



**Isle of Man**

*Ellan Vannin*

AT 2 of 1932

# THE WILD BIRDS PROTECTION ACT 1932





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## THE WILD BIRDS PROTECTION ACT 1932

<i>Received Royal Assent:</i>	<i>10 June 1932</i>
<i>Passed:</i>	<i>5 July 1932</i>
<i>Commenced:</i>	<i>5 July 1932</i>

AN ACT to repeal the enactments providing for the protection of wild birds and to substitute other provisions therefor.

### GENERAL NOTES

1. This Act was repealed by the *Wildlife Act 1990* Sch 10 but remains in operation in respect of bird sanctuaries in existence immediately prior to 1 January 1991 see GC9/91.
2. The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

### 1 Short title

This Act may be cited as ‘The Wild Birds Protection Act, 1932’.

### 2 Repeals

The enactments specified in the first Schedule hereto are repealed to the extent in the third column thereof mentioned.

### 3 Definitions

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say: —

“**wild bird**” means wild bird of any species;

“**protected bird**” means any wild bird except those birds included in the definition of ‘game’ contained in section 2 of the Game Act, 1882, and except those birds included in the definition of ‘gull’ contained in section 2 of the Sea Gull Preservation Act, 1867, as amended by section 48 of the Salmon and Fresh Water Fisheries Act, 1882, as amended by this Act, and except those described in the second Schedule to this Act.

#### 4 Amendment of Game Act 1882

Wherever the word 'plover' occurs in the Game Act, 1882, the words 'golden plover' shall be substituted therefor. As from the commencement of this Act any reference to 'lapwing' contained in the Game Act, 1882, shall be repealed.

#### *General Protection of Birds*

#### 5 Prohibition of certain methods of killing or taking wild birds

- (1) If, save as may be authorised by a licence granted under section 9 of this Act, 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 bird coming into contact therewith, that is to say, any spring, trap, gin, snare, electrical device designed to frighten birds, hook and line, poisoned, poisonous or stupefying substance or floating container holding explosives; or
  - (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, gas, bird-lime or substance of a like nature to bird-lime; or
  - (c) for the purpose of killing or taking any wild bird uses as a decoy any live 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) except in order to find a bird already killed or injured, uses any form of artificial light for the purpose of killing or taking any wild bird,

he shall be guilty of an offence against this Act and shall be liable to a special penalty:

Provided that in any proceedings under paragraph (a) of this subsection it shall be a defence that the article was set in position by the accused for the purpose of killing or taking animals in the interests of public health, agriculture or the preservation of other creatures and that he took all reasonable precautions to prevent injury thereby to wild birds.

- (2) If any person uses any mechanically propelled vehicle or boat or any aircraft in immediate pursuit of a wild bird for the purpose of driving, killing or taking that bird he shall be guilty of an offence against this Act and be liable to a special penalty.<sup>1</sup>

## 6 Imported birds may not be released

It shall not be lawful for any person, without the leave of the Governor, knowingly to liberate imported wild birds.

## 7 Governor may amend Schedules

The Governor may, subject to the provisions of this Act relating to the making of orders, by order add other varieties of wild birds or species of wild birds to, or delete any wild bird or species of wild bird from, those named in the second and third schedule hereto, and on the making of any such order this Act shall have effect accordingly.<sup>2</sup>

## 8 Protected birds

(1) If, save as may be authorised by a licence granted under section 9 of this Act, any person —

- (a) wilfully kills, injures or takes, or attempts to kill, injure or take or uses any means for the purpose of killing, injuring or taking any protected bird; or
- (b) wilfully takes or attempts to take or wilfully injures or disturbs any nest or egg of any protected bird; or
- (c) sells or exposes or offers for sale or has in his control or possession any protected bird recently killed or taken in contravention of this Act, or the skin or plumage or any part of such bird, or any nest or egg of any protected bird,

he shall, subject to subsection (2) of this section, be guilty of an offence against this Act and, if the offence is committed in respect of a protected bird included in the Third Schedule to this Act or in respect of the nest or egg of such a bird, he shall be liable to a special penalty.

