

Wildlife Act, 1976



Number 39 of 1976

WILDLIFE ACT, 1976

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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

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.

(3) The Forestry Acts, 1946 and 1956, and [sections 55](#) and [63](#) of this Act may be cited together as the Forestry Acts, 1946 to 1976.

Definitions.

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 fern-allied 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 à prendre*;

“*land*”, where the context admits, includes land covered by water and in relation to the acquisition of land also includes any easement, *profit à prendre* or other right in, to or over land or water (including any easement, *profit à 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 unflown 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.—(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:

Service of notices, etc.

(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.

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.

Application of moneys
received by Minister.

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.

Gifts.

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.

Reports.

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.

Regulations and orders.

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.

Licences.

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.

Repeals. **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

Functions of Minister in relation to wildlife.

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.

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 um Fhiadhúlra 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.

Wildlife Advisory Council.

(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.

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

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

Nature reserves on lands

owned by the Minister or by the State.

- (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.

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.

Refuges for 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.

Agreement as to user and management of land.

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 in whose area the relevant land or any part thereof 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

Protection of wild birds. **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.

Protection of fauna (other than protected wild birds). **20.**—Animals which are of a species of fauna in relation to which [section 23](#) of this Act applies shall be protected.

Protection of flora. **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.

Enforcement 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.

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.

Open seasons for certain protected wild birds.

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.

Open seasons for certain wild mammals.

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.

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 the licence and are in the year in which the licence is granted, regulated coursing matches.

Temporary suspension of
open seasons.

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

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.

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 licences, 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.

Hunting restricted on or over foreshore belonging to State and certain land so belonging.

30.—(1) It shall not be lawful for a person, without the permission of the Minister, to hunt fauna on or over foreshore belonging to the State or on or over land belonging to the State and which is either covered by any inland waters or comprised in the lakeshore accretion from any lake.

(2) Any person who contravenes subsection (1) of this section shall commit a trespass and may, if the Minister thinks fit, be sued by the Minister for trespass in any court of competent jurisdiction.

(3) Nothing in this section shall operate to prejudice any legal proceedings which may be instituted apart from this section.

Sale, purchase and possession of certain perching birds prohibited.

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) he 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.

Ringling and marking, and

32.—(1) It shall be an offence for a person, otherwise than pursuant to and in

possession of cannon-nets,
etc. restricted.

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.

Restriction on use of certain
firearms etc.

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.

Certain use of traps, snares
etc. prohibited.

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, or 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 of 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.

Certain use of scarecrows,
decoys birdcalls and calls of
wild mammals restricted.

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.

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 42, 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.

37.—(1) Notwithstanding anything contained in this Act apart from this section but Hunting by night restricted. 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.

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 Use of lamps, mirrors etc. in hunting prohibited. 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.

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.

Destruction of vegetation on uncultivated land restricted.

(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

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.

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.

Land drainage schemes.

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.

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.

PART III

Regulation and control of wildlife dealing and the transport, import and export of
wildlife

Sale, purchase and possession of fauna restricted.

45.—(1) A person who is not a licensed wildlife dealer shall not sell, keep for sale, purchase for resale, or engage in taxidermy in respect of—

(a) a protected wild bird or protected wild animal, whether alive or dead, or

(b) the eggs of a protected wild bird.

(2) Subject to subsections (3) and (8) of this section and to [sections 22 \(5\), 23 \(7\) \(d\) and 42](#) of this Act, a person who is not a licensed wildlife dealer shall not have in his possession a protected wild bird or a protected wild animal, whether alive or dead, or the eggs of a protected wild bird.

(3) Subsection (1) of this section shall not apply to—

(a) the sale by a person of any live specimen of a protected wild bird or protected wild animal solely for the purposes of propagating, or of improving the quality of, such species,

(b) the sale by a person of live hares to a coursing club affiliated to the Irish Coursing Club,

(c) the sale to a licensed wildlife dealer by a person of any protected wild bird or protected wild animal lawfully killed by him,

(d) the sale by any person, who has obtained the prior permission of the Minister so to do, of any lawfully killed such wild bird or wild animal.

(4) A person who is the owner, manager or person otherwise in charge of any hotel, guest house, inn, restaurant, public eating house, registered club within the meaning of the Registration of Clubs Acts, 1904 to 1962, or any other premises in which meals are provided for reward, shall not purchase a protected wild bird or a protected wild animal otherwise than from a licensed wildlife dealer, unless such person is himself such a dealer.

(5) A person mentioned in subsection (4) of this section who is not a licensed wildlife dealer shall keep in such form as the Minister approves a record of all purchases of protected wild birds or protected wild animals made in relation to the premises so mentioned and of which he is the owner or manager or of which he is otherwise in charge, and records kept pursuant to this subsection shall be kept available for inspection at the said premises by an authorised person on demand at any reasonable time.

(6) An authorised person may inspect and, if he thinks fit, take copies of any entry in any record kept pursuant to subsection (5) of this section.

(7) A person who contravenes subsection (1), (2), or (4) of this section or who fails to comply with the requirements of subsection (5) of this section, shall be guilty of an offence.

(8) In any proceedings for an offence under this section in which it is alleged that

subsection (2) of this section was contravened, it shall be a defence for the defendant to prove that—

(a) he either had lawfully acquired the wild bird, wild animal or eggs, as may be appropriate, before the commencement of this section or had acquired it or them from a person who had lawfully acquired it or them,

(b) in case the alleged offence relates to a protected wild bird or a protected wild animal, he had lawfully killed or captured it or had lawfully acquired it from a person who had lawfully killed or captured it.

(9) Nothing in this section shall make unlawful the possession consequent upon any other thing which is either—

(a) done pursuant to and in accordance with a licence or permission granted under this Act, or

(b) permitted to be done by or under any statute other than this Act, of a protected wild bird or a protected wild animal or the eggs of a protected wild bird.

(10) References in this section to a protected wild bird or a protected wild animal shall, except in relation to taxidermy, be construed as including references to the flesh of such a bird or animal, and in relation to taxidermy the said references in this section shall be construed as including references to the skin, plumage or any other part of such a bird or animal.

Regulation and control of
wildlife dealing.

46.—(1) Where the Minister is satisfied that it is in the interests of the conservation of any species of protected wild bird or protected wild animal so to do, subject to subsection (5) of this section, he may by regulations prohibit, or control in such manner as he considers appropriate and specifies in the regulations, the purchase or sale of that species for such period as may be so specified.

(2) The Minister may make regulations regulating or controlling the carrying on by licensed wildlife dealers of the business of wildlife dealing.

(3) Without prejudice to the generality of subsection (2) of this section, regulations under this section may—

(a) prescribe conditions with regard to premises used by licensed wildlife dealers for wildlife dealing,

(b) prescribe the form and period of validity of a wildlife dealer's licence and the form and period of validity of a renewal of such a licence,

(c) specify the species of fauna which may be sold or purchased for resale by the holder of a wildlife dealer's licence pursuant to the licence,

(d) require the keeping by the holder of a wildlife dealer's licence of such registers, books, records, invoices, receipts or other documents relating to the business of wildlife dealing as may be prescribed, and require any

such document to be produced by such holder when required to do so by an authorised person at a reasonable time,

(e) provide for the entry in such registers or records of such particulars relating to wildlife as may be prescribed,

(f) require the display in such premises of a current wildlife dealer's licence,

(g) provide that a protected wild bird or a protected wild animal shall not be confined, kept, or exposed for sale in a cage in such premises, or while it is being transported from one place to another by or on behalf of such dealer for purposes of display, sale or exhibition, unless the cage is of a prescribed size, type or description, and

(h) make any other provision which is ancillary or incidental to any of the foregoing.

(4) An authorised person may inspect and, if he thinks fit, take copies of any entry in any document produced pursuant to a requirement of regulations under this section.

(5) Regulations under this section which relate to a species of fish or aquatic invertebrate animal shall, in so far as they relate to such species, be made by the Minister only after consultation with the Minister for Agriculture and Fisheries.

