ISPCA Legal Handbook

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Number 39 of 1976 WILDLIFE ACT, 1976

AN ACT FOR THE CONSERVATION OF WILDLIFE (INCLUDING GAME) AND FOR THAT PURPOSE TO PROTECT CERTAIN WILD CREATURES AND FLORA, TO ENABLE A BODY TO BE KNOWN IN THE IRISH LANGUAGE AS AN CHOMHAIRLE UM FHIADHULRA AND IN THE ENGLISH LANGUAGE AS THE WILDLIFE ADVISORY COUNCIL TO BE ESTABLISHED AND TO DEFINE ITS FUNCTIONS, TO ENABLE CERTAIN OTHER BODIES TO BE ESTABLISHED TO PROVIDE OR ADMINISTER CERTAIN SERVICES, TO ENABLE RESERVES AND REFUGES FOR WILDLIFE TO BE ESTABLISHED AND MAINTAINED, TO ENABLE DEALING IN AND MOVEMENT OF WILDLIFE TO BE REGULATED AND CONTROLLED, TO MAKE CERTAIN PROVISIONS RELATING TO LAND, INLAND WATERS AND THE TERRITORIAL SEAS OF THE STATE, TO AMEND CERTAIN ENACTMENTS AND TO MAKE OTHER PROVISIONS CONNECTED WITH THE FOREGOING.

[22nd December, 1976]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

[zza39y1976s1]1 Short title, commencement and collective citation.

1.(1) This Act may be cited as the Wildlife Act, 1976.

(2) This Act shall come into operation on such day or days as may be fixed therefor by order or orders of the Minister, either generally or with reference to any particular purpose or provision, and different days may be fixed for different purposes and different provisions of this Act.


2.(1) In this Act

"the Act of 1919" means the Acquisition of Land (Assessment of Compensation) Act, 1919;

"the Act of 1946" means the Forestry Act, 1946;

"the Act of 1956" means the Forestry Act, 1956.

"agriculture" includes horticulture;
"airgun" means any weapon, including an air-rifle or air-pistol, incorporating a barrel from which metal or other slugs can be discharged;

"authorised person" means a person who is appointed under section 72 of this Act by the Minister to be an authorised person for the purposes of this Act;

"the Board" except in section 14 and the Second Schedule hereto, means An Bord Pleanála;

"building operation" has the same meaning as in section 2 of the Factories Act, 1955;

"the Commissioners" means the Commissioners of Public Works in Ireland;

"conservation" includes management and regulation of the use of land in relation to the interests of wildlife and, where appropriate development and improvement of land having regard to those interests;

"the Council" means the body established by section 13 of this Act;

"designation order" has the meaning assigned to it by section 17 of this Act;

"establishment order" has the meaning assigned to it by section 15 of this Act;

"exempted wild mammal" has the meaning assigned to it by section 25 of this Act;

"falconry" means hunting by means of birds of the order Falconiformes which are trained to hawk for sport;

"fauna" means all wild animals (both aquatic and terrestrial) and includes in particular wild birds, wild mammals, reptiles, non-aquatic invertebrate animals and amphibians, and all such wild animals' eggs and young, but in relation to fish or aquatic invertebrate animals (or their eggs or spawn or brood or young) only includes fish and such aquatic invertebrate animals which are of a species specified in regulations under section 23 of this Act which are for the time being in force;

"firearm" means any lethal firearm or other lethal weapon of any description (including an airgun) from which any shot, bullet, slug or other missile can be discharged;

"flora" means all plants (both aquatic and terrestrial) which occur in the wild (whether within or outside the State) and are not trees, shrubs or other plants being grown in the course of agriculture or horticulture and includes in particular lichens, mosses, liverworts, fungi, algae and vascular plants, namely flowering plants, ferns and fernallied plants and any community of such plants;

"foreshore" has the same meaning as in section 1 of the Foreshore Act, 1933;

"functions" includes powers and duties;

"hares order" means an order made by the Minister under section 25 of this Act and in which any species of hare is specified:

"hunt" means stalk, pursue, chase, drive, flush, capture, course, attract, follow, search for, lie in wait for, take, trap or shoot by any means whether with or without dogs, and, except in sections 28 and 29, includes killing in the course of hunting, but does not in this Act include stalking, attracting, searching for or lying in wait for any fauna by an unarmed person solely for the purpose of watching or of taking or making photographic or other pictures, and kindred words shall be construed accordingly:
"inland waters" means any waters comprised in the internal or inland waters of the State;

"interest" includes any estate, term, easement or profit á prendre;

"land", where the context admits, includes land covered by water and in relation to the acquisition of land also includes any easement, profit á prendre or other right in, to or over land or water (including any easement, profit á prendre or other right granted to or held by the Minister);

"the Lay Commissioners" means the Commissioners of the Irish Land Commission other than the Judicial Commissioner;

"licensed wildlife dealer" means a person who for the time being is the holder of a wildlife dealer's licence;

"local authority" means a local authority for the purposes of the Local Government Act, 1941;

"the Minister" means the Minister for Lands;

"owner" in relation to land means

(a) where the land is vested under the Land Purchase Acts in the Irish Land Commission, but not in the tenant-purchaser or purchaser thereof, the person who is for the time being the tenant-purchaser or the purchaser, as the case may be, of such land, and

(b) in any other case, the owner of the lowest estate in the land constituting an estate saleable under the Land Purchase Acts;

"planning authority" means a planning authority for the purposes of the Local Government (Planning and Development) Acts, 1963 and 1976;

"prescribed" means prescribed by regulations made by the Minister under this Act;

"protected wild animal" has the meaning assigned to it by section 23 (4) of this Act;

"protected wild bird" has the meaning assigned to it by section 22 (3) of this Act;

"recognition order" has the meaning assigned to it by section 16 of this Act;

"regulated coursing match" means a coursing match held in accordance with the rules for such matches which are for the time being both published and approved by the Irish Coursing Club pursuant to the Greyhound Industry Act, 1958;

"species" includes subspecies and hybrids;

"sporting rights" does not include fishing rights;

"the territorial seas of the State" means the portion of the sea which for the purposes of the Maritime Jurisdiction Act, 1959, is the territorial seas of the State;

"wild bird" includes the unfledged young of a wild bird;

"wildlife dealer" means any person who carries on the business of wildlife dealing;

"wildlife dealer's licence" has the meaning assigned to it by section 48 of this Act;
"wild duck" means wild duck of any species;

"wild mammal" includes both aquatic and terrestrial wild mammals and their young;

"wildlife" means fauna and flora;

"work of engineering construction" has the same meaning as in section 2 of the Factories Act, 1955.

(2) Any reference in this Act to sale includes a reference to disposing by way of barter, offering for sale and inviting an offer to buy and words in this Act which are kindred to sale shall be construed accordingly, and except in section 47 and section 55 any reference in this Act to purchase includes a reference to acquiring by way of barter, offering to purchase and inviting an offer to sell.

(3) For the purposes of this Act the business of wildlife dealing means the business of buying for resale any protected wild birds or protected wild animals and includes engaging in taxidermy in respect of such birds or animals.

(4) Nothing in this Act shall be construed as prohibiting or restricting the doing by any person, whether as an employee or otherwise, of any act, other than the killing of fauna, which is done by that person in assisting another person lawfully to hunt fauna.

3 Services of notices, etc.

3.(1) Where a notice, copy of an order, or copy of regulations is required by this Act, other than section 48, 60 or 61, or any regulation made under this Act to be served on, given or sent to a person, unless the context otherwise requires, it shall be addressed to him and shall be served on, given or sent to him in some one of the following ways:

(a) where it is addressed to him by name, by delivering it to him;

(b) by leaving it at the address at which he ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(c) by sending it by post in a prepaid registered letter addressed to him at the address at which he ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(d) where the address at which he ordinarily resides cannot be ascertained by reasonable inquiry and the notice or copy is so required or authorised to be served or given in respect of any land or premises, by delivering the notice or copy to some person over sixteen years of age resident or employed on such land or premises or by affixing it in a conspicuous position on or near such land or premises.

(2) Where a notice, copy of an order, or copy of regulations is required by this Act, other than section 48, 60 or 61, or any regulation made under this Act to be served on, given or sent to an occupier and the name of the occupier cannot be ascertained by reasonable inquiry, it may be addressed to "the occupier" without naming him.

(3) For the purposes of this section, a company within the meaning of the Companies Act, 1963, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

4 Expenses.
4. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

5. All moneys received by the Minister under this Act shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

6. The Minister may accept any gift made to him for all or any of the purposes of this Act, and, subject to the terms thereof, may apply it for those purposes.

7. The Minister shall, as regards each financial year, prepare a report of his proceedings under this Act during that year and he shall cause the report to be laid before both Houses of the Oireachtas at the same time as is so laid the report for that year of his proceedings under the Act of 1946.

8. (1) The Minister may make regulations for prescribing any matter referred to in this Act as prescribed, provided that in so far as any such regulations provide for the charging of fees they shall only be made with the consent of the Minister for Finance.

(2) Subject to subsection (3) of this section and to sections 14 (5), 15 (5), 15 (6), 16 (4), 17 (3) and 17 (13) of this Act, the Minister may by order revoke or amend an order (other than a purchase order within the meaning of section 55 of this Act) made by him under this Act (including an order made under this subsection).

(3) Where this Act requires the Minister, before making an order or regulation under this Act, to consult any other Minister of State, the Commissioners, a planning authority or any other body, the order or regulation shall be revoked or amended by the Minister only after like consultation.

