

BIRDS PROTECTION ORDINANCE, 1911.⁽¹⁾

No. 9 of 1911.

An Ordinance to consolidate and amend the Law relating to the Protection and Collection of Birds.

BE it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the *Birds Protection Ordinance*, 1911.⁽¹⁾ Short title.

It shall come into operation on a day to be fixed by the Lieutenant-Governor by proclamation published in the *Gazette*.⁽¹⁾

2. The following Ordinances are hereby repealed:—

The Bird Collectors Ordinance of 1897 (No. 6 of 1897);

The Wild Birds Ordinance of 1908 (No. 15 of 1908);

The Wild Birds Ordinance of 1909 (No. 13 of 1909).

Such repeal shall not affect any proclamation made act done right acquired permit or licence granted or issued or any forfeiture imposed or liability incurred under or by virtue of the Ordinances hereby repealed or any of them.

All proclamations⁽²⁾ in force at the commencement of this Ordinance made under any of the Ordinances hereby repealed shall continue in force as if made under this Ordinance.

PART I.—PROTECTION OF CERTAIN BIRDS.

3. After the passing of this Ordinance it shall not be lawful save as hereinafter provided—

Capture or destruction of certain Birds forbidden.

(1) Particulars of this Ordinance are as follows:—

Date of assent by Lieut.-Gov.	Date notified in Papua Govt. Gaz. as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
16.5.1911	6.12.1911	1.1.1912 (Papua Govt. Gaz. of 6.12.1911)

(2) The only proclamation made under the repealed Ordinances and published in British N.G. Govt. Gaz. or Papua Govt. Gaz., was a Proclamation made under the repealed *The Wild Birds Ordinance of 1908*, dated 23.9.1909 and published in Papua Govt. Gaz. of 6.10.1909, which amended the First Schedule of that Ordinance "by the addition thereto of the wild bird commonly known as the—WHITE HERON or the LESSER HERON". Note, however, that this kind of bird was not specified in the First Schedule of the present Ordinance.

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First
Schedule.
Pap. No. 15
of 1908, s. 1.

- (1) To capture or wilfully destroy a bird of any of the kinds or descriptions enumerated in the First Schedule to this Ordinance;
- (2) To buy sell or deal in any such birds or the skin feathers or plumage of any such bird or any part thereof;
- (3) To export or take or send out of the Territory any such bird or the skin feathers or plumage of any such bird without in each case obtaining beforehand the written consent of the Collector or other principal officer of Customs.

Penalty.

Any person who is guilty of a breach of the provisions of this section shall on summary conviction be liable to imprisonment with or without hard labour for a period not exceeding six months.

Schedule may
be added to.
Pap. *lb.* s. 2.

4.—(1.) The Lieutenant-Governor⁽³⁾ may add to the First Schedule by publishing in the *Gazette* a proclamation⁽⁴⁾ to the effect that other birds to be specified in the proclamation shall be regarded as included in the First Schedule with such limitations as to time and place (if any) as he may think fit; and thereupon the provisions of this Ordinance shall apply to those birds and to the skins feathers and plumage thereof in the same way as if they were included in the said Schedule but subject to such limitations as aforesaid if any.

First Schedule
may be
varied.

(2.) The Lieutenant-Governor⁽³⁾ may by proclamation⁽⁴⁾ in the *Gazette* from time to time repeal vary or amend the First Schedule to this Ordinance and any proclamation adding thereto either by including additional birds or by removing birds from the effect of the First Schedule or the proclamation either absolutely or subject to such limitations as he may think fit.

Prohibited
birds.
Pap. *lb.* s. 2.

(3.) A bird the destruction or capture of which is forbidden by this Ordinance or by a proclamation is hereafter referred to as a "prohibited bird."

Power of
search.
Pap. *lb.* s. 3.

5. It shall be lawful for any European officer or warrant officer of constabulary and for any European officer of Customs if in his opinion there are reasonable grounds for suspecting that there is in any house vessel or place or in any case box or parcel any prohibited bird or the skin or plumage of any such bird or any part thereof to search such house vessel or place and to open any such case box or parcel and to seize any such bird skin or plumage if found and to take it before a justice to be dealt with according to law.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(4) No proclamation has been published in *Papua Govt. Gaz.* See, however, footnote (2) printed on p. 129.

Birds Protection Ordinance, 1911.

6. Any person who after the passing of this Ordinance is found in possession of any prohibited bird or the skin or plumage of a prohibited bird or any part thereof shall unless he can give a satisfactory account of how he came into possession of it be liable for a first offence to a fine of not more than one hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months; and for a subsequent offence to imprisonment with or without hard labour for a period not exceeding twelve months without the option of a fine.

Possession of prohibited birds.
Pap. No. 15 of 1908, s. 4.

The occupier of a house vessel or place and the owner of any case box or parcel in which any such bird skin or plumage as aforesaid is found shall *prima facie* be deemed to be in possession thereof. For the purposes of this section the word "owner" includes the consignor and his agent.

7. All birds and all skins feathers and plumage or part thereof in respect of which an offence is committed under this Ordinance or which are seized under section five and in respect of which no satisfactory explanation is given may be forfeited to His Majesty by order of any justice of the peace and shall be dealt with as the Lieutenant-Governor⁽³⁾ may order.

Forfeiture of birds' skins, &c.
Pap. Ib. s. 5.

8. It shall be lawful for any Resident or Assistant Resident Magistrate if it is shown to his satisfaction that prohibited birds are seriously injuring the property of any person to permit such person to destroy such birds.