Prohibition on wildlife
dealing without wildlife
dealer's licence.

47.—(1) Subject to subsection (2) of this section, a person shall not carry on business as a wildlife dealer except under and in accordance with a wildlife dealer's licence.

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

(a) in relation to a person who immediately prior to the commencement of this section was carrying on business as a wildlife dealer, during the period of three months beginning on the commencement of this section,

(b) in relation to a person who acquires (by purchase or otherwise) premises in which immediately prior to the acquisition the business of wildlife dealing was duly carried on, during the period of three months beginning on the date of the acquisition,

(c) in relation to the personal representative of a licensed wildlife dealer, during the period of six months beginning on the date of the death of such dealer.

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

48.—(1) A Justice of the District Court may, on application being made in that behalf, if he thinks fit, grant a certificate authorising the issue of a licence (in this Act referred to as a wildlife dealer's licence) to the applicant authorising him to carry on business as a wildlife dealer at premises specified both in the certificate and in the licence.

Wildlife dealers licence.

(2) A wildlife dealer's licence shall remain in force for the period prescribed in that behalf under [section 46](#) (3) of this Act and such period shall begin on the day on which the licence is issued.

(3) If the court by which a certificate for a wildlife dealer's licence was granted so thinks fit, the court may, on application being made in that behalf, from time to time grant a certificate for the renewal of the licence for periods prescribed under the said [section 46](#) (3) in that behalf.

(4) The Minister shall, on the application of a person to whom a certificate for the issue of a wildlife dealer's licence, or for the renewal of such a licence, has been granted and on payment by him of the fee (if any) required by law, issue to the applicant a wildlife dealer's licence or, as may be appropriate, renew the applicant's such licence.

(5) The court in considering an application for the grant of a certificate under this section may have regard to—

(a) the suitability of the applicant, taking into account the purposes of this Act, to hold a wildlife dealer's licence, and

(b) the ability of the applicant to comply with regulations made under [section 46](#) (2) of this Act which are for the time being in force.

(6) Every applicant for the grant of a certificate under this section shall notify the Minister in writing by registered post of the application and the Minister shall have the right to appear and be heard at the hearing of the application.

(7) The court by which the relevant certificate was granted under this section may, on application being made in that behalf by the holder of a wildlife dealer's licence, amend the licence in any of the following ways, namely, by inserting in the licence (in addition to the references to premises already contained therein) a reference to specified premises, by deleting such a reference from the licence or by substituting, in lieu of such a reference, another such reference in the licence.

49.—(1) Where a person who holds a wildlife dealer's licence is convicted of an offence under [section 31](#) of this Act, or an offence under [section 69](#) (2) of this Act because of a contravention of, or of a failure to comply with, regulations made under [section 41](#) or [46](#) of this Act, the court by which the person is convicted may revoke the licence and such revocation shall be in addition to any other punishment imposed by the court in respect of the offence.

Revocation of wildlife
dealer's licence.

(2) Where a court revokes a wildlife dealer's licence pursuant to this section, the registrar or clerk of the court shall, as soon as may be, send to the Minister a copy of the court's order.

Minister may publish list of
wildlife dealers or notice of

50.—(1) The Minister may, if he thinks fit, publish from time to time and in such manner as he considers appropriate, a notice listing all persons who on the day specified

revocation.

in the notice were the holders of wildlife dealers' licences.

(2) Where a wildlife dealer's licence is revoked under [section 49](#) of this Act and the Minister has received a copy of the order revoking the licence, if either—

(a) no appeal is taken against the order and the period during which such an appeal may be taken has expired, or

(b) such an appeal is taken and the order is confirmed on appeal or the appeal is withdrawn,

the Minister may publish, in such manner as he considers appropriate, notice of the revocation.

Transport of packages etc.
containing certain fauna.

51.—(1) This section applies to any package, parcel, box or other container which contains all or any of the following, namely:

(a) any protected wild bird or protected wild animal,

(b) the dead body, carcase or any other part either of a protected wild bird or protected wild animal,

(c) eggs of a protected wild bird.

(2) Every package, parcel, box or other container to which this section applies shall, if transported, whether by hand or otherwise, be marked conspicuously either on the outside thereof or on a label attached thereto, so as clearly to indicate—

(a) that the package, parcel, box or other container contains protected wild birds or protected wild animals, as may be appropriate, and

(b) the name and address of the consignor.

(3) Any person who consigns or transports a package, parcel, box or other container which is not marked in the manner required by subsection (2) of this section and who knows that the package, parcel, box or other container, as the case may be, contains any thing mentioned in paragraph (a), (b) or (c) of subsection (1) of this section shall be guilty of an offence.

(4) In any proceedings for an offence under this section, it shall be a good defence to show that a package, parcel, box or other container to which the alleged offence relates did not contain at the time of the alleged offence protected wild birds or protected wild animals other than the following, namely, a protected wild bird or an exempted wild mammal lawfully hunted by virtue of an order under [section 24](#) or [25](#) of this Act or the dead body or any part of such a protected wild bird or exempted wild mammal.

52.—(1) The Minister may, after consultation with the Minister for Agriculture and Fisheries, by regulations prohibit the importation, save under and in accordance with a licence granted by or on behalf of the Minister under this section, of all or any of the following:

Import of fauna and flora.

(a) any wild animal or wild bird of a species specified in the regulations,

- (b) the dead body or the carcase of a wild animal or wild bird which is of a species so specified,
- (c) any part, other than the carcase, or any product of a wild animal or wild bird which is a part or product so specified,
- (d) the eggs or spawn of a species of wild animal or wild bird which is so specified,
- (e) any plant of a species so specified,
- (f) the flowers or roots of any such plant,
- (g) any part, other than the flowers or roots, or any product of any such plant which is a part or product so specified.

(2) The Minister may grant to a person a licence to import any thing the importation of which is prohibited by regulations made under subsection (1) of this section.

(3) The Minister may authorise a person to grant on his behalf a licence mentioned in subsection (2) of this section.

(4) Where an animal, plant or other thing is imported in contravention of this section, an officer of Customs and Excise may require any person (being the importer or carrier concerned) to export the animal, plant or other thing within a specified time, and if such person fails to comply with such requisition he shall be guilty of an offence and the animal, plant or other thing shall be killed or otherwise disposed of as the Minister directs.

(5) Nothing in this section or in [section 53](#) of this Act shall restrict, prejudice or affect the functions of the Minister for Agriculture and Fisheries under the [Destructive Insects and Pests \(Consolidation\) Act, 1958](#) , the [Diseases of Animals Act, 1966](#) , or the Fisheries Acts, 1959 to 1974, or the functions of the Minister for Health under [section 31](#) of the [Health Act, 1947](#) , as amended by [section 34](#) of the [Health Act, 1953](#) .

53.—(1) Subject to [section 52](#) (5) of this Act, the Minister may, after consultation with the Minister for Agriculture and Fisheries, by regulations prohibit the export, save under and in accordance with a licence granted by or on behalf of the Minister under this section, of all or any of the following:

Export of fauna and flora.

- (a) protected wild birds or protected wild animals of a species specified in the regulations,
- (b) the dead body or the carcase either of a protected wild bird or protected wild animal of a species so specified,
- (c) any part, other than the carcase, or any product of a wild animal or wild bird which is a part or product so specified,
- (d) the eggs or spawn of a species of wild animal or wild bird which is so specified,
- (e) wild plants which are of a species which is so specified and to which an order under [section 21](#) of this Act for the time being applies,

(f) the flowers or roots of any such wild plant,

(g) any part, other than the flowers or roots, or any product of any such plant which is a part or product so specified.

(2) The Minister may grant to a person a licence to export any thing the export of which is prohibited by regulations made under subsection (1) of this section.

(3) The Minister may authorise a person to grant on his behalf a licence mentioned in subsection (2) of this section.

