds that any person has committed an offence against this Act, he may inspect and search any baggage, package, vessel or vehicle belonging to such person, and if there is found as a consequence of such search any protected bird or game, or any portion thereof, or the nest or eggs of any protected bird or game, appearing to have been obtained in contravention of this Act the same may be seized and taken before a court.

(2) Any game ranger may enter upon any land for the purpose of carrying out the provisions of this Act or of preventing or detecting offences thereunder.

(3) The production by a game ranger of his letter of appointment shall be sufficient evidence of such appointment.

(Inserted by Ordinance 15 of 1939, s. 5.)

FIRST SCHEDULE

(Section 2)

(Substituted by Ordinance 26 of 1966, s. 5; amended by Legal Notice 114 of 1975.)

Malay Turtle Dove	Red-vented Bulbul
House (or Brown) Mynah	Field (or Grey) Mynah
Java Rice sparrow	Strawberry Finch
	European Starling

SECOND SCHEDULE

(Section 2)

(Substituted by Ordinance 26 of 1966, s. 5.)

Fijian Wood Pigeon (Peal's Pigeon or Barking Pigeon)
Fruit (or Chili) Pigeon

THIRD SCHEDULE

(Section 2)
(Substituted by Legal Notice 60 of 1984.)

For Fijian Wood Pigeon and Fruit Pigeon: the period between the 14 day of June in any year and the 14 day of May in the next succeeding year (both dates inclusive).

FOURTH SCHEDULE

(Section 9)
(Amended by Ordinance 2 of 1945, s. 67; 27 of 1959, s. 3.)

LICENCE TO KILL GAME

(Issued under section 9 of the Birds and Game Protection Act)

of _____ in the
Division is hereby licensed to kill or take by lawful means
[insert particular kind of game to which licence is applicable] ,
or [all kinds of game enumerated in the Second Schedule to the above-mentioned
Act] during the year 19____. Provided that this licence shall not entitle the holder
to kill any game in its close season.

Issued this _____ day of _____, 19____, at _____

(Licensing Officer)

FIFTH SCHEDULE

(Section 11)

(Incorporating Proclamations 4 of 1926, 10 of 1931, 16 of 1942; amended by Ordinance 26 of 1966. s. 6; Legal Notice 80 of 1979.)

RESERVED AREAS
IN RESPECT OF ALL GAME

(a) The Islands of Makogai and Makodraga.

(b) Commencing at a point at the mouth of the Nubukalou Creek; thence following the said creek upwards to the junction of the Nubukalou and Layard Roads; thence in a straight line bearing about 100 degrees for 600 m to Signal Station Hill; thence in a straight line bearing about 130 degrees for 200 m to the source of the Vatuwaqa Creek; thence following the said creek in a north-easterly direction to the seacoast; thence following the seacoast in a south-westerly direction to Suva Point; thence from the said point in a north-easterly direction following the seacoast to the point of commencement.

(c) Commencing at the source of the Naivuivuinikawai Creek indicated by a cement peg on the east side of the main road from Suva to Waimanu; thence by said creek downwards to its junction with the Wainiveiota Creek; thence by the said Wainiveiota Creek upwards to a cement peg near a yasiyasi tree marked with a broad arrow; thence by lines bearing 298 degrees 50 minutes for 30 m, 301 degrees 14 minutes for 103 m, 297 degrees 43 minutes for 191 m and 300 degrees 18 minutes for 131 m to a cement peg on the east side of the main road above-mentioned; thence by the said main road in a north-easterly direction for a distance of about 1,170 m to a cement peg; thence by lines bearing 276 degrees 44 minutes for 204 m and 344 degrees 42 minutes for 137 m to a peg on the Nabiro Creek; thence by said Nabiro Creek downwards to the south-west corner of Naivuivuinikawai leasehold; thence by the south-west boundary of the said lease to the main road and thence by the said main road in a north-easterly direction to the point of commencement.

(d) Commencing at the south-east corner of Koro No. 1, Native Grant No. 158, 3,404 ha, on the Wainivesi Creek; thence by part of the southern boundary of the said freehold by lines bearing 226 degrees 51 minutes for 784 m and 262 degrees 34 minutes for 823 m links to Nualevu on a ridge; thence by a direct line in a westerly direction for about 4,290 m to a corner of the above freehold at Tagane on a ridge; thence by the crest of the said ridge in a southerly direction to the top of the main Koroboya Range; thence along the crest of the said range in a south-easterly direction for a distance of about 600 m to a branch ridge; thence by the crest of the said ridge in a southerly direction to a point about 800 m direct distance from the main range aforesaid; thence in a general easterly direction along the south slope of the said main range and distant 800 m more or less from the crest thereof to the north-west corner of Vunimalawaci Native Lease to the Fiji Kauri Timber and Land Company; thence by the north boundary of the said lease to the Wainukunuku Creek, being part of the west boundary of Nadala Native Grant No. 2, 6,251 ha, and thence by said creek upwards to a peg at Turanagale on the main range; thence by part of the west boundary of Nubuiluva Native Grant No. 1, 1,380 ha, by lines bearing 332 degrees 38 minutes for 213 m, 333 degrees 13 minutes for 41 m and 331 degrees 5 minutes for 99 m to the Wainivesi Creek; thence by said creek downwards to the point of commencement.

Controlled by Ministry of Primary Industries