Resident or Assistant Resident Magistrate may give permission to destroy protected birds.
Pap. Ib. s. 6.

The permission shall be in writing under the hand of the magistrate granting it and shall specify the birds that may be destroyed and the locality and the period of time within which their destruction may be attempted or effected.

A copy of such written permission together with a statement of the circumstances under which it was issued shall be forthwith forwarded by the magistrate granting the same to the Government Secretary.

9. It shall be lawful for the Lieutenant-Governor⁽³⁾ to empower any person to issue special permits to destroy or capture any prohibited birds. Special permits shall be in the form A in the Second Schedule hereto.

Special permits may be issued.
Pap. Ib. s. 7.
Second Schedule.

A special permit shall only be issued to the duly accredited agent of a Government or a museum zoological or acclimatisation society or other scientific institution who is the holder of a licence to collect birds under this Ordinance and may be subject to such conditions as to the period for which it is to be in force the parts of the

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

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Territory to which it is to apply the number or kind of birds that may be captured or destroyed and other matters as the person who issues the permit may think necessary.

On the issue of a permit there shall be payable a fee of twenty pounds.

Exportation of birds obtained under special permits.

10. Prohibited birds captured and the skins feathers and plumage of prohibited birds destroyed under the authority of a special permit may be exported by the permittee during the period for which the special permit is in force or within one month after the expiration thereof.

PART II.—COLLECTION OF BIRDS.

Interpretation clause.
Pap. No. 6 of 1897, s. 1.

11. In this Part of this Ordinance the terms “collect” and “collecting” birds mean destroying or capturing by any means birds existing in a wild state in the Territory for any object except that of using them for food or of stopping them from doing mischief.

Penalty for collecting without a licence or employing unlicensed shooting assistant.
Pap. *Ib.* s. 2.

12. No person shall collect birds unless such person holds a licence under this Ordinance to collect birds.

No person shall employ any one as a “shooting” assistant in collecting birds unless such assistant is licensed as such under this Ordinance.

Any person that commits a breach of the provisions of this section shall on conviction be liable to a penalty not less than ten pounds and not exceeding twenty pounds and in default of payment of such penalty be liable to be imprisoned with or without hard labour for a period not exceeding three months.

Licences how issued.
Pap. *Ib.* s. 3.

13. Licences may be issued by any person empowered by the Lieutenant-Governor⁽³⁾ to issue them. Licences shall as nearly as circumstances admit or require be in one of the forms B or C in the Second Schedule hereto. Licences shall be yearly licences and they may be issued prior to the day on which they begin to take effect.

Fee for licences.
Pap. *Ib.* s. 4.

14. For each licence to collect birds there shall be paid the sum of five pounds and for each licence to act as a “shooting” assistant there shall be paid the sum of one pound.

Nature of shooting assistant's licence.
Pap. *Ib.* s. 5.

15. A “shooting” assistant's licence shall only authorize the assistant to collect with the person to whom he is licensed as a “shooting” assistant.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

Birds Protection Ordinance, 1911.

16. No licence issued under this part of this Ordinance shall authorize the holder thereof to destroy or capture any prohibited bird.

Licence not to authorize destruction of prohibited birds.

17. Nothing in this Ordinance contained shall affect the provisions of Ordinance No. 1 of 1888 being *The Arms, Liquor, and Opium Prohibition Ordinance, 1888*,⁽⁵⁾ or any Ordinance amending the same or the provisions of any Ordinance for the time being in force prohibiting or regulating the supply of arms or ammunition to persons of other than European descent.

Provisions of Ord. No. 1 of 1888 not affected.
Pap. No. 6 of 1897, s. 6.

SCHEDULES.

FIRST SCHEDULE.⁽⁶⁾

Birds of Paradise. Goura pigeons. Ospreys. Section 3.

SECOND SCHEDULE.

(Form A.)

SPECIAL PERMIT.

(*Birds Protection Ordinance, 1911.*)

Section 9.

This is to certify that _____, of _____, who is the duly accredited agent of _____, and who is also the holder of a licence to collect birds under the *Birds Protection Ordinance, 1911*, is permitted, subject to the conditions and restrictions hereunder written to destroy [or capture] the prohibited birds named below for a period of _____ from the date of this special permit.

Names of Prohibited Birds included in this Permit.	Number of Prohibited Birds.	Parts of the Territory to which this Special Permit applies.

Other Conditions.

Dated at _____ this _____ day of _____, 19____. Issuer.

(5) Repealed and replaced by the *Arms, Liquor and Opium Prohibition Ordinance, 1911-1935.*

(6) See footnote (2) printed on p. 129, and footnote (4) printed on p. 130.

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(Form B.)

LICENCE TO COLLECT BIRDS.

(*Birds Protection Ordinance, 1911.*)

This is to certify that _____, at present residing at _____, is licensed
under the above Ordinance to collect birds from the _____ day of _____,
one thousand nine hundred and _____, to the _____ day of _____,
one thousand nine hundred and _____.

Dated this _____ day of _____, 19 _____
Issuer.

(Form C.)

“SHOOTING” ASSISTANT’S LICENCE.

(*Birds Protection Ordinance, 1911.*)

This is to certify that _____, of _____, is licensed under the above
Ordinance as a “shooting” assistant to _____, of _____, from the
day of _____, one thousand nine hundred and _____, to the
day of _____, one thousand nine hundred and _____.

Dated this _____ day of _____, 19 _____
Issuer.