(4) Any officer of the Minister for Posts and Telegraphs may detain and examine and if necessary open for that purpose any postal packet addressed to a place outside the State and containing, or suspected by him of containing, any thing which is being exported in contravention of this section, and if a postal packet so detained contains any such thing, the officer of the Minister for Posts and Telegraphs shall dispose of the packet and its contents in accordance with the instructions of the Minister.

(5) Nothing in this section shall restrict, prejudice or affect the functions of the Minister for Agriculture and Fisheries under the [Agricultural and Fishery Products \(Regulation of Export\) Act, 1947](#) , or functions which are for the time being transferred to and vested in the Minister for Industry and Commerce by an order under section 5 of that Act.

Saver in relation to Customs Acts.

54.—No order or regulation made under or thing done in accordance with the provisions of this Act shall absolve the importer, exporter or other person concerned with the import or export of any animal, plant or other thing from complying with the relevant requirements of the Customs Acts in regard to the animal, plant or other thing concerned.

PART IV

Land and Waters

Land purchase orders.

55.—(1) For the purposes of this section—

“land for transfer” means—

(a) in case the Minister is satisfied that the relevant land is land held in commonage and where at least one of the owners of the land does not wish to sell pursuant to this section to the Minister his interest in the land, all that land other than the part thereof which is to be taken by way of exchange under this section,

(b) in any other case, the relevant land;

“land held in commonage” means land which is held by two or more persons (in this section referred to as owners in common) in common in undivided shares, whether as joint tenants or as tenants in common;

“relevant land” means the whole of the land which either is, or is proposed to be, as the context may require, the subject of an order under this section;

“*remaining land*” means, in relation to relevant land which the Minister is satisfied is land held in commonage and as regards which at least one owner does not wish to sell pursuant to this section his interest in the land to the Minister, all the land, apart from the land for transfer, comprised in the relevant land;

“*State annuity*” has the same meaning as in section 12 of the Act of 1946.

(2) Where—

(a) the Minister wishes to purchase land, and

(b) the purpose for which the Minister proposes to use the land is a purpose of this Act or of the Forestry Acts, 1946 and 1956, and

(c) the ownership of the land is registered under the [Registration of Title Act, 1964](#) , and,

(d) (i) the vendor claims to have an interest in the land which enables him to offer to the Minister vacant possession of the land, or

(ii) the vendor claims that the land is land held in commonage and that he has an interest therein which enables him to offer to the Minister an undivided share therein, and

(e) the Minister receives—

(i) in every case, a statement in writing signed by the vendor specifying the grounds on which his claim is based and stating that the vendor is willing to sell to the Minister the interest he claims to have in the land for a price agreed between the vendor and the Minister and specified in the statement,

(ii) in case the vendor claims that the land is land held in commonage by him with only one other owner in common and where that owner is not willing to sell to the Minister his interest in the land, in addition to the aforesaid statement, a statement in writing signed by the other person concerned specifying the grounds on which his claim to ownership in common is based and stating that he is willing to exchange for his interest in the whole of the land a sole or exclusive interest in a part of the land which shall be specified in the statement,

(iii) in case the vendor claims that the land is land held in commonage by him with two or more other owners in common and where those owners in common are not willing to sell to the Minister their interests in the land, in addition to the statement described in subparagraph (i) of this paragraph, a statement in writing by each person concerned and signed by him specifying the grounds on which his claim to ownership in common is based and stating that he

is willing to exchange for his interest in the whole of the land an undivided share in common with the other owners in common apart from the vendor in a part of the land, which shall be specified in the statement,

the Minister may, in his absolute discretion, make an order under this section (subsequently in this section referred to as a purchase order) in relation to the land.

(3) A purchase order shall not be made by the Minister unless—

(a) the Minister has caused a notice in the prescribed form of his intention to make the order and specifying the relevant land to be published at least two months previously in the *Iris Oifigiúil* and in at least one newspaper circulating in the locality in which the said land is situated and copies of the notice have been duly served on the vendor of the said land and on all other persons appearing to the Minister to have an interest in the said land, and

(b) the Minister is unaware of any claim, other than the vendor's, to an interest in the land, or if there is a burden registered in a register maintained under the [Registration of Title Act, 1964](#), which affects the land, or where the Minister is aware of any other such claim, the burden or claim has been disposed of to the satisfaction of the Minister, the owner of the burden or the person making the claim, as may be appropriate, and any other person known to the Minister to be concerned.

(4) Where the Minister makes a purchase order the following provisions shall have effect:

(a) the order shall without further assurance vest in the Minister in fee simple the land for transfer free from all rights (including any public right) charges, burdens or other incumbrances or interests and from the claims of all persons who are interested in the said land, whether in respect of incumbrances or interests therein or otherwise howsoever, other than—

(i) in case the said land is subject to a State annuity, that State annuity,

(ii) such burdens (if any) as are specified in the order,

(b) in case the relevant land is land held in commonage, as on and from the date of the order, the land shall cease to be held in common by the owners in common, and—

(i) in case immediately before the making of the order the relevant land was held by the vendor and two or more other owners in common (being owners in common who are not willing to sell to the Minister their interests in the land), the order shall, without further assurance vest

in fee simple in the other owners in common, and in only those owners in common, the remaining land which shall be held by them as tenants in common in shares proportionate to the proportions of their former shares, one to another, in the relevant land,

(ii) in case immediately before the making of the order the relevant land was held by the vendor with only one other owner in common (being an owner in common who is not willing to sell to the Minister his interest in the land), the order shall vest in fee simple in the other owner in common the remaining land,

(c) in respect of the interest of the vendor in the relevant land—

(i) the order shall operate, as on and from the date thereof, to transfer and attach to the amount payable by the Minister to the vendor pursuant to subsection (6) of this section all estates, trusts and incumbrances subsisting in respect of that interest immediately before the date of the order, and

(ii) the said amount shall as respects any rights or claims existing immediately before the date of the order, to or against the interest, represent that interest for all purposes,

(d) in respect of the interest of owners in common (if any) apart from the vendor in the relevant land—

(i) the order shall operate, as on and from the date of the order, to transfer to the interest of those owners in common in the remaining land all estates, trusts and incumbrances subsisting in respect of the interest of those owners in common in the relevant land immediately before the date of the order, and

(ii) the interest of those owners in common in the remaining land shall, as respects any rights or claims existing immediately before the date of the order to or against the interest of those owners in common in the relevant land, represent the last-mentioned interest of those owners in common for all purposes.

(5) Where land for transfer becomes vested in the Minister by virtue of an order made under this section, the registering authority under the [Registration of Title Act, 1964](#), shall, upon production of a copy of the order under the official seal of the Minister, register the Minister in the appropriate register maintained under that Act as owner (within the meaning of that Act) of the land and the authority shall in addition cause such other alterations (if any) to be made in the appropriate such register as are appropriate having regard to the terms of the order.

(6) On the making of a purchase order the Minister shall pay—

- (a) in case the Minister is then unaware of any claim to an interest in the land concerned, other than that of the vendor, or in case the Minister is aware of such other claim, either the Minister has received a statement referred to in subparagraph (ii) or subparagraph (iii) of subsection (2) (e) of this section or it has been agreed between the Minister and the person making the other claim that no payment is to be made by the Minister in respect of the claim, to the vendor an amount equal to the agreed purchase price,
- (b) in case a claim or claims to such an interest other than the claim of the vendor has or have been made and the Minister has agreed to make a payment in respect of such other claim, to any person making such other claim the amount which has been agreed in regard thereto and to the vendor such amount as has been agreed between the Minister and the vendor having regard to the other claim or claims, as the case may be.

(7) A person who immediately prior to the making of a purchase order is entitled to an interest in the relevant land but who fails to bring to the notice of the Minister his claim to the interest prior to such making shall, as from such making, cease to have any interest in the said land and in lieu thereof shall be entitled to obtain compensation from the Minister in respect of the loss of the interest; provided that the application to the Minister for the compensation is made, within—

- (a) in case the person is a minor or a person of unsound mind, a period of six years from the date when such person ceases to be under such disability or dies whichever event first occurs, but not more than thirty years after such making,
- (b) in any other case, a period of six years from the date of the purchase order.