(2) A person shall not be found guilty of an offence against paragraph (a) of subsection (1) of this section —

- (a) by reason of the killing or injuring of, or an attempt to kill, a protected bird if he satisfies the court before whom he is charged that his action was necessary for the purpose of preventing serious damage to crops, vegetables, fruit, growing timber or any other form of property or to fisheries;
- (b) by reason of the taking of, or an attempt to take, any protected bird if he satisfies the court before whom he is charged that the bird had been disabled otherwise than by his act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
- (c) by reason of the killing of any protected bird if he satisfies the court before whom he is charged that the bird had been so

seriously disabled otherwise than by his act that there was no reasonable chance of its recovering.

- (3) In subsection (1)(b) of this section the taking of photographs or the making of a sound recording or any other like acts in the close vicinity of a nest or egg shall continue a disturbance of that nest or egg.<sup>3</sup>

## **9 Licence for special purposes**

- (1) Subject to the provisions of this Act, the Governor shall have power to grant a licence to any person for any scientific purpose, or for the purpose of protection, or for any other special purpose approved by him, exempting the holder of the licence from any provisions of this Act relating to the killing or taking of wild birds or to the taking or disturbing of the nests or eggs of wild birds.
- (2) A licence under this section may be granted for such areas and subject to such conditions as may be specified in the licence.
- (3) There shall be payable on the grant of a licence under this section a fee of £5.00 or such larger sum as the Treasury may by order prescribe.<sup>4</sup>
- (4) The Governor shall cause a list of licences under this section to be kept at Government Office, and the list shall be open to inspection at all reasonable hours by any person and such list shall be laid before Tynwald annually.
- (5) A licence under this section may be signed either by the Governor or by any person authorised by him in that behalf, but shall not empower the licensee to enter upon any land without the leave of the owner and occupier.
- (6) Any Order made by the Treasury under subsection (3) of this section shall not have effect until approved by resolution of Tynwald.<sup>5</sup>

## **10 Duties of taxidermist**

- (1) It shall be the duty of every person carrying on business as a taxidermist or otherwise as a dealer in stuffed birds, or the eggs of birds, to keep a register of all wild birds, and of the skins, eggs and nests of all wild birds received by him after the passing of this Act, showing details in each case of the locality where they were taken and of the person from whom they were procured.
- (2) A register kept under this section shall be open to inspection at all reasonable times by any officer of police.

## **11 Bird sanctuaries**

With a view to the creation of national wild bird sanctuaries the Governor may, subject to the provision of this Act relating to the making of orders, by Order



direct that in any district defined by the Order all wild birds shall be considered as protected birds within the meaning of this Act, and on the making of any such Order this Act shall in that district have effect accordingly.

Provided that no such Order shall be made except with the consent of the owner and the occupier of any land comprised in the district to which the Order relates.<sup>6</sup>

### *Offences, Penalties and Legal Proceedings*

## **12 Legal proceedings**

Subject to the provision of this Act, any person who —

- (a) commits any act declared by this Act to be unlawful; or
- (b) being a person in whose case a licence granted under this Act has been revoked or cancelled or suspended, applies for a new licence and conceals the fact that his licence has been so revoked or cancelled or suspended; or
- (c) during any period in which a licence granted under this Act to him is suspended, applies for a new licence and conceals the fact that his licence has been so suspended; or
- (d) being a person carrying on business as a taxidermist or otherwise as a dealer in stuffed wild birds or the eggs of wild birds, fails to keep a register in pursuance of the provisions of this Act or makes in any such register an entry which is false in any particular, or refuses to submit any such register for the inspection of any officer entitled under this Act to inspect it; or
- (e) being the holder of a licence granted under this Act infringes any of the conditions attached to the licence; or
- (f) refuses to give his name and address when required by a constable under this Act, or gives a false name or address;

shall be guilty of an offence against this Act.