(4) Every regulation and every order made under this Act by the Minister, other than an order under section 1 (2) or a purchase order within the meaning of section 55 of this Act, shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next twenty-one days on which that House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

9. The Minister may attach conditions to any licence granted by him for any of the purposes of this Act or of regulations made under this Act, vary such conditions and revoke any such licence other than a licence granted by the Minister under section 29 of this Act. Subject to section 32 (5) of this Act, a licence granted by the Minister under this Act shall, if so expressed, operate to authorise the doing by any person who is of a class or description specified in the licence of,

(a) anything permitted to be done by the licence, or

(b) anything which is a thing so permitted to be done and is of a class or description so specified.
10. The enactments mentioned in the First Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

PART II

WILDLIFE CONSERVATION AND PROTECTION

CHAPTER I

General


11.(1) It shall be a function of the Minister to secure the conservation of wildlife.

(2) Without prejudice to the generality of subsection (1) of this section, the Minister may in particular do all or any of the following.

(a) give assistance or advice to any person on any matter affecting wildlife,

(b) where the Minister considers that the management, or supervision of the management by him or on his behalf, of any land in which he has not an interest, is desirable in the interests of wildlife, he may manage or cause to be managed, or supervise or cause to be supervised the management of the land upon such terms and subject to such conditions as may be agreed upon between him and a person having an interest in the land,

(c) enter into, and carry out, an agreement with another person to participate in a scheme, undertaking or project for the conservation of wildlife and for the purposes of such scheme, undertaking or project to perform any one or more of the functions assigned to him under this Act,

(d) make grants or loans to further projects or activities which have as their object the conservation of wildlife generally, a particular aspect of such conservation or the development and proper use of hunting amenities and resources,

(e) promote, either directly or indirectly, whether alone or in conjunction with other persons, schemes or projects for the better conservation and use of wildlife or for the prevention, reduction or removal of any damage, or source of damage, to wildlife.

(3) The Minister may, either directly or in association with or through the agency of another person

(a) carry out or cause to be carried out research which he considers desirable for the performance of his functions under this Act,

(b) promote the knowledge and understanding of matters to which the functions assigned to him under this Act are related.

(4) Nothing in this section shall restrict, prejudice or affect the performance by the Minister for Agriculture and Fisheries of any function which could have been performed by him immediately before the commencement of this section.

[zza39y1976s12] 12 Obligations generally of Ministers of State and certain other authorities and bodies in relation to nature reserves and refuges.

12.(1) This section applies to
(a) a local authority,

(b) the Commissioners,

(c) any other body which is

(i) established by or under statute, and financed wholly or partly by means of loans or grants made by a Minister of State.

(ii) a company (in this subsection referred to as a State-sponsored company) within the meaning of the Companies Act, 1963, in which the majority of the shares are held by or on behalf of a Minister of State,

(iii) a company within the meaning of the said Act in which the majority of the ordinary shares are held by a State-sponsored company, or a body established and financed in the manner specified in subparagraph (i) of this paragraph, and

as regards which there is in force for the time being a direction given for the purposes of this section by the Minister.

(2) Subject to subsection (3) of this section, a Minister of State other than the Minister and every authority or body to which this section applies shall

(a) before determining any matter or doing anything which is, in his or their opinion, or is represented by the Minister to the other Minister of State, or the authority or body to be likely or liable to affect, or to interfere with, the suitability for a nature reserve or a refuge, as may be appropriate, of land to which an establishment order, a recognition order or a designation order applies, or the management of land pursuant to and in accordance with an agreement under section 18 of this Act, consult the Minister as regards the avoidance or minimising of such effect or interference, and

(b) take all practicable steps to avoid or minimise such effect or interference.

(3) Subsection (2) of this section shall not apply in relation to

(a) any determination made or anything done in an emergency,

(b) the functions of the Minister for Local Government or of a planning authority under Parts III and IV of the Local Government (Planning and Development) Act, 1963, or under Part V of that Act (other than sections 47, 48 and 49) or under the Local Government (Planning and Development) Act, 1976, or

(c) the functions of the Board, or

(d) the functions of the Commissioners under the Arterial Drainage Acts, 1945 and 1955.

(4) The Minister may give in relation to a body described in subsection (1) (c) of this section a direction for the purposes of this section and any such direction shall come into force when given and shall continue in force until cancelled by the Minister.


13.(1) The Minister shall by order establish a body which shall be known in the Irish language as An Chomhairle urn Phíadhúlra and in the English language as The Wildlife Advisory Council (which
body is referred to in this Act as the Council) to perform the functions assigned to it by this Act.

(2) The Council may, either of its own volition or at the request of the Minister, make recommendations to the Minister as to the Minister's general policy (including administrative policy) in relation to the conservation of wildlife or as to objectives to be fixed or programmes to be implemented by the Minister in relation to such conservation, but nothing in this subsection shall be construed as enabling the Council to make to the Minister any recommendation as regards a particular administrative matter.

(3) The Minister shall take such steps as he considers appropriate to keep the Council informed of matters relating to the conservation of wildlife which are, in his opinion, likely to assist the Council in performing the functions assigned to it by subsection (2) of this section.

(4) The Minister may request the Council to furnish to him its opinion in relation to any function assigned to him by this Act or any matter which he considers to be related to any such function and it shall be the duty of the Council to comply with any such request.

(5) Subject to subsection (6) of this section, the Minister may by order, made with the consent of the Minister for the Public Service in so far as it relates to allowances for members of the Council, provide for such one or more of the following as he considers appropriate:

(a) the constitution of the Council,

(b) the period for which and the terms and conditions upon and subject to which the members of the Council are to hold office,

(c) the manner in which a member of the Council may resign from office and the manner and circumstances in which such a member may be removed from office,

(d) the business and procedure of the Council,

(e) the payment of specified allowances to members of the Council,

(f) any matter which is ancillary or incidental to any of the foregoing.

(6) Before making an order under this section which contains provisions relating to the constitution of the Council, the Minister shall consult any other Minister of State or a body established by or regulated under statute considered by the Minister to be concerned.

(7) The members of the Council shall be appointed by the Minister and shall include such number of persons, by reason of their knowledge or experience of, or interest in, agriculture, fisheries, field sports, the conservation of wildlife or some other science, as he considers will ensure that the Council will assist materially in the furtherance of wildlife conservation.

[zza39y1976s14]14 Establishment of boards to provide or administer certain services.

14.(1) If the Minister considers that the provision or administration of any service which under this Act he is enabled to provide or administer would be facilitated thereby, he may, with the consent of both the Minister for Finance and the Minister for the Public Service, and after consulting such other Minister of State (if any) as the Minister considers appropriate to consult in the circumstances, by order establish a board (which shall be known by the name specified in the order) to provide, administer, or provide and administer that service on his behalf in accordance with such directives (which shall be complied with by the board) in relation to the general policy of the Minister relating to wildlife as he may give from time to time.
(2) Such of the provisions contained in the Second Schedule to this Act shall apply to a board established by the Minister under this section as the Minister specifies by order and for the purpose of applying any such provision in relation to a particular board as regards which the provision is so specified, any reference in that Schedule to the Board shall be construed as a reference to that particular board.

(3) The Minister may by order, if he considers it appropriate, provide that a specified board established under this section may be directed by the Minister to act on his behalf in the performance of such of his functions under this Act (other than the prosecution of an offence) as are specified in the order and the board so specified shall comply with any such direction and shall have all such powers as are necessary to put into effect any direction given to it by the Minister pursuant to the order.

(4) (a) As regards each accounting year a board established by the Minister under this section shall, within the specified period beginning immediately after the board's accounting year, make a report to the Minister of its activities during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

(b) The Minister shall, as regards a board established by him under this section, specify a period for the purposes of paragraph (a) of this subsection and the period so specified is in that paragraph referred to as the specified period.

(5) The Minister shall not revoke an order under this section establishing a board without the consent of both the Minister for Finance and the Minister for the Public Service.

(6) Where the Minister revokes an order under this section the following provisions shall have effect:

(a) all property, whether real or personal (including choses-in-action), which immediately before the commencement of the order was vested in or belonged to or was held in trust or subject to conditions for the board to which the revoked order relates (in this subsection subsequently referred to as the board) and all rights, powers and privileges relating to or connected with any such property shall on the commencement of the order without any conveyance or assignment, but subject where necessary to transfer in the books of any bank, corporation or company, become and be vested in or the property of or held in trust or subject to conditions for (as the case may require) the Minister for all the interest for which the same immediately before such commencement was vested in or belonged to or was held in trust or subject to conditions for the board, but subject to all trusts, conditions and equities affecting the same and then subsisting and capable of being performed,

(b) the said property which immediately before such commencement was standing in the books of any bank or was registered in the books of any bank, corporation or company in the name of the relevant board shall, upon the request of the Minister made at any time on or after such commencement, be transferred in such books by such bank, corporation or company into the name of the Minister,

(c) any chose-in-action transferred by this section may on or after such commencement, be sued upon, recovered, or enforced by the Minister in his own name and it shall not be necessary for the Minister to give notice to the person bound by such chose-in-action of the transfer effected by this section,

(d) every debt and other liability (including unliquidated liabilities arising from torts or breaches of contract) which, immediately before such commencement is owing and unpaid or has been incurred and is undischarged by the board shall, on such commencement, become and be the debt or liability of the Minister and shall be paid or discharged by and may be recovered from and enforced against the Minister accordingly, and
(e) where, immediately before such commencement, any legal proceedings are pending to which the board is a party, the name of the Minister shall be substituted for that of the board, and the proceedings shall not abate by reason of such substitution.