(8) Compensation payable by the Minister pursuant to subsection (7) of this section shall, in default of agreement, be fixed by the Lay Commissioners under section 31 of the Act of 1946 as if it were compensation for an interest in vested land within the meaning of Part III of that Act.

(9) Subject to paragraphs (a) and (b) of subsection (7) of this section, compensation under that subsection may be paid to the personal representative of a person entitled thereto.

(10) Where the Minister pays compensation under subsection (7) of this section pursuant to an application in that behalf, he may, if he thinks fit, require the person who agreed with him to sell an interest in land to which the application relates to pay to him—

- (a) in case the amount of the compensation does not exceed the amount paid by

the Minister to the person pursuant to subsection (6) of this section, an amount equal to the compensation,

(b) in case the compensation exceeds the amount so paid, the amount so paid, and in case a person fails to pay to the Minister an amount duly required to be paid to him under this section, that amount shall be recoverable by the Minister as a simple contract debt in any court of competent jurisdiction.

(11) Where a purchase order is made in respect of land (in this subsection referred to as the transferred land) which immediately before the date of the order was subject in conjunction with other land to a State annuity, the following provisions shall apply:

(a) the Minister shall give notice of the making of the order to the authority to whom the State annuity is payable,

(b) the said authority shall, as soon as may be after the receipt of the notice, do one of the following things, namely—

(i) apportion, with effect as on and from the day immediately preceding the date of the purchase order, the State annuity in such manner as the authority considers proper between the transferred land and all or part of the other land, or

(ii) declare the whole of the State annuity to be exclusively charged, with effect as on and from the day immediately preceding the date of the purchase order, on either the transferred land or all or part of the other land.

(12) A purchase order shall have attached thereto a map or plan showing the land to which the order relates.

(13) No stamp duty shall be payable on any purchase order nor shall any fee be payable in respect of proceedings in the Land Registry under subsection (5) of this section.

56.—(1) All land acquired or vested in the Minister under the Forestry Acts, 1919 and 1928, or the Forestry Acts, 1946 to 1976, or so vested by virtue of the Forestry (Redistribution of Public Services) Order, 1933, other than land which the Minister considers to be land to which subsections (1) and (2) of this section should not apply and in relation to which a direction (which he is hereby empowered to give) that those subsections shall not apply to the land is given by him and is in force, shall stand held by him both for the purposes of the Forestry Acts, 1946 to 1976, and for the purposes of this Act and may, as the Minister considers appropriate, at any time be managed and used for all or any of the following purposes, namely:

Management etc. of certain land acquired, held or used by the Minister.

(a) the growth of forest crops,

(b) the conservation of wildlife,

- (c) the management and exploitation of hunting and fishing resources,
- (d) other purposes ancillary to any of the foregoing, including the promotion of scientific knowledge, amenity, or recreational or educational purposes.

(2) Where the Minister considers that land, being land acquired by or vested in the Minister in the manner mentioned in subsection (1) of this section, is not suitable for any purpose mentioned in that subsection, such land may be managed or used or otherwise dealt with by the Minister in such manner as he thinks fit, and in case land so acquired or vested is not immediately required for use for such a purpose, pending its use therefor the land may be used in such manner as the Minister thinks fit.

(3) The Minister may make such charges (if any) to the public as he considers appropriate for public access to, or use for car-parking or any other purpose of, any land managed or used by him for a purpose mentioned in subsection (1) of this section.

State ownership of certain inland waters.

57.—(1) Where the Minister is of opinion that there is a doubt as to whether or not any lake or other inland waters belong to the State but, in his opinion, it is likely that the lake or other inland waters do so belong, he may, after consultation with the Minister for Agriculture and Fisheries, publish a notice in the *Iris Oifigiúil* and in at least one newspaper circulating in the locality in which the lake or other inland waters are situate requiring either, as may be stated in the notice—

(a) any person who claims to have or to be entitled to enjoy an interest in or over the lake or other inland waters (which shall be specified in the notice) or, in the case of a lake, in or over the lakeshore accretion (if any) from the lake, or

(b) any person who claims to have or to be entitled to enjoy an interest, other than a right of fishing, in or over the lake or other inland waters (which shall be so specified) or in or over such lakeshore accretion,

to furnish to the Minister within a period specified in the notice (being a period of not less than two months from the date of the publication in the *Iris Oifigiúil*) particulars of the interest together with an abstract (accompanied by copies of all abstracted documents) of his title to the interest or of the grounds on which the claim is based.

(2) Where a person furnishes to the Minister particulars required by a notice under subsection (1) of this section, the Minister shall pay to the person all costs necessarily and reasonably incurred by him in relation thereto.

(3) Where a notice is published under subsection (1) of this section, if in relation either to the whole of the inland waters and lakeshore accretion (if any) to which the notice relates or to a part of those waters or that lakeshore accretion (if any) either—

(a) there is not furnished by any person within the period specified particulars of an interest duly supported by the abstract and copies of documents

required by the notice, or

(b) the period so specified has expired and the Minister acquires by agreement all interests particulars of which have been furnished to him pursuant to this section,

then, the Minister may by order declare that the fee simple—

(i) in case the requirements of paragraph (a) or paragraph (b) of this subsection are complied with as regards the whole of the said inland waters and lakeshore accretion (if any), in the land covered by the waters to which the notice relates or, in the case of a lake, comprised in any lakeshore accretion from the lake to which the notice relates, belongs to the State,

(ii) in case the said requirements are complied with only as regards a particular part of the said inland waters, or a particular part of any such lakeshore accretion, or a particular part of the said inland waters and lakeshore accretion, in the land covered by the said part of the said inland waters, or comprised in the said part of the said lakeshore accretion, or in such land and so comprised, as may be appropriate, belongs to the State,

together with any interest in or over the said land or waters which is inferior to the aforesaid fee simple; provided that in case the particulars required by the notice to be furnished to the Minister are particulars of interests other than rights of fishing, the terms of the declaration shall be framed so as not to include rights of fishing.

(4) A declaration made under this section shall operate as regards the land to which it relates in accordance with its terms and shall be conclusive evidence of the matters declared and shall not be questioned in any legal proceedings.

(5) Where the Minister makes a declaration under this section and a person subsequently proves that but for the making of the declaration he would have an interest (whether vested or contingent) in or over the land or lake or other inland waters to which the declaration relates, the person shall be entitled to be paid compensation by the Minister in respect of the interest.

(6) A claim under this section for payment of compensation shall, in default of agreement, be determined by arbitration under the Act of 1919 in like manner in all respects as if such claim arose in relation to compulsory acquisition of land.

(7) Nothing in this section shall restrict, prejudice or affect the functions of sanitary authorities or the Minister for Local Government under the Local Government (Sanitary Services) Acts, 1878 to 1964, or the [Water Supplies Act, 1942](#) .

territorial seas of State
vested in State.

sea which is the territorial seas of the State belongs to the State.

(2) It shall not be lawful for a person without the permission of the Minister, to hunt fauna on, in or over any part of the portion of the sea mentioned in subsection (1) of this section.

(3) Any person who contravenes subsection (2) of this section shall commit a trespass.

(4) Nothing in this section shall operate to prejudice any legal proceedings which may be instituted apart from this section and a person who contravenes subsection (2) of this section may, if the Minister thinks fit, be sued by the Minister for trespass in any court of competent jurisdiction and for the purpose of giving jurisdiction under this Act the trespass shall be deemed to have been committed where the person complained against may be.

Regulations permitting and
regulating public access to
certain land.