## **13 Penalties**

- (1) Any person guilty of an offence against this Act —
  - (a) in a case where the Act provides that he shall be liable to a special penalty, shall be liable on summary conviction to a fine not exceeding £2,500, or to a term of imprisonment not exceeding, for a first offence against this Act, one month or, for a second or subsequent offence against this Act, three months, or to both such a fine and such imprisonment;
  - (b) in any other case shall be liable on summary conviction to a fine not exceeding £500.

Provided that where the offence was committed in respect of more than one bird, nest, egg or skin or other article, the maximum fine which may be imposed under this subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each bird, nest, egg, skin or article.<sup>7</sup>

- (2) [Repealed]<sup>8</sup>
- (3) In addition to any other penalty which a court has power to inflict for offences against this Act, the court before which a person is convicted of any such offence may order that any bird, nest or egg in respect of which the offence was committed shall be forfeited, and, if they think fit, deposited in a public museum, and may order that any gun or other instrument in respect of or by means of which the offence was committed shall be forfeited or otherwise dealt with as the court may direct, and may also order that any licence under this Act held by the person convicted shall be cancelled, or shall be suspended for such period as may be specified in the order, and where any licence under this Act has been so cancelled, or during any period when a licence is so suspended, no other licence granted under this Act to that person shall be valid.<sup>9</sup>
- (4) Upon the conviction of the holder of a licence granted under this Act for the offence of infringing any of the conditions attached to the licence, the Governor shall have power to revoke the licence.
- (5) Proceedings under this Act may be taken at the suit of the Chief Constable or any officer of police, or any person authorised by the Governor to enforce the Act.

#### **14 Presumption from possession**

- (1) Where any person sells or has in his possession for purposes of sale any protected bird recently killed or taken, or the plumage or skin or any part of any such bird, or the egg or nest of any protected bird, it shall, unless he satisfies the court before which any proceedings are taken in respect thereof that it was not, or that he had reasonable grounds for believing that it was not, so killed or taken, be deemed to have been killed or taken by him, as the case may be, in contravention of this Act.
- (2) Where any person is found in possession of any protected bird recently killed or taken, or the plumage or skin or any part of any such bird, or the egg or nest of any protected bird, and it appears to the court before which any proceedings are taken in respect thereof that there is reasonable ground for believing that the bird, egg, or nest was killed or taken in contravention of this Act, the bird, egg or nest, as the case may be, shall, unless the person against whom the proceedings are taken satisfies the court that it was not, or that he had reasonable grounds for believing that it was not, so killed or taken, be deemed to have been killed or taken by him in contravention of this Act.

- (3) All offences under this Act committed within the jurisdiction of the Admiralty shall be deemed to be offences of the same nature, and shall render the offender liable to the same punishments as if they had been committed upon any land in this Isle, and may be tried in such place in this Isle in which the offender may be apprehended or be in custody or be summoned, in the same manner and in all respects as if such offences had been actually committed in that place; and in any information or conviction for any such offence the offence may be averred to have been committed 'on the high seas'.

### *Supplemental Provisions*

## **15 Orders of Governor**

- (1) Subject to the provisions of this Act, orders made under this Act by the Governor may be so made as to apply generally or as respects any district specified in the Order.
- (2) At least one month before making under this Act any Order which is to apply generally, the Governor shall cause notice of the proposal to make the Order and of the purport thereof to be published in two insular newspapers, and in such other manner as appears to him to be desirable, and shall consider any objections to the proposal made within such time as may be prescribed in the notice.

## **16 Enforcement of Act**

- (1) Where a person commits, or is reasonably suspected of committing, or having committed, an offence against this Act a constable may, without warrant, stop, detain and search him and if —
  - (a) the name and address of that person are not known to the constable; and
  - (b) that person fails to give his name and address to the satisfaction of the constable;the constable may, without warrant, arrest him.
- (2) Any constable may, whether or not he stops, detains or arrests a person under subsection (1) of this section, detain and examine any bird, egg, nest, gun or other instruments, vehicle, boat, package, vessel or other thing to which the offence or suspected offence relates, and may seize and, pending prosecution, detain any such thing as aforesaid.
- (3) Any constable shall, if he has reasonable cause to suspect that any offence under section 5 or section 8 of this Act is being or is about to be committed on any land have power to enter on that land without the consent of the owner or the occupier thereof.

