

Assented to in Her Majesty's name this 30th day of October, 1964.

C. HASKARD,
Governor.

LS

No. 15



1964

Colony of the Falkland Islands.

IN THE THIRTEENTH YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II.

Cosmo Dugal Patrick Thomas Haskard, C.M.G., M.B.E.
Governor.

An Ordinance

To amend the law with regard to the preservation of Wild Animals and Birds. Title.

[1st November, 1964] Date of commencement.

ENACTED by the Legislature of the Colony of the Falkland Islands as follows — Enacting clause.

1. This Ordinance may be cited as the Wild Animals and Birds Protection Ordinance, 1964. Short title.

PART I — GENERAL

2. If, save as hereinafter permitted, any person wilfully kills, injures or takes, or attempts to kill, injure or take, any wild animal or bird, or if any person has in his possession or control any wild animal or bird recently killed or taken which is not shown to have been killed or taken otherwise than in contravention of this Ordinance or any licence, order or regulation made thereunder, he shall be guilty of an offence and shall be liable to a fine not exceeding twenty pounds. Protection of wild animals and birds.

3. A person shall not be guilty of an offence under section 2 of this Ordinance by reason of — Exceptions to section 2 with respect to certain wild animals and birds.

- (a) the killing or taking of, or an attempt to kill or take, any wild animal or bird included in the First Schedule to this Ordinance, or by reason of the injuring of such wild animal or bird in the course of an attempt to kill it; or

- (b) the killing or taking of, or an attempt to kill or take, a wild animal or bird included in the Second Schedule to this Ordinance outside the period between the first day of August in any year and the last day of February in the following year, both days included, or by reason of the injuring of such wild animal or bird outside that period in the course of an attempt to kill it.

Establishment of animal and bird sanctuaries.

4. The Governor in Council may by order declare any Crown land or Colonial waters, or with the consent of the owner or lessee, any private land, to be a wild animal or bird sanctuary, and may with respect to any area specified in such order provide for all or any of the following matters, that is to say—

- (a) that any person who, within that area, at any time wilfully kills, injures, or takes, or attempts to kill, injure, or take, any wild animal or bird shall be guilty of an offence against this Ordinance;
- (b) that any person who, save as may be authorised by a licence granted under this Ordinance or any regulation made thereunder, enters into that area, during any period specified in the order shall be guilty of an offence against this Ordinance;
- (c) that any person who introduces into that area any domestic or carnivorous animal shall be guilty of an offence against this Ordinance;
- (d) that where any offence against this Ordinance, or any such offence against this Ordinance as may be specified in the order, is committed, within that area, the offender shall be liable to a fine not exceeding forty pounds.

General exceptions.

5. (1) Nothing in section 2 or in any order made under section 4 of this Ordinance shall make unlawful—

- (a) the taking of, or an attempt to take, any wild animal or bird if the animal or bird is taken or to be taken solely for the purpose of ringing or marking, or examining any ring or mark on, that or some other animal or bird and then releasing it;

- (b) the killing, injuring or taking of, or an attempt to kill or take, any wild animal or bird for the purposes of approved scientific experiment.

For the purposes of this Ordinance, the term approved scientific experiment shall mean a scientific experiment approved by the Governor and for which a licence has been issued in accordance with section 8 of this Ordinance.

(2) Notwithstanding any of the provisions of section 2 or of any order made under section 4 of this Ordinance, a person shall not be found guilty of an offence against this Ordinance—

- (a) by reason of the killing or injuring of, or an attempt to kill, a wild animal or bird if he satisfies the court before whom he is charged that his action was necessary for the purpose of preventing serious damage or injury to domestic animals, crops, vegetables, fruit, or any other form of property or to fisheries;
- (b) by reason of the taking of, or an attempt to take, any wild animal or bird if he satisfies the court before whom he is charged that the wild animal or bird was taken or to be taken solely for the purpose of tending it and releasing it when no longer disabled;
- (c) by reason of the killing of any wild animal or bird if he satisfies the court before whom he is charged that the wild animal or bird has been so seriously disabled otherwise than by his own act that there was no reasonable chance of its recovering;

- (1) by reason of any act made unlawful by any of the provisions aforesaid if he satisfies the court before whom he is charged that the act was the incidental result of a lawful operation and could not reasonably have been avoided.

(3) Nothing in this Ordinance shall make unlawful the killing of foxes, rats, mice, rabbits, curacebos and turkey vultures by any means.

6. (1) If, save as may be authorised by a licence granted under this Ordinance, any person—

- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild animal or bird coming in contact therewith, that is to say, any springe, trap, gin snare, hook and line, poisoned or stupefying bait, or container holding explosives; or

- (b) uses for the purpose of killing or taking any wild animal or bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-line or a substance of a like nature to bird-line; or

- (c) for the purpose of killing or taking any wild animal or bird uses as a decoy any live animal or bird whatsoever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured; or

- (d) uses for the purpose of killing any wild animal or bird a shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches; or

- (e) except in order to find an animal or bird already killed or injured, uses any form of artificial light for the purpose of killing or taking any wild animal or bird other than a wild animal or bird included in the First Schedule to this Ordinance.

he shall be guilty of an offence against this Ordinance and shall be liable to a fine not exceeding twenty-five pounds.