59.—(1) Subject to subsections (3), (4) and (7) of this section, the Minister may make regulations permitting the public generally or any particular class or section of the public or the members of any body of persons which is of a particular class or description or the members of a particular body of persons, to have access to and use in accordance with the regulations—

(a) foreshore which is the property of the State,

(b) land (in this section subsequently referred to as a refuge) to which a designation order applies,

(c) any land (including land covered by inland waters) to which an establishment order applies and which is land owned by the State but in which the Minister has not a joint or several interest (which land is so referred to as a State land nature reserve),

(d) land other than foreshore mentioned in paragraph (a) of this subsection, which forms the seabed under part of the territorial seas of the State and to which an establishment order applies (which land is so referred to as a seabed nature reserve).

(2) Regulations under this section may apply to all foreshore which is the property of the State, every refuge, State land nature reserve and seabed nature reserve, or to any such foreshore or any refuge, State land nature reserve or seabed nature reserve which is of a particular class or description, or to particular such foreshore or a particular refuge, State land nature reserve or seabed nature reserve.

(3) Regulations under this section which apply to foreshore shall regulate access to or use of such foreshore to such extent as the Minister considers necessary for the conservation of wildlife and such regulations shall be made by him only after

consultation with the Minister for Transport and Power, and in addition to the foregoing, where the regulations relate to foreshore other than foreshore which is held by the Minister, they shall be made only after consultation with—

(a) in case such foreshore is held by the Commissioners, the Commissioners,

(b) in any other case, the Minister of State by whom the foreshore is held.

(4) Regulations under this section which apply to a refuge shall regulate access to or use of the refuge to such extent as is necessary to enable the relevant designation order to have full effect.

(5) (a) Subject to subsection (7) of this section and paragraph (b) of this subsection, the Minister may by regulations permit and regulate access to and use by the public generally of land to which either a recognition order applies or an agreement under [section 18](#) of this Act relates.

(b) Regulations shall be made by the Minister under this subsection only on the request and with the agreement of—

(i) in case the regulations relate to land to which a recognition order applies, the owner of such land,

(ii) in case the regulations relate to land to which an agreement under the said section 18 relates, all the parties to the agreement (other than the Minister, where the Minister is such a party).

(6) Subject to subsection (7) of this section, the Minister may, at the request and with the agreement of a board established pursuant to [section 14](#) of this Act, by regulations permit and regulate the access to and use by the public generally of any land held by that board.

(7) Regulations made—

(a) under subsection (5) or subsection (6) of this section,

(b) under subsection (1) of this section which regulate access to foreshore or to a refuge (not being a refuge held by the Minister) to which, immediately before the commencement of this section, the public generally had access,

shall be made by the Minister only after consultation with any planning authority any part of whose area the relevant foreshore adjoins or within whose area the relevant land, or any part thereof, is situate.

(8) (a) Regulations under this section which have effect in relation to land held by the State shall, if the State ceases to hold the land to which they apply, thereupon cease to have effect in relation to the land.

(b) Regulations under this section which have effect in relation to land to which a designation order or a recognition order, as the case may be, for the time being applies shall, if the order is revoked, thereupon cease to have effect

in relation to the land.

(c) Regulations made pursuant to subsection (6) of this section shall cease to have effect if and when the board at whose request they were made is dissolved or if it otherwise ceases to hold the land in respect of which the regulations were made.

(9) Where the Minister makes regulations under this section, he shall, as soon as may be after such making, cause a copy of the regulations to be sent to the Board and to any planning authority—

(a) in case the regulations affect foreshore, any part of whose area that foreshore adjoins,

(b) in any other case, within whose area the refuge or other land concerned, or any part thereof, is situate.

(10) Where the Minister decides to permit, whether by means of bye-laws, rules, regulations or otherwise, the public generally to have access, subject to specified conditions, for educational or leisure purposes to land held by the Minister, he shall, as soon as may be, give to the Board and to any planning authority in whose area the land or any part thereof, is situate particulars of his decision and in case the Minister varies or revokes such a decision he shall likewise inform the Board and such planning authority of the variation or revocation.

(11) In case the Minister permits, subject to specified conditions and whether by means of bye-laws, rules, regulations or otherwise, access for educational or leisure purposes to land held by him, any person who fails to comply, whether by act or omission, with any such condition shall be guilty of an offence.

60.—(1) Where the Minister requires in connection with any land held by him either for the purposes of this Act or partly for such purposes and partly for the purposes of the Act of 1946, a right of way by a particular route over any other land, he may make an application to the Lay Commissioners pursuant to section 21 (1) of the Act of 1946 and, for the purposes of this section, the first reference in the said section 21 (1) to land shall be construed as including a reference to land held by the Minister either for the purposes of this Act or partly for such purposes and partly for the purposes of the Act of 1946.

Creation of rights of way.

(2) Where the Minister makes, by virtue of this section, an application under section 21 (1) of the Act of 1946, thereupon the provisions of paragraphs (a) to (h) of that section shall have effect and section 3 of that Act shall apply in relation to the application.

(3) Subsections (2) to (7) of section 21 of the Act of 1946 shall apply to an application made under subsection (1) of that section by virtue of this section in the same manner as they would apply if the application had been made in the ordinary course

under subsection (1) of that section.

Extinguishment of easements.

61.—(1) Where any land held by the Minister for the purposes of this Act, or partly for those purposes and partly for the purposes of the Act of 1946, is subject to any easements, the Minister may apply to the Lay Commissioners for an extinguishment order extinguishing such easements or any one or more of them.

(2) The provisions of subsections (2) to (12) of section 19 of the Act of 1946 shall apply in relation to an application, made by virtue of subsection (1) of this section, for an extinguishment order in the same manner as if the application were made under subsection (1) of the said section 19, and section 3 of the Act of 1946 shall apply in relation to the application.

(3) In this section “*extinguishment order*” has the meaning assigned to it by section 19 of the Act of 1946.

PART V

Amendment of Enactments

Amendment of section 3 of Firearms Act, 1925.

62.—Section 3 of the [Firearms Act, 1925](#) , is hereby amended by—

(a) the addition to subsection (1) of the following :

“but before granting the certificate the Superintendent shall require the person to state in writing whether or not, if the certificate is granted, he intends to use the firearm to which the application relates to kill exempted wild mammals within the meaning of the Wildlife Act, 1976, (other than hares) and in case the person indicates that he intends so to use the firearm, the certificate shall be granted only on the production by the applicant of a current licence granted to him by the Minister for Lands pursuant to section 29 (1) of that Act.”; and

(b) the addition to subsection (2) of—

“but before granting the certificate the Minister shall require the person applying for the certificate to state in writing whether or not, if the certificate is granted, he intends to use the firearm to which the application relates to kill exempted wild mammals within the meaning of the Wildlife Act, 1976, or protected wild birds within such meaning and to which an order under section 24 of that Act for the time being applies, and in case the person indicates that he so intends to use that firearm, the Minister shall grant the certificate only on production by the applicant of a current licence granted to him by the Minister for Lands pursuant to section 29 (2) of that

Act.”.

Amendment of sections 9,
21, 22, 23 and 58 of Act of
1946.

13.—(1) (a) Section 9 of the Act of 1946 shall be construed as enabling the Minister—

(i) to acquire under that section land which is, or, as the case may be, rights over land which are, required by him either for the purposes of this Act or partly for such purposes and partly for purposes mentioned in subsection (1) (a) of that section,

(ii) to purchase or take on lease any buildings or works required in connection with his functions under this Act.

(b) The powers conferred on the Minister by section 9 of the Act of 1946 shall be construed as enabling the Minister to sell or let land acquired by the Minister by virtue of this section, or partly by virtue of this section and partly under the said section 9, or exchange any such land for any other land and (where requisite on any such exchange) pay or receive money for the equality of exchange or grant rights on or over any such land or in relation to buildings or works held by the Minister for the purposes of this Act or for the purposes both of this Act and of the Act of 1946.