(7) Section 12 of the Finance Act, 1895, shall not apply to the vesting in the Minister of property or rights transferred by subsection (6) of this section.

CHAPTER II

Reserves and Refuges

[zza39y1976s15]15 Nature reserves on lands owned by the Minister or by the State.

15.(1) This section applies to the following land:

(a) land (including land covered by inland waters) owned by the State, including land in which the Minister has (whether jointly or severally) any interest,

(b) any foreshore which belongs to the State,

(c) land, other than foreshore mentioned in paragraph (b) of this subsection, which forms the seabed under the territorial seas of the State.

(2) Where, after consultation with the Minister for Agriculture and Fisheries, the Minister for Transport and Power and the Commissioners, the Minister is satisfied that

(a) land to which this section applies

(i) includes the habitat or forms the habitat of part of the habitat of one or more species or community of flora or fauna being a species or community which is of scientific interest, or

(ii) includes or forms an ecosystem which is of scientific interest,

and that the habitat or ecosystem is likely to benefit if measures are taken for its protection,

(b) it is desirable to establish the land as a nature reserve, and

(c) the proper management of the land as a nature reserve would not be precluded by any interest of any other person (including a person who is an owner with the Minister) in or over the land,

he may by order (in this Act referred to as an establishment order) declare that the land shall constitute and that there shall be established by the order a nature reserve: provided that,

(i) in case the Commissioners have an interest in the land, the order shall be made by the Minister only with the concurrence of the Commissioners, and

(ii) in case the Minister's interest in the land is held by him jointly with another person, the Minister in addition to being satisfied as regards the matters aforesaid shall, before making an establishment order in relation to the land, be satisfied that the fact that the other person has an interest in the land will not inhibit the proper management of the land by the Minister as a nature reserve.

(3) An establishment order shall specify the reason why, and shall indicate the objectives for which, the nature reserve is being established by the Minister.
(4) The Minister shall manage the land to which an establishment order relates so as to secure, as best as may be, the objectives indicated in the order having regard to and in accordance with the general protection of the natural environment.

(5) The Minister shall not amend an establishment order unless he considers that the objectives, as regards which the relevant nature reserve was established, require revision because of changes in the features or characteristics of the reserve or in any other circumstance which affects the reserve.

(6) The Minister shall not revoke an establishment order unless he considers that it is no longer practicable or is no longer desirable to maintain the nature reserve established by the order.

(7) The Minister shall, as soon as may be after it is made, cause a copy of an order under this section to be sent to the Commissioners, to the Board and to any planning authority within whose area the land comprised in the nature reserve, or any part thereof, is situate.

[zza39y1976s16]16 Nature reserves on land other than land to which section 15 applies.

16.(1) Where a person who is the occupier of land satisfies the Minister that

(a) the land includes a habitat or part of a habitat or an ecosystem described in paragraph (a) of section 15 (2) of this Act,

(b) the interest of the person in or over the land is such as to enable the person to establish and manage a nature reserve on the land, and

(c) the person can, in accordance with any conditions which the Minister sees fit to impose, use or manage the land so as to establish and maintain, or maintain, as may be appropriate, a nature reserve on the land,

then, subject to subsection (2) of this section, the Minister may, by order (in this Act referred to as a recognition order) recognise the land as a nature reserve and the recognition shall continue for so long as the order is in force.

(2) Before making a recognition order the Minister shall consult the Minister for Agriculture and Fisheries, the Minister for Transport and Power, the Commissioners and any planning authority within whose area the land to which the proposed order relates, or any part of such land, is situate.

(3) A recognition order shall state the Minister's reason for recognising the land to which the order relates as a nature reserve and indicate the objectives for which the land is to be used or managed as a nature reserve.

(4) The Minister shall not revoke a recognition order unless he considers that

(a) the objectives indicated in the order have not been attained or are not being properly maintained, or

(b) for any other reason, it is no longer appropriate for him to continue to recognise as a nature reserve, by virtue of the order, the land to which the order relates.

(5) The Minister shall, as soon as may be after it is made, cause a copy of an order under this section to be sent to the Commissioners, to the Board and to any planning authority within whose area the land to which the order relates, or any part of such land, is situate.

17. (1) Where the Minister considers that a particular species, or particular species, of fauna should be specially protected on any land which is, or is contiguous to, a habitat of the species, then, subject to subsection (5) of this section, he may publish in the Iris Oifigiúil and in at least one newspaper circulating in the locality in which the land is situate a notice of his intention to make an order (in this Act referred to as a designation order) designating the land as a refuge for such fauna.

(2) Before publishing a notice pursuant to this section, the Minister shall

(a) consult the Minister for Agriculture and Fisheries, the Minister for Transport and Power, the Commissioners and any planning authority in whose area the land to which the notice relates, or any part of such land, is situate, and

(b) serve on the owner or occupier of such land notice of the particulars to be contained in the notice he proposes to so publish.

(3) Where the Minister proposes to amend a designation order he shall publish in the Iris Oifigiúil and in at least one newspaper circulating in the locality in which the land to which the designation order applies is situate a notice of his intention to do so.

(4) A notice published pursuant to this section shall indicate any species of fauna which the Minister proposes by the provisions of the proposed order to which the notice relates to protect, the land to which the proposed designation order or amending order, as the case may be, will apply and the protective measures which he proposes to include in the proposed order, including any measures he proposes to take for the protection of the habitat requirements of such fauna.

(5) The Minister shall not include in a notice published pursuant to this section any reference to a species of fish or aquatic invertebrate animal without the prior concurrence of the Minister for Agriculture and Fisheries.

(6) Not later than two months after publication in the Iris Oifigiúil pursuant to subsection (1) of this section of a notice, the occupier of any land to which the notice relates, or any person claiming to have or to be entitled to an interest in or over the land or part thereof, who objects to the making of the proposed order on the grounds that it will interfere with such interest, may give, in the manner specified in the said notice, notice to the Minister giving particulars of the claim, and if he does so, shall furnish to the Minister with the notice particulars of the grounds of objection.

(7) Any person, other than a person mentioned in subsection (6) of this section or a planning authority, who claims that the making of a proposed order to which a notice published pursuant to this section relates would, if made, be detrimental to him may, not later than two months after the publication of the notice in the Iris Oifigiúil, give notice in writing giving particulars of his claim to the Minister and, if he does so, shall furnish to the Minister with the notice particulars of the grounds of objection.

(8) The planning authority within whose area is situate the land, or any part thereof, to which a proposed order under this section will, if made, relate, may, if they object to the proposal, not later than two months after the publication in the Iris Oifigiúil pursuant to subsection (1) of this section, give notice in writing to that effect to the Minister and, if they do so, they shall furnish to the Minister with the notice particulars of the grounds of objection.

(9) The Minister, after considering any objection duly made in relation to a proposed designation order or to a proposed amendment of a designation order, may if he thinks fit, make in relation to the land specified in the notice published pursuant to this section or any part of such land whichever of the following is appropriate having regard to the terms of the notice:
(a) a designation order designating that land, or any part thereof, as, and establishing thereon, a
refuge for all or any of the fauna indicated in the notice, or

(b) an appropriate, order under section 8 of this Act amending a designation order,

and the order may include such provisions as the Minister thinks fit which relate to protective
measures so specified.

(10) Subject to subsection (12) of this section, a person who has an interest in or over land specified
in a notice published pursuant to this section shall be entitled to be paid compensation by the
Minister in respect of any diminution in the value of his interest in or over the land consequent upon
the making of the order to which the notice relates and any claim for payment of compensation shall,
in default of agreement, be determined by arbitration under the Act of 1919, as amended by
subsequent enactments, in all respects as if the claim arose in relation to compulsory acquisition of
land.

(11) Subject to subsection (12) of this section, any person other than a person mentioned in
subsection (10) of this section who, in consequence of the making of an order under this section, has
had to incur expense or who has suffered financial loss or any inconvenience or other disadvantage
shall be entitled to be paid by the Minister such amount (if any) of compensation as the Minister
considers is reasonable.

(12) Any compensation under this section shall be assessed and payable only in respect of
diminution in value, loss or disadvantage arising from the measures contained in the relevant order
for the protection of the habitat requirements of the fauna to which the order relates.

(13) The Minister shall not revoke a designation order unless he considers that it is no longer
practicable or is no longer desirable to maintain the refuge established by the order.

(14) The Minister shall, as soon as may be after it is made, cause a copy of an order under this
section to be sent to the Commissioners, to the Board and to any planning authority within whose
area the land to which the order relates, or any part of such land, is situate.

(15) Any person who contravenes a designation order shall be guilty of an offence.

18. (1) The Minister or, with his prior approval, any other person, may enter into an agreement with a
person having an interest in or over land ensuring that the management of the land shall be
conducted in a manner (to be specified in the agreement) which will not impair wildlife or its
conservation.

(2) An agreement under this section shall be entered into only after consultation with the Minister for
Agriculture and Fisheries, the Commissioners and any planning authority within whose
area the land to which the order relates, or any part of such land, is situate.

(3) An agreement under this section may provide for the payment by the Minister or any other
person who is a party to the agreement of consideration, either by way of a single payment or by way
of payment of an annual sum, to a person having, or claiming to be entitled to, an interest in or over
the land to which the agreement relates.

(4) An agreement under this section may provide that the agreement shall be enforceable against
persons deriving title to the land under the person having the interest in or over the land, and, in case
such provision is included in the agreement, subject, where appropriate, to the agreement's being
registered under section 69 of the Registration of Title Act, 1964, as amended by section 66 of this Act, and to compliance with any rules made under section 126 of that Act which are relevant, it shall be so enforceable in respect of the person's former interest as if the Minister, or the person who with the Minister's approval entered into the agreement, was possessed of adjacent land and as if the agreement had been expressed to be made for the benefit of that land.