(2) Nothing in subsection (1) of this section shall make unlawful the use of a cage-trap or net for the purpose of taking a wild animal or bird if it is shown that the taking of the wild animal or bird is solely for the purpose of ringing or marking, or examining any ring or mark on, that or some other wild animal or bird and then releasing it or for the purpose of an experiment duly authorised under section 8 of this Ordinance.

Provided that nothing in this subsection shall make lawful the use of a rocket-propelled net.

7. (1) The Governor in Council may by Proclamation either generally or with respect to any specified part of the Colony add any wild animal or bird to, or remove any wild animal or bird from, either of the First or Second Schedules to this Ordinance, or vary the close season for any wild animal or bird included in the Second Schedule to this Ordinance.

(2) While any such proclamation remains in force this Ordinance shall be read subject to the variation made by such proclamation.

8. Notwithstanding anything contained in this Ordinance the Governor may, for such time and subject to such conditions and for such purposes as he thinks fit, authorise any person to kill or take any wild animal or bird by any means specified in the licence.

9. (1) A police officer, which definition shall include a constable, may without warrant stop and search any person found committing an offence against this Ordinance and any vehicle, boat,

Prohibition of certain methods of killing or taking wild animals and birds.

Power of the Governor to vary the Ordinance by proclamation.

Power of the Governor to grant licences.

Enforcement fines, etc.

animal or bird which that person may then be using, and may —
(a) arrest that person if he fails to give his name and address to the police officer's satisfaction; and

(b) seize and detain for the purposes of proceedings under this Ordinance any wild animal or bird, other than a wild animal or bird included in the First Schedule to this Ordinance, or any weapon or other article capable of being used to kill or take wild animals or birds, which may be in that person's possession.

(2) Where an offence is committed in respect of more than one wild animal, bird, or article, the maximum fine which may be imposed under this Ordinance shall be determined as if the person convicted had been convicted of a separate offence in respect of each wild animal, bird, or article.

(3) The court before whom any person is convicted of an offence against this Ordinance shall order the forfeiture of any wild animal or bird in respect of which the offence was committed and may, if it thinks fit, order the forfeiture of any weapon or other article in respect of or by means of which the offence was committed.

(4) Whenever in any legal proceedings under this Ordinance it is alleged that the wild animal or bird in respect of which the charge is laid was killed or taken without the limits of the Colony or Colonial waters or at a time when such wild animal or bird might lawfully be killed or taken, the proof of such circumstances shall lie on the person alleging the same.

PART II. — PENGUINS AND ALBATROSSES

10. Any person who shall take or destroy any penguins' or albatrosses' eggs without a licence under this Ordinance or contrary to the terms and conditions thereof or shall aid and abet any person not so licensed to take and destroy any such eggs shall commit an offence and be liable to pay for every egg so taken or destroyed a fine not exceeding ten shillings, and in addition shall forfeit any such eggs found in his possession.

11. The Agricultural Officer, a Deputy Collector of Customs, or such other officer as the Governor may appoint for the purpose, may grant licences to take penguins' or albatrosses' eggs to such persons as may apply for them for such periods, and on such terms and conditions in respect of the number and description of eggs to be taken, the territorial limits within which they may be taken under such licences, and the payment to be made in respect thereof, as may be approved by the Governor.

12. Any owner or master or other person in charge of any vessel who shall permit such vessel, or any boat or canoe belonging to such vessel, to be employed in taking or destroying penguins' or albatrosses' eggs, or who shall permit or negligently suffer any person belonging to such vessel to be employed in taking or destroying penguins' or albatrosses' eggs, contrary to the provisions of this Part of this Ordinance, shall forfeit any eggs so taken and any eggs found in his possession, and in addition thereto shall be liable to a fine not exceeding fifty pounds for each offence.

PART III. — MISCELLANEOUS

13. For all purposes of and incidental to the trial of any person accused of any offence under this Ordinance, except an offence against section 4 or any order made thereunder, and the proceedings and the jurisdiction of any court, the offence shall be deemed to have been committed either in the place in which it was actually committed or in any place in which the offender may for the time being be found.

14. Any fine adjudged under this Ordinance to be paid by the owner or master, or other person in charge of a vessel, may be recovered in the ordinary way, or, if the court thinks fit so to order,

Restriction on taking penguins' or albatrosses' eggs without a licence.

Granting of licences.

Liability of an owner or master of a vessel.

Fine.

Recovery of fines.

by distress or arrest and sale of the vessel to which the offender belongs, and her tackle, apparel, and furniture, and any property on board thereof or belonging thereto, or any part thereof.

15. The Governor, and any person duly authorised by him in writing, may take or destroy for a scientific or any other special purpose, any penguins' or albatrosses' eggs, and in so doing shall be exempt from any fines and forfeitures under Part II of this Ordinance.

Special exemption.

16. The Governor in Council may, from time to time, make regulations for carrying out the provisions of this Ordinance and the intent and object thereof.

Governor in Council may make regulations.

17. The Wild Animals and Birds Protection Ordinance, Cap. 77, is hereby repealed.

Repeat of Cap. 77.

SCHEDULE I

Wild animals and birds which may be killed at any time —

Dominican Gull
Shear
House Sparrow
Upland Goose
Brent Goose
Thin-billed (Becher's) Plover (Firebird)
Hare.

SCHEDULE II

Wild birds which may be killed outside the close season —

Grey Duck
Pompa Teal
Chiloe Widgeon
Yellow Billed Teal
Paraguayan Snipe.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

H. L. BOUND,
Clerk of the Legislative Council.

Ref. 106911.