- (4) Nothing in this section shall take away or abridge any power or authority that a constable would have had if this section had not been enacted.<sup>10</sup>

### **17 Exhibition of summaries of Act**

- (1) The police shall cause to be kept exhibited in such manner and such consolidated form as the Governor may direct, a summary of the provisions of this Act and of any Orders affecting the area of the authority, in the immediate vicinity of all public elementary schools and police stations in the said area, and at such other places as may appear to the police to be suitable with a view to bringing the contents thereof to the notice of the public, and shall also cause the said summary to be kept exhibited in any place which the Governor may direct.
- (2) Any expenses incurred under this Act shall be defrayed by the Treasury out of moneys provided by Tynwald.<sup>11</sup>

### **18 Exemptions**

Nothing herein contained shall affect the provisions of the Game Acts, 1882 to 1928, except as hereinbefore set forth in sections 4 and 11, or the Sea Gull Preservation Acts, 1867 to 1930, or the Manx Museum, Library and Art Gallery Act, 1925.

### **19 Commencement of Act**

This Act shall come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.

**FIRST SCHEDULE****ENACTMENTS REPEALED**

## Section 2

[Sch 1 repeals the following Act wholly —

Wild Birds Protection Act 1887

and the following Act in part —

Game Act 1882.]

**SECOND SCHEDULE****EXEMPTED BIRDS**Section 3<sup>12</sup>

All birds of the Crow species (except Choughs and Ravens), including Rooks, Jackdaws and Magpies.

Starlings.

Sparrows.

Cormorants.

Shags.

Woodpigeon.

**THIRD SCHEDULE****PROTECTED BIRDS (SPECIAL PENALTY)**Section 8<sup>13</sup>

Buzzard	Owl, barn
Chough	Peregrine
Corncrake (landrail)	Redstart
Eagle (All species)	Manx Shearwater
Goshawk	Sparrowhawk
Harrier (All species)	Swan Bewick's
Hobby Swan	Whooper
Kite	Tern (All species)
Merlin	Whinchat
Osprey	



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> S 5 substituted by Wild Birds Protection (Amendment) Act 1975 s 1.

<sup>2</sup> S 7 amended by Wild Birds Protection (Amendment) Act 1975 s 2.

<sup>3</sup> S 8 substituted by Wild Birds Protection (Amendment) Act 1975 s 3.

<sup>4</sup> Subs (3) substituted by Wild Birds Protection (Amendment) Act 1975 s 4 and amended by Treasury Act 1985 Sch 2 and by GC328/85.

<sup>5</sup> Subs (6) added by Wild Birds Protection (Amendment) Act 1975 s 4 and amended by Treasury Act 1985 Sch 2.

<sup>6</sup> S 11 amended by Wild Birds Protection (Amendment) Act 1975 s 5.

<sup>7</sup> Subs (1) substituted by Wild Birds Protection (Amendment) Act 1975 s 6.

<sup>8</sup> Subs (2) repealed by Wild Birds Protection (Amendment) Act 1975 s 6.

<sup>9</sup> Subs (3) amended by Wild Birds Protection (Amendment) Act 1975 s 6.

<sup>10</sup> S 16 substituted by Wild Birds Protection (Amendment) Act 1975 s 7.

<sup>11</sup> Subs (2) amended by Treasury Act 1985 Sch 2.

<sup>12</sup> Sch 2 amended by Wild Birds Protection (Amendment) Act 1975 Sch.

<sup>13</sup> Sch 3 inserted by Wild Birds Protection (Amendment) Act 1975 s 8.