(2) Where, in making an application under section 21 (1) of the Act of 1946, including any application under that section made by virtue of [section 60](#) of this Act, the Minister requests the required right of way, if created, to be expressed as including and operating to confer on him the power to permit either the public generally or any particular section of the public, which for the time being is specified by the Minister in relation to the right of way, to pass and repass at all times or at such times as the Minister may permit, and with or without vehicles or animals as he may so specify, over the land over which the right of way will be exercisable, the following provisions shall have effect:

(a) the Minister shall refer to the request in any notice served under paragraph (a) of the said section 21 (1), and

(b) if the Lay Commissioners in determining the application decide to allow the request in whole or in part, the order made on the application shall be so expressed and shall operate accordingly, and for the purposes of this section paragraph (b) of subsection (2) of the said section 21 shall be construed and have effect as if “together with the power to permit the public generally or any section of the public which is for the time being specified by the Minister in relation to the right of way to pass and repass, at all times or at such times as the Minister may permit and with or

without vehicles or animals as he may specify, over the land over which the right of way is exercisable” were added to the paragraph.

(3) Section 22 of the Act of 1946 shall apply in relation to land which the Minister considers it desirable to acquire for the purposes of this Act or partly for those purposes and partly for the purposes of the Act of 1946 and section 23 of that Act shall apply in relation to land which the Minister desires to acquire for any of the purposes aforesaid in the same manner as it applies to land which the Minister desires to acquire for the purposes of the Act of 1946.

(4) For the avoidance of doubt it is hereby declared that subsections (2) to (16) of section 23 and sections 24 to 34 of the Act of 1946, as amended by section 6 of the Act of 1956, together with sections 4 and 5 of the Act of 1956, shall apply in relation to the acquisition by virtue of this section of land under subsection (1) of the said section 23.

(5) Section 58 of the Act of 1946 is hereby amended as follows:

(a) subsection (1) shall have effect as if the words “rabbits or”, wherever they occur, were deleted, and

(b) the following is hereby substituted for subsection (3):

“(3) Each of the following shall be vermin for the purposes of this section—

(a) any wild bird which is not a protected wild bird within the meaning of the Wildlife Act, 1976,

(b) any wild animal (other than a bird) which is not a protected wild animal within the meaning of that Act.”

Amendment of First
Schedule to State Property
Act, 1954.

64.—The [First Schedule](#) to the [State Property Act, 1954](#) , is hereby amended by the substitution in paragraph 1 of “the [Forestry Act, 1946](#) , or under the Wildlife Act, 1976” for “the [Forestry Act, 1946](#) (No. 13 of 1946)” and the said paragraph 1, as so amended, is set out in the following Table :

TABLE

1. Any land vested in the Minister for Lands by virtue of the Forestry (Redistribution of Public Services) Order, 1933 (S.R. & O., No. 158 of 1933), or acquired under the Forestry Acts, 1919 and 1928, or under the [Forestry Act, 1946](#) , or under the Wildlife Act, 1976.

Amendment of Firearms
Act, 1964.

65.—(1) The [Firearms Act, 1964](#) , is hereby amended by—

(a) the substitution of “protected wild animals or protected wild birds within the meaning of the Wildlife Act, 1976,” for “game” both in section 3 (1) and section 12 (1),

- (b) the addition to section 3 (2) of “, but an order under this subsection shall not extend for more than a month a period mentioned in subsection (1) of this section”, and
- (c) the substitution both in subsection (3) and in subsection (4) (a) of section 3 of “such protected wild animals or wild birds” for “game”.
- (2) Sections 3 (1), 3 (2), 3 (3), 3 (4) (a) and 12 (1) of the [Firearms Act, 1964](#) , as amended by subsection (1) of this section, are set out in paragraphs 1, 2, 3, 4 and 5, respectively, of the Table to this section.

TABLE

- 1.—(1) The Minister may, on its being represented to him by the Minister for Lands that it is necessary to do so in the interests of the preservation of protected wild animals or protected wild birds within the meaning of the Wildlife Act, 1976, make an order prohibiting the use or carriage of firearms or of firearms of such class or classes as may be specified in the order in a public place or on any lands either throughout the State or in such area or areas as may be specified in the order during such period, not exceeding one month, as may be specified in the order.
- 2.—(2) The Minister may by order, made after consultation with the Minister for Lands, amend or revoke an order under this section, including an order under this subsection, but an order under this subsection shall not extend for more than a month a period mentioned in subsection (1) of this section.
- 3.—(3) An order under this section shall not apply in relation to the use or carriage of firearms by members of the Defence Forces or the Garda Síochána or to the use or carriage of a firearm by a person to whom the Superintendent of any district has granted a permit which is in force to use and carry a firearm for a purpose (other than the shooting of such protected wild animals or wild birds) specified in the permit in that district during a period specified in the permit, if the firearm is being used and carried in accordance with the terms of the permit.
- 4.—(4) (a) Whenever an order under subsection (1) of this section is in force in relation to any district, the Superintendent of that district may, in his absolute discretion, grant to any person a permit to use and carry in that district for a purpose (other than the shooting of such protected wild animals or wild birds) specified in the permit during a period specified in the permit a firearm to the use or carriage of which the order applies.
- 5.—(1) Where the firearm described in a firearm certificate is a shotgun, the certificate may be expressed, and in such case shall operate, to authorise

the use of the gun only for killing animals or birds other than protected wild animals or protected wild birds within the meaning of the Wildlife Act, 1976, by the person to whom the certificate is granted either (as may be expressed in the certificate)—

(a) on land occupied by him, or

(b) on land occupied by another person.

Amendment of section 69 of
Registration of Title Act,
1964.

66.— [Section 69](#) of the [Registration of Title Act, 1964](#) , is hereby amended by the insertion in subsection (1) of the following paragraph after paragraph (r):

“(rr) an agreement under section 18 of the Wildlife Act, 1976, which provides that it shall be enforceable against persons deriving title to the relevant land under a party to the agreement;”.

Restriction of Part V of
Protection of Animals
(Amendment) Act, 1965.

67.— [Part V](#) of the [Protection of Animals \(Amendment\) Act, 1965](#) , shall be deemed to apply neither to protected wild birds nor to protected wild animals.

PART VI

Miscellaneous

Inspection of land.

68.—(1) Any person appointed in writing by the Minister under section 11 of the Act of 1946 to be an authorised officer for the purposes of that section (which person is subsequently in this section referred to as an authorised officer) may at any reasonable time enter on, inspect and survey any land for the purpose of ascertaining whether there are fauna on the land which are in need of protection under [section 17](#) of this Act, or for any other purpose (apart from the purpose mentioned in subsection (2) of this section) in connection with the performance by the Minister of his functions under this Act.

(2) An authorised officer may at any reasonable time enter on and inspect any land to which a recognition order relates to ascertain whether or not the objectives indicated in the order are being, or have been, attained, or, where attained, are being maintained.

(3) An authorised officer entering on land under this section may do thereon all things reasonably necessary for the purpose for which the entry is made.

(4) Before an authorised officer enters under subsection (1) of this section on any land, he shall either obtain the consent, in the case of occupied land, of the occupier, or, in the case of unoccupied land, of the owner, or shall give to the owner or occupier, as the case may be, not less than fourteen days' notice in writing of his intention to make the entry.

(5) A person to whom a notice of intention to enter on land has been given under this section by an authorised officer may, not later than fourteen days after the giving of such notice, apply, on notice to such officer, to the Justice of the District Court having

Attempts etc. and
miscellaneous other
offences.

jurisdiction in the district court district in which the land is situate for an order prohibiting the entry, and, upon the hearing of the application, the Justice may, if he so thinks proper, either wholly prohibit the entry or specify conditions to be observed by the officer making the entry.

(6) Where a Justice of the District Court prohibits under this section a proposed entry on land, it shall not be lawful for any person to enter under subsection (1) of this section on the land, and where a Justice of the District Court specifies under this section conditions to be observed by persons entering on land, every person who enters under the said subsection (1) land shall observe the conditions so specified.

69.—(1) A person who attempts to commit an offence under this Act, or who aids, abets, counsels or procures the commission of an offence under this Act, or who solicits or incites any other person to commit an offence under this Act shall be guilty of an offence.