(5) The Commissioners, the Board and any planning authority within whose area the land, or any part of the land, to which an agreement made under this section relates, shall be notified by the Minister of the agreement, and if the agreement is terminated and the Minister is aware thereof, of the termination.

(6) Where an agreement under this section to which the Minister is not a party is terminated, the parties to the agreement shall cause notice of the termination to be given to the Minister.

(7) In this section "management" in relation to land means use of the land for agriculture or forestry, the carrying out of works on, in or under the land, the making of any change in the physical, topographical or ecological nature or characteristics of the land and the use of the land for educational or recreational purposes.

CHAPTER III

Protection of wild birds, protected animals and flora


19.Wild birds and their nests and eggs, other than wild birds of the species mentioned in the Third Schedule to this Act, shall be protected.


20.Animals which are of a species of fauna in relation to which section 23 of this Act applies shall be protected.


21.(1) Where the Minister considers that a particular species, or particular species, of flora should be protected, he may by order declare the species to be protected either throughout the State or in a particular area or areas thereof and an order made under this section shall apply

(a) in case the order declares a species of flora protected throughout the State, as regards any specimen of that species in every place in the State,

(b) in case the order declares a species of flora protected in a particular area or areas of the State, as regards any specimen of that species in every place in an area specified in the order;

provided that in case the Minister proposes to make an order under this section declaring a species of flora protected in a particular area or in particular areas of the State, he shall, before making the order, consult any planning authority in relation to whose area, or any part of such area, the proposed order would, if made, apply.

(2) The Minister shall, as soon as may be after it is made, cause a copy of an order under this section to be sent to the Board and to any planning authority in relation to whose area, or any part of such area, the order applies.
(3) Subject to subsection (5) of this section, a person shall not, save under and in accordance with a licence granted by the Minister under this section:

(a) cut, pick, uproot or otherwise take any specimen to which this section applies or the flowers, roots or other part of such specimen,

(b) purchase, sell or be in possession of any such specimen or the flowers, roots or other part thereof.

(c) wilfully alter, damage, destroy or interfere with the habitat or environment of any species of flora to which an order under this section for the time being applies.

(4) A person who contravenes subsection (3) of this section shall be guilty of an offence.

(5) The Minister may grant a licence to a person for such scientific, educational or other purposes as shall be specified in the licence to do any or all of the following:

(a) to cut, pick, uproot or otherwise take flora of a species specified in the licence and which is of a species to which an order under this section for the time being applies or the flowers, roots or other part of a specimen of the species so specified,

(b) to alter or otherwise interfere with the habitat or environment of any such specimen.

(6) Where in any proceedings for an offence under this section it is proved by the prosecutor that the person accused of the offence:

(a) sold a plant, or the flowers, roots or other part of a plant, which is of the same species as the plant, flowers, roots or other part of a plant, as the case may be, to which the alleged offence relates, and

(b) claimed, either expressly or by implication and whether by advertising or otherwise, that the plant, flowers, roots or other part sold came from or was wholly or partly grown in a particular place, and the place is in an area to which an order under this section applied at the time when the alleged offence was committed,

it shall be assumed, until the contrary is shown by the defendant, that the sale was in contravention of subsection (3) of this section.

(7) In any proceedings for an offence under this section, it shall be a defence for the defendant to show that the plant, flowers, roots or other thing to which the alleged offence relates was lawfully imported.

(8) A person shall not be convicted under this section and under section 46 of the Local Government (Planning and Development) Act, 1963, as amended by section 40 (b) of the Local Government (Planning and Development) Act, 1976, in respect of the same act.

(9) In this section:

"plant" includes a tree or shrub;

"specimen to which this section applies" means any specimen of a species of flora which is a species to which an order under this section for the time being applies.

[zza39y1976s22]22 Environmental of protection of wild birds.
22.(1) Subject to subsection (2) hereof, this section applies to every wild bird other than a wild bird of a species specified in the Third Schedule to this Act.

(2) The Minister may by regulations provide that

(a) a wild bird of a species specified in the Third Schedule to this Act shall be a wild bird to which this section applies,

(b) this section shall not apply to a wild bird which is of a species specified in the regulations,

(c) in such places or areas as are specified in the regulations and as regards such period or periods as are so specified, subsection (4) of this section shall not have effect, either, as may be so specified, generally or as regards such species of wild bird as are so specified,

(d) this section shall not have effect in relation to the taking or removing by persons of a specified class of the eggs and nests of wild birds of a species so specified,

and in case any regulations under this subsection are for the time being in force, this section shall be construed and have effect subject to and in accordance with them; provided that regulations made by the Minister under this subsection and which deal with any matter mentioned in paragraph (a), (b) or (c) of this subsection shall be so made only after consultation with the Minister for Agriculture and Fisheries.

(3) A wild bird to which this section for the time being applies is in this Act referred to as a protected wild bird.

(4) Subject to the exceptions specified in subsection (5) of this section, any person who

(a) (i) hunts a protected wild bird, other than a protected wild bird which is of a species specified in an order under section 24 of this Act, otherwise than under and in accordance with a permission or licence granted by the Minister under this Act, or

(ii) hunts a protected wild bird which is of a species specified in an order under section 24 of this Act, otherwise than

(A) under and in accordance with such a permission or a licence granted by the Minister under this Act other than section 29,

(B) under and in accordance with a licence granted under section 29 of this Act and (also) on a day, or during a period of days, specified in a relevant order under the said section 24,

(b) injures a protected wild bird otherwise than while hunting it.

(i) in case the protected wild bird is of a species other than a species specified in an order under section 24 of this Act, under and in accordance with a licence or permission granted by the Minister under this Act,

(ii) in case the protected wild bird is of a species so specified, either in the manner mentioned in clause (A) of paragraph (a) (ii) of this subsection, or in the manner and on a day, or during a period of days, mentioned in clause (B) of the said paragraph (a) (ii),

(c) wilfully takes or removes the eggs or nest of a protected wild bird otherwise than under and in accordance with such a licence,
(d) wilfully destroys, injures or mutilates the eggs or nest of a protected wild bird,

(e) wilfully disturbs a protected wild bird on or near a nest containing eggs or unflown young, shall be guilty of an offence.

(5) It shall not be an offence for a person

(a) while engaged in ornithology wilfully to disturb a protected wild bird, or

(b) while so engaged or engaged in agriculture, fishing or forestry unintentionally to injure or kill a protected wild bird, or

(c) to remove or destroy the eggs or nest of a protected wild bird in the ordinary course of agriculture or forestry, or

(d) to capture an injured or disabled protected wild bird for the purpose of killing it humanely or with the intention of tending it and of later releasing it, or

(e) to kill humanely a protected wild bird which has been injured in the manner described in paragraph (b), or captured in the manner described in paragraph (d) or injured in the circumstances described in paragraph (h) of this subsection, or

(f) to take eggs of a protected wild bird for the purpose of having them hatched out, or, for such purpose, to move such eggs from the nest of such a bird to that of another bird of the same species, or

(g) to destroy or remove any such nest which is built in or on an occupied building, or

(h) while constructing a road or while carrying on any archaeological operation, building operation or work of engineering construction, or while constructing or carrying on such other operation or work as may be prescribed, to kill or injure a protected wild bird or to remove, destroy, injure or mutilate the eggs or nest of a protected wild bird,

and nothing in this section shall make unlawful anything which is duly done pursuant to a statute (other than this Act) or statutory instrument, which is permitted to be done under such a statute or instrument or which is done pursuant to and in accordance with a licence or other permission granted or issued pursuant to such a statute or instrument or anything caused by or which results from, or is consequent upon or the effect of any other act or thing which is lawfully done.

(6) In any proceedings for an offence under this section relating to a protected wild bird which is of a species other than a species specified in Part I of the Fourth Schedule to this Act, it shall be a defence for the defendant to prove that any capturing or killing complained of was urgently necessary for the purpose of stopping damage described in section 42 (1) of this Act being caused and that in the particular circumstances of the case it was not practical for him to apply to the Minister beforehand for a permission under section 42 of this Act and that the defendant reasonably believed that damage mentioned in the said section 42 (1) was being caused by the protected wild bird to which the alleged offence relates or by protected wild birds of the same species as that of such protected wild bird.

(7) In any proceedings for an offence under this section in which it is alleged that the defendant wilfully disturbed a protected wild bird described in subsection (4) (e) of this section, it shall not be necessary for the prosecution to prove that at the time of the alleged offence the defendant was not engaged in ornithology.

(8) Proceedings for an offence under this section may be taken in any District Court District, and in
case such proceedings are taken and apart from this section the Justice before whom the proceedings are brought would not have jurisdiction to hear and determine the proceedings, then for the purpose of conferring such jurisdiction the offence may be treated as having been committed within the District Court District to which such Justice is assigned.

(9) The Minister may grant a licence to a person

(a) at any time to capture or kill humanely or capture and humanely kill a protected wild bird of a species specified in the licence for such educational, scientific or other purposes as shall be so specified,

(b) to hunt, in accordance with the licence, on such day or during such period of days as is specified in the licence, protected wild birds which are both pen-reared and of a species so specified,

(c) to so hunt, on such day or during such period of days, protected wild birds of a species so specified for the purpose of either training gun dogs for any field sport or holding gun dog trials,

(d) to take the nests or eggs of protected wild birds of a species so specified for such educational, scientific or other purposes as shall be so specified.

(10) The Minister may by regulations provide that

(a) subsection (6) of this section shall have effect in relation to any proceedings for offences under this section relating to protected wild birds of a species specified in both Part I of the Fourth Schedule to this Act and in the regulations,

(b) the said subsection (6) shall not have effect in relation to any such proceedings relating to protected wild birds of a species specified in the regulations,

and the said subsection (6) shall have effect accordingly.

[zza39y1976s23]23 Enforcement of protection of wild animals (other than wild birds).

23.(1) Subject to subsection (2) hereof, this section applies to any animal which is of a species of fauna specified in the Fifth Schedule to this Act.

(2) Subject to subsection (3) of this section, the Minister may, after consultation with the Minister for Agriculture and Fisheries, by regulations provide that

(a) an animal of a species of fauna specified in the regulations (not being a species specified in the Fifth Schedule to this Act) shall be an animal to which this section applies,

(b) an animal of a species of fauna specified both in the regulations and in the said Fifth Schedule shall not be an animal to which this section applies,

(c) in such places or areas as are specified in the regulations and as regards such period or periods as are so specified, subsection (5) of this section shall not have effect either, as may be so specified, generally or as regards such species of animal as are so specified.

and in case any regulations under this subsection are for the time being in force, this section shall be construed and have effect subject to and in accordance with them.

(3) Regulations under this section
(a) which provide that an animal of any species of fish or aquatic invertebrate shall be an animal to which this section applies, or

(b) the effect of which when made would be that this section would, for so long as the regulations are in force, cease to apply to animals which are of such a species,

shall be made or amended by the Minister only with the concurrence of the Minister for Agriculture and Fisheries who shall indicate his concurrence by signing the regulations.

(4) An animal to which this section for the time being applies is in this Act referred to as a protected wild animal.

(5) Any person who

(a) hunts a protected wild animal which is not an exempted wild mammal otherwise than under and in accordance with a permission or licence granted by the Minister under this Act,

(b) hunts an exempted wild mammal otherwise than,

(i) under and in accordance with such a permission or a licence granted by the Minister under this Act other than section 29, or

(ii) under and in accordance with a licence granted by the Minister under section 29 of this Act and (also) on a day, or during a period of days, specified in a relevant order under section 25 of this Act,

(c) injures a protected wild animal otherwise than while hunting it,

(i) in case the protected wild animal is not an exempted wild mammal, under and in accordance with such a permission or a licence granted by the Minister under this Act,

(ii) in case the protected wild animal is an exempted wild mammal, either,

(A) under and in accordance with such a permission or a licence granted by the Minister under this Act other than section 29, or

(B) in the manner and on a day, or during a period of days, mentioned in subparagraph (ii) of paragraph (b) of this subsection,

(d) wilfully interferes with or destroys the breeding place of any protected wild animal,

shall be guilty of an offence.

(6) The Minister may grant a licence to a person to capture or humanely kill or capture and humanely kill at any time a protected wild animal of a species specified in the licence for such educational, scientific or other purpose as shall be specified in the licence.

(7) Notwithstanding subsection (5) of this section, it shall not be an offence for a person

(a) while engaged in agriculture, fishing or forestry, or in zoology or in any other scientific pursuit, unintentionally to injure or kill a protected wild animal, or

(b) while so engaged to interfere with or destroy the breeding place of such an animal, or

(c) while constructing a road or while carrying on any archaeological operation, building operation...
or work of engineering construction, or while constructing or carrying on such other operation or work as may be prescribed, to kill or injure such an animal or to destroy or injure the breeding place of such an animal, or

(d) to capture an injured or disabled protected wild animal for the purpose of killing it humanely or with the intention of tending it and of later releasing it, or

(e) to kill humanely a protected wild animal which is either injured in the manner described in paragraph (a) of this subsection or captured in the manner described in paragraph (d) of this subsection, or so to kill a protected wild animal injured in the circumstances described in paragraph (c) of this subsection,

and nothing in this section shall make unlawful,

(i) the taking and killing of hares by coursing at a regulated coursing match which is held both during a period specified as regards hares in a hares order and in a place to which such order applies,

(ii) the hunting of hares by means of a pack of beagles or harriers both during a period specified as regards hares in a hares order and in a place to which the order applies,

(iii) anything which section 3 (3) of the Whale Fisheries Act, 1937, permits to be done, or

(iv) anything which is duly done pursuant to a statute (other than this Act) or statutory instrument, which is permitted to be done under such a statute or instrument or which is done pursuant to and in accordance with a licence or other permission granted or issued pursuant to such a statute or instrument or anything caused by or which results from, or is consequent upon or the effect of any other act or thing which is lawfully done.

(8) In any proceedings for an offence under this section relating to a protected wild animal which is of a species other than a species specified in Part II of the Fourth Schedule to this Act, it shall be a defence for the defendant to prove that any capturing or killing complained of was urgently necessary for the purpose of stopping damage described in section 42 (1) of this Act being caused and that in the particular circumstances of the case it was not practical for him to apply to the Minister beforehand for a permission under section 42 of this Act and that the defendant reasonably believed that damage mentioned in the said section 42 (1) was being caused by the protected wild animal to which the alleged offence relates or by protected wild animals of the same species as that of such protected wild animal.

(9) In any proceedings for an offence under this section it shall not be necessary for the prosecution to prove that any act constituting (whether in whole or in part) the alleged offence was done otherwise than while the defendant was engaged in agriculture, fishing or forestry, or in zoology or in another scientific pursuit.

(10) Proceedings for an offence under this section may be taken in any District Court District, and in case such proceedings are taken and apart from this section the Justice before whom the proceedings are brought would not have jurisdiction to hear and determine the proceedings, then for the purpose of conferring such jurisdiction the offence may be treated as having been committed within the District Court District to which such Justice is assigned.

(11) The Minister may by regulations provide that

(a) subsection (8) of this section shall have effect in relation to any proceedings for offences under this section relating to protected wild animals of a species specified both in Part II of the Fourth Schedule to this Act and in the regulations,
(b) the said subsection (8) shall not have effect in relation to any such proceedings relating to protected wild animals of a species specified in the regulations,

and the said subsection (8) shall have effect accordingly.


24.(1) Subject to sections 27 and 28 of this Act, the Minister may by order provide that any protected wild bird which is of a species specified in the order, may be hunted either throughout the State or in any part thereof specified in the order on a day or during a period of days so specified.

(2) An order under this section may contain different provisions in relation to different areas and different species of protected wild birds, including provisions limiting the total number of any particular such species which may, during a period of days specified in the order, be killed by individuals in hunting in accordance with the order either in relation to the area as a whole to which the order applies or to part of such area.


25.(1) Subject to sections 27 and 28 of this Act, the Minister may by order provide that any wild mammal (being a protected wild animal) which is of a species, specified in the order (in this Act referred to as an exempted wild mammal) may be hunted in a manner so specified either throughout the State or in any part thereof specified in the order, on a day or during a period of days so specified.

(2) An order under this section may contain different provisions in relation to different areas and different species of exempted wild mammals, including provisions limiting the total number of any particular species of such mammal which may, during a period of days specified in the order, be killed by individuals in hunting in accordance with the order either in relation to the area as a whole to which the order applies or to part of such area.

[zza39y1976s26]26 Licences to hunt otters or deer and to hunt or course hares.

26.(1) The Minister may grant to

(i) the master or other person in charge of a pack of otter hounds, a licence authorising the hunting of otters by that pack,

(ii) the master or other person in charge of a pack of stag hounds, a licence authorising the hunting of deer by that pack,

during such period or periods as is or are specified in the licence.

(2) The Minister may grant to the master or other person having charge for the time being of a pack of beagles or harriers a licence to hunt hares in any district or districts specified in the licence with that pack on such day or days (being a day or days which are not specified in a hares order) as are both specified in the licence and are in the year in which the licence is granted.

(3) The Minister may, on an application made by any coursing club which is affiliated to the Irish Coursing Club, grant to the applicant a licence to hold, on such day or days (being a day or days which are not specified in a hares order) as are both specified in thelicence and are in the year in which the licence is granted, regulated coursing matches.

27. (1) Where the Minister is satisfied that because of the severity of weather conditions occurring in
the State or elsewhere, or for any other reason (which reason shall be specified in the order), it is
desirable, in the interest of conserving fauna, to make an order under this section, he may by order
prohibit during such period not exceeding one month as may be specified in the order, either
throughout the State or in such area or areas thereof as may be so specified, the hunting of

(a) any protected wild bird which is of a species specified both in an order under section 24 of this
Act and in the order under this subsection, or

(b) any exempted wild mammal which is of a species specified in the order under this subsection.

(2) In case before the commencement of an order under this section an order under section 24 or
section 25 of this Act has been made and has not been revoked, the following provisions shall apply

(a) in case immediately before such commencement the order under the said section 24 or 25, as the
case may be, was in force, it shall not have effect in relation to any protected wild bird or exempted
wild mammal specified in the order under this section at any time during the period so specified, and

(b) in case immediately before such commencement the order under the said section 24 or 25, as the
case may be, had not come into force, then, notwithstanding anything contained in the order, unless
the order under this section is sooner revoked, as regards any such protected wild bird or exempted
wild mammal, the order under the said section 24 or 25, as the case may be, shall not come into force
until the expiration of the period specified in the order under this section.

(3) The Minister may by order extend the period specified in an order under subsection (1) of this
section; provided that the period during which a prohibition under this section is to remain in force
shall in no case exceed two months.

CHAPTER IV

Restrictions to protect wildlife

[zza39y1976s28]28 General restriction as regards hunting or killing with firearms certain exempted
wild mammals and certain protected wild birds.