(2) Any person who, whether by act or omission, contravenes or fails to comply with regulations under this Act shall be guilty of an offence.

(3) (a) A person who refuses or who fails to give his correct name and address on a demand therefor being duly made pursuant to [section 72](#) or [73](#) of this Act shall be guilty of an offence.

(b) Any person who without reasonable excuse fails to comply with a requirement made by a member of the Garda Síochána or by an authorised person under [section 72](#) or [73](#) of this Act or who by act or omission impedes or obstructs such a member or person in the lawful exercise of a power conferred by this Act shall be guilty of an offence and if, in the case of a continuing offence, the impediment or obstruction is continued after conviction, he shall be guilty of a further offence.

(4) A person who, in purported compliance with any obligation to give information to which he is subject by virtue of this Act, gives any information which he knows to be false in a material particular or recklessly gives information which is so false shall be guilty of an offence.

(5) Any person who conceals from a person lawfully exercising a power under [section 72](#) or [73](#) of this Act any specimen of flora or fauna or any part or product of such specimen or any thing which is a thing mentioned in [section 73](#) (1) of this Act shall be guilty of an offence.

(6) Any person who contravenes a condition attached to a licence granted by the Minister under this Act shall be guilty of an offence.

(7) Any person who, for the purpose of obtaining, whether for himself or another, the grant or renewal of a licence or permission under this Act—

- (a) makes any statement or gives information which he knows to be false in a material particular or recklessly gives information which is so false, or
- (b) produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular,

shall be guilty of an offence.

Prosecution of offences. **70.**—(1) Summary proceedings for any offence under this Act may be prosecuted by the Minister.

(2) Subject to [section 44](#) (4) of this Act, summary proceedings for any offence under this Act may be prosecuted by a person who is neither the Minister nor a member of the Garda Síochána with the consent of the Minister or an officer of the Minister, not below the rank of Assistant Secretary, nominated by the Minister for the purpose.

(3) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, proceedings for any offence under this Act may be instituted at any time within one year after the date of the offence.

Onus of proof. **71.**—In any proceedings for an offence under this Act, it shall not be necessary to—

- (a) negative by evidence the existence of any order under [section 24](#) or [25](#) of this Act or any licence or permission under this or any other Act,
- (b) prove that any act which is the subject of the proceedings was not caused by or the result or effect of, or was not consequent upon any other thing lawfully done,

and the onus of proving such licence or permission or that such act was so caused or was such a result or effect or was so consequent upon shall be on, in the case of such a licence or permission, the person seeking to avail himself thereof, or in any other case, the person against whom the proceedings are instituted.

Powers of Garda Síochána and authorised persons. **72.**—(1) The Minister may appoint in writing a person to be an authorised person for the purposes of this Act.

(2) A member of the Garda Síochána or an authorised person may, if he has reasonable grounds for suspecting that a person has committed an offence under Part II or under [section 45](#) , [47](#) , [51](#) , [52](#) or [53](#) of this Act, at all reasonable times stop any person who is suspected by him of being in any way concerned in the offence and require the person to give his name and address and to declare and, if such member or authorised person, as the case may be, considers it necessary, to produce on demand for examination any specimen of fauna or flora or any part or product of any such specimen or any thing which is mentioned in subsection (7) of this section, which is in the person's possession and such member or authorised person may seize and detain any specimen or part or product of a specimen or any thing so produced which appears to him to be

something which might be required as evidence in proceedings for an offence under this Act.

(3) A member of the Garda Síochána or an authorised person may, if he has reasonable grounds for suspecting that a person has committed an offence under Part II or under [section 45](#) , [47](#) , [51](#) , [52](#) or [53](#) of this Act, at all reasonable times—

(a) search any vehicle, vessel or aircraft which he reasonably suspects of being used to transport, export or import any specimen of fauna or flora or any part or product of any such specimen contrary to the said section 51, 52 or 53, and such member or authorised person, for the purpose of carrying out the search, may, if he thinks fit, require the person who for the time being is in control of the vehicle, vessel or aircraft to bring it to a stop or refrain from moving it,

(b) open and examine any package, parcel, box or other container which he reasonably suspects is being so used,

(c) require the person who is for the time being in control of a vehicle, vessel or aircraft mentioned in paragraph (a) of this subsection or any other person found thereon to furnish to him that person's name and address and to produce for examination any book, record or other document which relates to any specimen of fauna or flora or any part or product of fauna or flora and which is in the person's possession or under his control and, if known to the person, the name and address of the owner of any specimen of fauna or flora or any part or product of fauna or flora found in the course of the search,

(d) inspect and, if he thinks fit, take copies of any entry in any book, record or other document produced pursuant to a requirement made under this subsection,

and if—

(i) such member or authorised person has reasonable grounds for suspecting that an offence has been or is being committed under this Act with or in relation to anything found in the course of the search, or

(ii) a document so found is a record or other document which the member or person has reason to believe may be required as evidence in proceedings for an offence under this Act,

the member or authorised person may seize and detain that thing or document and anything else so found which appears to him to be something which might be required as evidence in proceedings for an offence under this Act.

(4) (a) A member of the Garda Síochána or an authorised person may at any time for the purpose of exercising the powers conferred on him by subsection (2)

and paragraph (a) of subsection (3) of this section enter on any land.

(b) Paragraph (a) of this subsection shall not be construed as enabling a member of the Garda Síochána or an authorised person to enter buildings on land.

(5) Every person authorised by the Minister under subsection (1) of this section shall be furnished with a certificate of his authorisation and when exercising a power under this Act shall, if requested by any person thereby affected, produce such certificate for inspection by the person.

(6) Nothing in this section shall operate to prejudice any power to search or to seize or detain property which may be exercised by a member of the Garda Síochána apart from this section.

(7) The things referred to in subsection (2) of this section are a firearm, trap, snare, net, line, hook, arrow, dart or spear, or a similar device, instrument or missile calculated or likely to cause death or bodily injury to any wild bird or wild mammal coming in contact with it, birdlime or any substance of a like nature, poisonous, poisoned or stupefying bait, tracer shot or a gun or container mentioned in [section 33](#) (2) of this Act, and a decoy or electrical or other instrument, device or appliance mentioned in [section 35](#) (1) or [38](#) of this Act.

73.—(1) If a Justice of the District Court or a Peace Commissioner is satisfied by information on oath of an authorised person or a member of the Garda Síochána that there are reasonable grounds for suspecting that a person is in possession on any premises or other land of—

Search warrants.

(a) a protected wild bird,

(b) a protected wild animal,

(c) the eggs of a protected wild bird,

(d) the carcase or any other part of, or any product of a protected wild bird or protected wild animal, or

(e) any plant or part or product of a plant which is of a species to which an order under [section 21](#) of this Act applies,

and that as regards the bird, animal, plant, part, product or other thing an offence under this Act has been or is being committed, such Justice or Commissioner may issue a search warrant under this section.

(2) Subject to subsection (3) of this section, a warrant issued under this section shall be expressed and shall operate to authorise—

(a) in case the relevant information is sworn by a member of the Garda Síochána, a member of the Garda Síochána named in the warrant, accompanied by such other members of the Garda Síochána or such authorised persons as may be reasonably necessary,

(b) in case the relevant information is sworn by an authorised person, an authorised person named in the warrant, accompanied by such other persons as may be reasonably necessary,
at any reasonable time or times within seven days of the issue of the warrant to—

(i) enter and search, if need be by force, the premises or other land named in the warrant,

(ii) require any person found on such premises or other land to furnish to him his name and address,

(iii) require a person who is in occupation or is in control or is concerned in the management of the premises or other land to furnish to him his name and address and to produce,

(A) any thing mentioned in subsection (1) of this section,

(B) any books, records or other documents which relate to any thing so mentioned and which are in any such person's possession or under his control,

and if known to such person, to furnish to him the name and address of the owner of any thing so produced,

(iv) inspect and, if he thinks fit, take copies of any entry in any book, record or other document produced in pursuance of a requirement made pursuant to the warrant,

and if the member or authorised person so named has reasonable grounds for suspecting that either,

(A) an offence has been or is being committed under this Act with or in relation to anything found in the course of the search, or

(B) a document so found is a record or other document which the member or authorised person has reason to believe may be required as evidence in proceedings for an offence under this Act,

the member or authorised person may seize and detain that thing or document and anything else so found which appears to him to be something which might be required as evidence in proceedings for an offence under this Act.