28. (1) A person shall not with firearms hunt or kill on any land an exempted wild mammal or a
protected wild bird of a species specified in an order under section 24 of this Act which is for the
time being in force unless

(a) the exempted wild mammal or the protected wild bird is hunted or killed pursuant to and in
accordance with a licence granted under this Act, or deemed to have been granted under section 29
of this Act, and

(b) the person is in relation to the land a qualified person for the purposes of this section.

(2) A person shall in relation to land be qualified for the purposes of this section if he is at least
sixteen years of age and

(a) is entitled to sporting rights over the land, or

(b) is the guest, invitee, servant or agent, or possesses the written authority of a person who is
entitled to sporting rights over the land, or

(c) is a member of a body of persons which is entitled to sporting rights over the land or which has
such authority, or

(d) is a person who is of a class or description which the Minister by regulations declares to be a qualified class or description for the purposes of this section.

(3) A person who contravenes subsection (1) of this section shall be guilty of an offence.

29 Licences to hunt with firearms.

29.(1) Subject to section 75 (1) of this Act, the Minister may, if he thinks fit, grant to a person ordinarily resident in the State, who when making the application makes a declaration in a form approved of for the purposes of this section by the Minister, a licence (operating in the manner specified in subsection (4) of this section) to hunt and kill with firearms, subject to the restrictions contained in section 33 of this Act, exempted wild mammals (other than hares).

(2) Subject to section 75 (1) of this Act, the Minister may, if he thinks fit, grant to a person ordinarily resident outside the State, who when making application for the licence makes a declaration referred to in subsection (1) of this section, a licence (operating in the manner specified in subsection (4) of this section) to hunt and kill with firearms, subject to the restrictions contained in section 33 of this Act, exempted wild mammals and protected wild birds to which an order under section 24 of this Act for the time being applies.

(3) In determining an application for a licence or renewal under subsection (1), subsection (2) or subsection (6) of this section, the Minister shall have regard to the conservation requirements of the species of protected wild birds or exempted wild mammals concerned and to the suitability of the applicant having regard to those requirements or to the purposes of this Act.

(4) A licence granted or renewed by the Minister under this section shall remain in force for a period beginning on the day on which the licence is granted or renewed and ending on the next following 31st day of July and subject to its terms the licence shall operate to authorise the holder of the licence, for so long as the licence is in force, to hunt and kill with firearms any fauna to which the licence relates pursuant to and in accordance with such orders (if any) made under section 24 or 25 of this Act as are for the time being in force.

(5) Where a person applies to a Superintendent of the Garda Síochána for the grant under section 3 of the Firearms Act, 1925, of a firearm certificate or the renewal under section 9 of the Firearms Act, 1964, of such a certificate and when making the application for such certificate or renewal the person makes a declaration referred to in subsection (1) of this section, the certificate shall, if it is endorsed in the manner described in subsection (8) of this section, for the purposes of sections 22 (4) and 23 (5) of this Act be deemed to be a licence granted by the Minister under this section and, subject to section 75 (1) and to the restrictions contained in section 33 of this Act, such certificate shall, for so long as it is in force, operate to authorise the person to whom it is granted, with the firearm to which the certificate relates

(a) to hunt and kill pursuant to any order under section 24 of this Act which for the time being is in force any protected wild bird.

(b) to hunt and kill pursuant to and in accordance with any order under section 25 of this Act which is so in force any hare.

(6) A licence granted by the Minister under this section (other than a licence deemed pursuant to subsection (5) of this section to have been so granted) may, if the Minister thinks fit, be renewed by him on the application of the holder of the licence who when making the application makes a declaration referred to in subsection (1) of this section.
(7) A person aggrieved by a refusal by the Minister to grant a licence under subsection (1) or (2) of this section or to renew a licence under subsection (6) of this section may appeal to a Justice of the District Court against the refusal, and in determining the appeal the Justice may

(a) confirm the refusal, or

(b) allow the appeal, inform the Minister of his decision and direct the Minister as soon as may be to grant to the applicant or renew, as may be appropriate, a licence under this section.

(8) Where a firearm certificate is granted to a person described in subsection (5) of this section, there shall be endorsed on the certificate the following:

"This certificate, for so long as it is in force, authorises the person to whom it is granted, with the firearm to which it relates

(a) to hunt and kill pursuant to any order under section 24 of the Wildlife Act, 1976, which is for the time being in force any protected wild bird within the meaning of that Act,

(b) to hunt and kill pursuant to and in accordance with any order under section 25 of the said Act which is so in force any hare."

(9) Where any convention, protocol or other agreement between the State and any other country or territory provides for the reciprocal recognition of licences granted or deemed to have been granted under this section and other licence, permits, permissions or authorisations granted or issued in that country or territory, the Minister may by regulations declare and provide that any such other licence, permit, permission or authorisation which is for the time being in force shall be deemed to be, and shall have the same legal effect as a licence under this section.

(10) The holder of a licence granted or renewed under this section or of a firearm certificate endorsed in the manner described in subsection (8) of this section shall, if the Minister so requires either by a notice in writing sent to the holder or by a notice published for the purposes of this subsection in at least one daily newspaper published in the State, give to the Minister the following information, namely, a statement of the number of species of protected wild birds, and the number and species of protected wild animals shot and taken by the holder during such period as the Minister specifies in the notice and either, as may be so specified, in any place in the State or in any place in a part of the State which is so specified.

(11) A person who fails to comply with a requirement of the Minister under subsection (10) of this section shall be guilty of an offence.

(12) Nothing in this section shall be construed as affecting anything contained in the Firearms Acts, 1925 to 1971.
31. (1) It shall be an offence for any person to sell, purchase or have in his possession a live perching bird to which this section applies other than a close-ringed specimen bred in captivity.

(2) This section applies to any live perching bird (order Passeriformes) of a species which occurs in a wild state in the State, Northern Ireland, Great Britain, the Channel Islands or the Isle of Man and which is not a species specified in the Third Schedule to this Act.

(3) In any proceedings for an offence under this section it shall be a defence for the defendant to prove that

(a) be lawfully acquired the relevant perching bird before the commencement of this section, or

(b) he lawfully acquired such bird from a person who so acquired it before such commencement.

(4) In this section "close-ringed specimen" means a specimen of live perching bird (order Passeriformes) fitted with a continuous metal band or ring which has been slipped over its foot and on to its leg while a fledgling.

32. (1) It shall be an offence for a person, otherwise than pursuant to and in accordance with a licence granted by the Minister for the purposes of this subsection, to attach any band, ring, tag or other marking device to any wild animal or wild bird or to take by net, trap or by any other means any such animal or bird for the purposes of attaching to it any band, ring, tag or other marking device.

(2) Subsection (1) of this section shall not apply to the close ringing of artificially-reared wild birds.

(3) It shall be an offence for a person to import or have in his possession a cannon-net, mist-net, rocket-net or similar appliance for taking or trapping unless he is the holder of a licence granted by the Minister for the purposes of subsection (1) of this section.

(4) A licence granted for the purposes of subsection (1) of this section may, as the Minister thinks fit, apply to wild animals and wild birds (other than artificially-reared wild birds) generally or to such species of such animals and birds as are specified in the licence.

(5) A licence granted for the purposes of subsection (1) of this section may be expressed, and if so expressed shall operate, to authorise the doing of, within an area or areas specified in the licence, and only within such area or areas, the things permitted to be done by the licence.

(6) A person shall not be convicted under this section and under section 22, 23 or 34 of this Act in respect of the same act.

33. (1) It shall be an offence for a person to kill or injure

(a) with a repeating or automatic shotgun (other than a repeating or automatic shotgun which is adapted or modified so as to render it incapable of carrying more than three shotgun cartridges), with an airgun, air-rifle, gas-rifle, pistol or revolver, or with any firearm fitted with a silencer device, any wild bird,
(b) with a rifle, any protected wild bird.

(2) It shall be an offence for a person to kill or injure any wild bird or wild mammal with a spring
gun, or with tracer shot or with a floating container containing an explosive substance.

(3) It shall be an offence for a person to kill or injure with a shotgun a protected wild animal other
than a hare.

(4) Subject to the foregoing subsections of this section, the Minister may make regulations
specifying the type and calibre of firearms and ammunition which may be used to hunt wild birds
and wild mammals and providing that firearms and ammunition of any other type and calibre shall
not be used to hunt such birds or mammals.

(5) In this section "rifle" includes both a gas-rifle and an air-rifle.

34. (1) Notwithstanding anything contained in this Act apart from this section but subject to section
42, a person shall not

(a) hunt any wild bird or wild mammal by means of a trap, snare, net, line, hook, arrow, dart, spear
or similar device, instrument or missile, or birdlime or any substance of a like nature, or any
poisonous, poisoned or stupefying bait, or

(b) affix place or set

(i) any trap, snare or net for killing or taking a wild bird or a wild mammal, or

(ii) any line, hook or other device or instrument, calculated or likely to cause death or bodily injury
to any wild bird or wild mammal coming in contact with it,

on any tree, pole, cairn or other structure in, or in the vicinity of, any place frequented by wild birds
or by wild mammals, or

(c) lay any poisonous or poisoned substance or stupefying bait, being a substance or bait which is
calculated or is likely to injure, or facilitate the capture of, a wild bird or a wild mammal, in, or in the
vicinity of, any place mentioned in paragraph (b) of this subsection, or on any tree, pole, cairn or
other structure in or in the vicinity of such place.

(2) Subsection (1) of this section shall not apply to or render unlawful

(a) the affixing, placing or setting of a trap, snare or net which for the time being stands approved for
the purposes of this section by virtue of regulations under this section,

(b) the taking or killing by means of any such trap, snare or net of any wild bird which is not a
protected wild bird or any wild mammal which is not a protected wild animal,

and nothing in the said subsection (1) shall make unlawful anything which is duly done pursuant to a
statute (other than this Act) or statutory instrument, which is permitted to be done under such a
statute or instrument or which is done pursuant to and in accordance with a licence or other
permission granted or issued pursuant to such a statute or instrument or anything caused by or which
results from, or is consequent upon or the effect of any other act or thing which is lawfully done.

(3) Subsection (1) of this section shall not apply to any of the following if done pursuant to and in
accordance with a licence granted in that behalf by the Minister:

(a) the capture alive, on land specified in the licence by means of a trap, snare or net of any species of wild bird specified in the licence, for the purpose of propagating or of improving the quality of such species,

(b) the capture alive by means of nets of hares by or on behalf, of at the request, of a coursing club affiliated to the Irish Coursing Club,

(c) the capture alive by means of nets or other devices of hawks or falcons for the purpose of lawful falconry within the State,

(d) the capture alive wild birds or wild mammals, for research or other scientific or educational purposes or for removal to a new habitat, or to a place specified in the licence.

(4) The Minister may by regulations declare a trap, snare or net which is of a particular type, class or description specified in the regulations

(a) to be approved of for the purposes of this section and may, if he thinks fit, regulate its use as regards wild birds or wild mammals,

(b) to be a trap, snare or net to which subsection (6) of this section applies.

(5) Any person who contravenes subsection (1) of this section shall be guilty of an offence.

(6) Any person who imports, other than pursuant to and in accordance with a licence granted by the Minister in that behalf, or who in the course of his trade or business sells a trap, snare or net which pursuant to subsection (4) of this section is for the time being declared by the Minister to be a trap, snare or net to which this subsection applies shall be guilty of an offence.

(7) A person shall not be convicted under this section and under section 22 or section 23 of this Act or section 8 of the Protection of Animals Act, 1911, in respect of the same act.


35.(1) Notwithstanding anything contained in this Act apart from this section, but subject to section 42, a person shall not

(a) use as a scarecrow any live wild bird which is tethered, or

(b) use as a decoy for the purpose of hunting any wild bird a live wild bird which is tethered or secured by braces or other similar appliances or which is confined in a cage or pen or which is blind, maimed or injured, or

(c) use a stuffed or artificial decoy in the form of any bird for the purpose of hunting any protected wild birds, other than wild duck and wild geese, or

(d) use an electrical or other instrument or appliance (including recording apparatus) emitting or imitating birdcalls or the calls of wild mammals for the purpose of hunting a protected wild bird or a protected wild animal which is a mammal.

(2) Subsection (1) of this section shall not apply to the use of a whistle or similar instrument or appliance imitating, or emitting calls similar to, the calls of plover, wild duck or wild geese, which is
operated (whether wholly or partly) manually or orally, for the purpose of hunting any of those wild birds.

(3) Notwithstanding the foregoing provisions of this section, the Minister may by order prohibit throughout the State or in any particular area thereof:

(a) the use for hunting wild duck or wild geese of any stuffed or artificial decoy of a particular class or description specified in the order, or

(b) the use of any orally or manually operated whistle or other instrument or appliance (not being recording apparatus) which imitates, or emits calls similar to, the calls of wild duck or wild geese or emits recorded such calls.

(4) Notwithstanding the foregoing provisions of this section, a decoy, or an instrument or appliance, including electrical or other recording apparatus emitting or imitating birdcalls (including distress calls), intended for the purpose of repelling, scaring or capturing a protected wild bird, may be used, pursuant to and in accordance with a licence granted in that behalf by the Minister, for scientific research or for another purpose approved of by the Minister.

(5) The Minister may grant to a person a licence to use as a decoy a live wild bird which is of a species specified in the Third Schedule to this Act and which is confined in a cage or pen and every licence granted pursuant to this subsection shall have attached thereto the following conditions, namely:

(a) the bird shall be so used only for hunting birds of the same species, and

(b) the bird while being so used shall be regularly provided by the holder of the licence, or by someone on his behalf, with ample food and water and shall, when caged, only be kept in a cage which is of sufficient dimensions to enable it to move and exercise freely.

(6) A person who

(a) otherwise than pursuant to and in accordance with a licence granted by the Minister under subsection (4) or (5) of this section does anything prohibited by subsection (1) of this section,

(b) contravenes an order made by the Minister under this section,

shall be guilty of an offence.

36 Use of mechanically-propelled vehicles, vessels and aircraft in hunting prohibited.

36.(1) Notwithstanding anything contained in this Act apart from this section but subject to, section 4,2, a person shall not hunt or disturb for the purpose of hunting

(a) any protected wild animal by means of a mechanically-propelled vehicle, vessel or aircraft, whether it is being so propelled or is stationary,

(b) any protected wild bird by means of such a vehicle, vessel or aircraft while it is being so propelled.

(2) Notwithstanding subsection (1) of this section, a mechanically-propelled vehicle, vessel or aircraft may be used to capture or kill, pursuant to and in accordance with a licence granted in that behalf by the Minister and for such educational, scientific or other purposes as are specified in the
licence, protected wild birds or protected wild animals of a species so specified.

(3) Subsection (1) of this section shall not make unlawful anything which section 3 (3) of the Whale Fisheries Act, 1937, permits to be done.

(4) Subject to subsections (2) and (3) of this section, a person who contravenes subsection (1) of this section shall be guilty of an offence.

[zza39y1976s37]37 Hunting by night restricted.

37.(1) Notwithstanding anything contained in this Act apart from this section but subject to section 42, a person shall not hunt

(a) a woodcock at any time between sunset and sunrise,

(b) any other protected wild bird, other than a wild duck or a wild goose, or any protected wild animal at any time during any period beginning one hour after sunset and ending one hour before sunrise.

(2) Subsection (1) of this section shall not apply to

(a) hunting protected wild birds pursuant to and in accordance with a licence granted by the Minister under section 22 (9) of this Act for a purpose mentioned in paragraph (a) or (d) of that section, or

(b) hunting protected wild animals pursuant to and in accordance with a licence granted by the Minister under section 23 (6) of this Act.

(3) A person who contravenes subsection (1) of this section shall be guilty of an offence.

[zza39y1976s38]38 Use of lamps, mirrors etc, in hunting prohibited.

38.Any person who uses any lamp, light, torch, mirror or other artificial light-reflecting or dazzling device or appliance in hunting any protected wild bird or protected wild animal, otherwise than while either

(a) attaching thereto any band, ring, tag or other marking device, or

(b) hunting for educational or scientific purposes.

pursuant to and in accordance with a licence granted under this Act by the Minister, shall be guilty of an offence.

[zza39y1976s39]39 Burning of vegetation near woods or certain other land restricted.

39.(1) A person shall not burn any vegetation growing within one mile of

(a) a wood which is not the property of such person, or

(b) land to which an establishment order, a recognition order, a designation order or an agreement under section 18 of this Act relates,

unless such person has, not less than seven days or more than thirty-five days before burning such vegetation, given notice of his intention to do so in writing to both the sergeant in charge of a Garda Síochána station in the Garda Síochána district in which the wood or land is situate and to
(i) in the case of a wood, the occupier of the wood,

(ii) in the case of land to which an establishment order, a recognition order or an agreement under the said section 18 relates, the Minister together with, in case the Minister is not the owner of the land, the occupier.

(iii) in the case of land to which a designation order relates, the Minister.

(2) Where notice is given under subsection (1) of this section, the Minister or any other person to whom the notice is given may within three days after receiving the notice serve a counter-notice on the person by whom such notice was given objecting to the proposed burning on the ground that it is liable to cause damage to the wood or land concerned.

(3) A person shall not

(a) light a fire, or

(b) do any other act,

which causes, or is likely to cause, the burning of vegetation which is growing within one mile either of a wood which is not the property of such person or of land mentioned in paragraph (b) of subsection (1) of this section.

(4) Any person who burns vegetation, lights a fire or does any other act in contravention of this section shall be guilty of an offence.

(5) Where a person

(a) burns any vegetation either in contravention of subsection (1) of this section or after giving the notice required by this section and receiving a counter-notice under this section,

(b) lights a fire or does any other act in contravention of subsection (3) of this section,

any injury occasioned by such burning, lighting or doing to,

(c) in case the contravention is a contravention of the said subsection (1), any wood or land in respect of which a notice ought to have been or was served under this section, or

(d) in case the contravention is a contravention of the said subsection (3), any wood which is not the property of such person or any land mentioned in paragraph (b) of the said subsection (1),

shall be deemed to have been caused by the negligent act of that person, and damages to the extent of that injury shall be recoverable accordingly in any court of competent jurisdiction from that person by the owner of such wood or land, as the case may be.

(6) In this section "wood" includes a plantation.


40.(1) It shall be an offence for a person to cut, grub, burn or otherwise destroy, during the period beginning on the 15th day of April and ending on the 31st day of August in any year, any vegetation growing on any land not then cultivated or in course of cultivation for agriculture or forestry.

(2) Subsection (1) of this section shall not apply in relation to
(a) the destroying, in the ordinary course of agriculture or forestry, of any vegetation growing on or in any hedge or ditch;

(b) the cutting or grubbing of isolated bushes or clumps of gorse, furze or whin or the mowing of isolated growths of fern in the ordinary course of agriculture;

(c) the cutting, grubbing or destroying of vegetation in the course of any works being duly carried out by a Minister of State or a body established or regulated by or under a statute;

(d) the destroying of any noxious weed to which the Noxious Weeds Act, 1936, applies;

(e) the clearance of vegetation in the development or preparation of sites on which any building or other structure is intended to be provided;

(f) the removal or destruction of vegetation required by a notice served by the Minister under section 62 (1) of the Act of 1946 to be removed or destroyed;

but this subsection shall not operate to exclude from subsection (1) of this section anything done by burning.

CHAPTER V

Miscellaneous

[zza39y1976s41]41 Falconry etc.

41.(1) The Minister may make regulations

(a) regulating hunting by means of eagles, hawks, falcons and other birds of the order Falconiformes trained to hawk for sport, or otherwise governing the practice of falconry.

(b) regulating the taking of eagles, hawks, falcons and other birds of the order Falconiformes for training to hawk for sport,

(c) regulating the possession, breeding, training to hawk for sport, display or exhibition of eagles, hawks, falcons and other birds of the order Falconiformes,

(d) providing that a person shall not, save under and in accordance with a licence granted in that behalf by the Minister

(i) engage in falconry,

(ii) have in his possession or under his control any eagle, hawk or falcon or the eggs or young of any eagle, hawk or falcon,

(e) providing for the payment of prescribed fees by applicants for licences granted by the Minister for the purposes of this section,

(f) providing for any matters ancillary or incidental to any of the foregoing.

(2) The Minister may grant licences for the purposes of this section.

[zza39y1976s42]42 Damage by wild birds etc.
42.(1) Where damage is being caused by protected wild birds or by protected wild animals to

(a) livestock, poultry or agricultural crops (including vegetables or fruit) either on pasture or on
cultivated land,

(b) pen-reared wild birds on any land,

(c) other fauna,

(d) flora,

(e) a woodland or a forest plantation, or

(f) a fishery,

notwithstanding any other provision of this Act, the Minister may cause to be taken by a person
authorised by him in that behalf (who is hereby empowered to take) such steps, including entering on
any land and the capture or killing of any such wild bird or any such wild animal, as he thinks
appropriate to stop the damage.

(2) Where damage described in subsection (1) of this section is being caused, the Minister may,
before exercising in relation to the damage the powers conferred on him by subsection (1) of this
section, require the person who is the owner or is in occupation of the property being damaged to
give to him an indemnity indemnifying the Minister, or any person acting on his behalf, against all
claims relating to anything done by or on behalf of the Minister by virtue of the said subsection (1)
in relation to the damage.

(3) Where damage described in subsection (1) of this section is being caused, the owner or occupier
of the property to which the damage is being caused, or any other person duly authorised by the
owner or occupier in that behalf, may apply to the Minister for a permission under this section.

(4) An application to the Minister for a permission under this section shall include particulars of the
damage in relation to which the application is made and in case the Minister decides to grant the
permission, notwithstanding any other provision of this Act, the permission shall, subject to its
terms, operate to enable the owner or occupier, or any other person duly authorised to act on his
behalf, to capture or kill any protected wild bird or any protected wild animal which the owner,
occupier or other person reasonably believes is causing the damage and to take such other steps (if
any) to stop the damage as are specified in the permission.

(5) An application for a permission under this section may be made to the Minister, to the forester in
charge of any forest owned by the Minister or to any other person who is authorised for the time
being by the Minister to receive such applications.

(6) In addition to the foregoing, the following provisions shall apply in relation to a permission
granted under this section:

(a) the permission shall be valid only for such period as is specified therein,

(b) particulars of all protected wild birds and protected wild animals captured or killed pursuant to
the permission shall be furnished to the Minister by the person to whom the permission is given at
such times and in such form as is specified in the permission,

(c) the Minister may grant the permission subject to a condition that
(i) any capture pursuant to the permission is to be effected by a specified means,

(ii) any wild bird or any wild animal captured pursuant to the permission shall be removed to a place specified by the Minister for subsequent release or be disposed of in such other manner as may be so specified.

(7) The powers conferred on the Minister by this section are in addition to, and not in substitution for, the powers conferred on the Minister by sections 59 and 60 of the Act of 1946.


43.(1) Where the Commissioners propose to undertake either

(a) a drainage scheme within the meaning of the Arterial Drainage Act, 1945, which is one to which this section applies, or

(b) any other land drainage scheme, in respect of an area which includes land to which an establishment order, a recognition order or a designation order applies, or land to which an agreement made under section 18 of this Act applies, the Commissioners shall, before commencing the scheme, consult the Minister to ascertain if and to what extent the proposed scheme if carried out would affect or interfere with the suitability of the land affected by the scheme for a nature reserve or refuge, as may be appropriate, and take all practicable steps including, where appropriate, the limitation of the drainage scheme to minimise or avoid such effect or interference.

(2) This section applies to any drainage scheme within the meaning of the Arterial Drainage Act, 1945, not being a scheme of which a copy has been exhibited in accordance with section 5 of that Act before the commencement of this section.

[zza39y1976s44]44 Unlawful hunting or entry on land and other miscellaneous matters.

44.(1) Any person who not being the owner or occupier of land

(a) with a firearm or with a device, instrument or missile mentioned in section 72 (7) of this Act hunts a wild bird or wild animal on the land or moves or drives such a bird or such an animal off the land in order so to hunt it,

(b) enters on the land for the purpose of so hunting wild birds or wild animals,

(c) carries on the land any firearm, net, or other weapon, instrument or device capable of being used for hunting a wild bird or a wild animal, or

(d) shoots over or into the land,

without the permission either of the person who is the owner or the occupier of the land or, in case some other person is entitled to enjoy sporting rights over the land, that other person, shall be guilty of an offence.

(2) Where a person who is neither the owner nor the occupier of land carries on the land a firearm, other weapon or device (or a part thereof) described in paragraph (c) of subsection (1) of this section, any of the following persons may demand of him (and take when given) his name and address, namely:

(a) the owner or occupier of the land or a person authorised by him to exercise on his behalf the powers exercisable by such owner or occupier under this section,
(b) a person who is entitled to enjoy sporting rights over the land or some other person so authorised by him to exercise on his behalf the powers exercisable by him under this section,

(c) the holder, or a person deemed pursuant to section 29 (5) of this Act to be the holder, of a licence granted under that section;

provided that the power conferred by this section on a person mentioned in paragraph (c) of this subsection shall only be exercisable on the production by him of either a current licence granted to him pursuant to the said section 29 or a current firearm certificate granted to him and endorsed in accordance with the requirements of subsection (8) of that section.

(3) A person who refuses or who fails to give his correct name and address on a demand therefor being duly made pursuant to this section or who on such demand gives a name and address which is false or misleading shall be guilty of an offence.

(4) Summary proceedings for an offence under this section may be prosecuted by

(a) a person who at the time at which the offence is alleged to have been committed (in this subsection referred to as the relevant time) is the owner or is in occupation of the land in relation to which the offence is alleged (in this subsection referred to as the relevant land),

(b) any individual who as regards the relevant land is at the relevant time entitled to enjoy sporting rights over such land.

(c) and in the name of the person who at the relevant time is the secretary of a recognised body which at such time is entitled to enjoy sporting rights over the relevant land.

provided that such an offence shall only be prosecuted by the secretary of a recognised body if,

(i) prior to the relevant time a notice stating that sporting rights specified in the notice over land so specified have been reserved for the body is published in a newspaper circulating in the area in which the relevant land is situate, and

(ii) the land so specified comprises or includes the relevant land.

(5) The Minister may by regulations declare any association, club, society or other body of persons which has for or amongst its objects the conservation of game to be a recognised body for the purposes of this section, and any body to which regulations under this subsection for the time being relate is in this section referred to as a recognised body.

(6) Subject to compliance with the requirements of the proviso to subsection (4) of this section, a notice published for the purposes of section 15 of the Game Preservation Act, 1930 (repealed by this Act), shall be regarded as having been published for the purposes of this Act.

(7) In any proceedings for an offence under this section it shall not be necessary for the prosecutor to prove that a defendant was on the land without lawful authority and, in case a defendant claims that he was on the land with lawful authority, the onus of proving such authority shall be on the defendant.

(8) In this section "game" means any exempted wild mammal or any protected wild bird which is of a species specified in an order under section 24 of this Act.
THIRD SCHEDULE

SPECIES OF WILD BIRDS EXCLUDED (SUBJECT TO SECTION 22 (2)) FROM SECTIONS 19 AND 22

Bullfinch
Carrion Crow
Greater Black-backed Gull
Herring Gull
Hooded (Grey) Crow
House Sparrow
Jackdaw
Jay
Lesser Black-backed Gull
Magpie
Pigeons, including Wood Pigeon, but not including carrier pigeons, racing horning pigeons or doves
Rook
Starling
Sections 22 and 23.

FOURTH SCHEDULE

FAUNA REFERRED TO IN SECTION 22 (6) OR 23 (8)

PART I

SPECIES OF PROTECTED WILD BIRDS REFERRED TO IN SECTION 22 (6)

Buzzards
Eagles
Falcons
Harriers
Hawks
Kites
Osprey
Owls

PART II

SPECIES OF PROTECTED WILD ANIMALS REFERRED TO IN SECTION 23 (8)

Pine Marten
Red Deer
Seals
Whales

Section 23

FIFTH SCHEDULE

ANIMALS REFERRED TO IN SECTION 23

LAND MAMMALS
Badger
Bat species
Deer species
Hare species
Hedgehog
Otter
Pine Marten
Red Squirrel

MARINE MAMMALS
Dolphin species
Porpoise species
Seal species
Whale species

AMPHIBIANS
Natterjack Toad