(3) The powers conferred on an authorised person by a warrant issued under this section shall be exercisable by the person as regards a dwelling only if, and only for so long as, he is accompanied by a member of the Garda Síochána.

Penalties.

74.—(1) Where a person is guilty of an offence under this Act, not being an offence

mentioned in subsection (2) or (3) of this section, subject to the said subsection (3), such person shall be liable on summary conviction—

- (a) in the case of a first offence under the particular section or subsection, to a fine not exceeding fifty pounds,
- (b) in the case of a second such offence, to a fine not exceeding one hundred pounds, and
- (c) in the case of a third or subsequent such offence, to a fine not exceeding two hundred pounds.

(2) Where a person is guilty of an offence under [section 69](#) (2) of this Act because of a contravention of, or of a failure to comply with, regulations under [section 59](#) of this Act or is guilty of any offence under this Act, being an offence committed on land to which an establishment order, a recognition order, a designation order or an agreement under [section 18](#) of this Act relates, the person shall be liable—

- (a) on summary conviction to a fine not exceeding two hundred and fifty pounds,
- or
- (b) on conviction on indictment to a fine not exceeding five hundred pounds.

(3) Where a person is guilty of an offence under [section 21](#) (4), [22](#) (4), [23](#) (5), [44](#) (1), [45](#) , [51](#) , [52](#) or [53](#) of this Act and the flora or fauna in relation to which the offence was committed is of a species for the time being declared by regulations under this section to be a species to which this subsection relates, and the particular specimen to which the offence relates is of a species to which such regulations apply, such person shall be liable—

- (a) on summary conviction to a fine not exceeding two hundred and fifty pounds,
- or
- (b) on conviction on indictment to a fine not exceeding five hundred pounds.

(4) Where the Minister is satisfied that a particular species of fauna or flora is in danger of extinction throughout the State or in a particular area of the State, he may by regulations declare the species to be one to which subsection (3) of this section relates and in case the Minister makes regulations under this section the regulations shall apply, as may be specified therein, either to every animal or plant of the species in the State or to every such animal or plant in a particular area of the State so specified.

Power of court to revoke
certain certificates and
licences and to impose
certain disqualifications.

75.—(1) Where a person who holds—

- (a) a firearm certificate which by virtue of [section 29](#) (5) of this Act is deemed to be a licence granted under that section, or

(b) a firearm certificate granted on the production of a current licence granted by the Minister to the person under [section 29](#) of this Act, is convicted of an offence under [Part II](#) of this Act, the court by which the person in convicted may revoke the certificate mentioned in paragraph (a) of this subsection or the licence mentioned in paragraph (b) of this subsection, as may be appropriate, and disqualify the person from holding such a certificate or licence and such revocation and disqualification shall be for such period as the court thinks appropriate and shall be in addition to any other punishment imposed by the court in respect of the offence.

(2) Where pursuant to subsection (1) of this section a court revokes a firearm certificate mentioned in paragraph (a) of that subsection, [section 6](#) of the [Firearms Act, 1925](#) (inserted by [section 8](#) of the [Firearms Act, 1964](#)), shall apply as if the certificate had been revoked under section 5 of that Act; provided that in case the firearm described in such certificate is a shotgun, the Superintendent of the Garda Síochána of the district in which the holder of the certificate resides may, within three months of the revocation, if he thinks fit, grant under [section 12](#) of the [Firearms Act, 1964](#) , to such holder in respect of such shotgun a limited certificate within the meaning of the said section 12.

(3) Where a court revokes a certificate or licence and imposes a disqualification pursuant to this section, the registrar or clerk of the court shall, as soon as may be, send to the Minister a copy of the court's order.

76.—(1) A court by which a person is convicted of an offence under this Act may order the interest of the person, whether as owner or otherwise, in any specimen of flora or fauna or any part or product of such a specimen or any firearm, trap, snare, net or other thing in relation to, or with, or by means of which, the court is satisfied the offence was committed to be forfeited.

Forfeiture.

(2) A court shall not order anything to be forfeited under this section if a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

(3) Where a court makes an order under this section in relation to a firearm and the person convicted of the offence under this Act which caused the order to be made is the owner of the firearm, the firearm shall be disposed of, either by sale or otherwise, in such manner as the Commissioner of the Garda Síochána authorises.

(4) Where an order is made under this section in relation to—

(a) a firearm other than a firearm to which subsection (3) of this section applies, or

(b) anything other than a firearm,

the following provisions shall apply:

(i) in the case of a firearm, the firearm shall, as the court shall direct, either

be returned to the person appearing to the court to be the owner or sold or disposed of in such other manner as the court thinks fit, and

(ii) in the case of anything other than a firearm, the thing shall, as the Minister shall direct, either be returned to the person appearing to him to be the owner or sold or disposed of in such other manner as the Minister thinks fit.

(5) Where a firearm or other thing is sold pursuant to this section, the net proceeds of the sale shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

Appeal against seizures. 77.—Any person who is aggrieved by a seizure and detention under this Act may appeal to a Justice of the District Court and in determining the appeal the Justice may—

(a) if he is satisfied that the document or other thing was properly seized, confirm the seizure and detention, and

(b) if he is not so satisfied, order the person who made the seizure to return to the person the document or other thing seized and order the Minister to pay to the person such compensation (if any), costs (if any) and expenses (if any) as he considers reasonable having regard to any loss, costs and expenses incurred by the person by reason of the seizure and detention.

Disposal of things seized. 78.—(1) A person who, in accordance with this Act, has seized any document or other thing shall not dispose of it—

(a) without the consent in writing of the owner or the person in apparent charge or control of it, or

(b) in the case of any thing other than a document, unless a direction is given pursuant to this section by a Peace Commissioner for its disposal.

(2) A person who under this Act has seized any thing may, on giving notice in writing to the owner or to the person who, when the seizure was made, was in apparent charge or control of it of his intention to do so, apply to a Peace Commissioner for a direction that the thing be disposed of (by destruction or otherwise) in a manner specified in the direction.

(3) A Peace Commissioner to whom an application in that behalf is duly made under this section shall, if he is satisfied that any thing in respect of which the application is made is likely, before it can be used as evidence in proceedings for an offence under this Act, to become unfit for human consumption, or if he is satisfied for any other reason that the thing ought not to be further detained, give a direction under this section authorising its disposal (by destruction or otherwise).

(4) Where a direction is given under this section, the person who applied for the direction shall, as soon as may be, give notice of the making of the direction to the

person to whom notice was given pursuant to subsection (2) of this section.

(5) Any person who is aggrieved by a direction under this section may, not later than seven days after the making of the direction, appeal to a Justice of the District Court against the direction and in determining the appeal the Justice may—

(a) if he is satisfied that the direction was properly given and that, having regard to the circumstances of the case, the giving of the direction was reasonable, confirm the direction, and

(b) if he is not so satisfied, annul the direction.

(6) (a) Subject to paragraphs (c) and (d) of this subsection, a direction under this section shall not have effect until the expiration of seven days from the date of its making.

(b) If an appeal to the District Court is taken against a direction under this section, the order shall, if the District Court confirms the direction, have effect at such time as that court determines.

(c) If a Peace Commissioner is satisfied that for any reason a direction given by him under this section should have effect before the expiration of seven days from the date of its making and he specifies in the direction the time when it should so have effect, the direction shall have effect at the time so specified.

(d) Where a thing is disposed of in accordance with a direction under this section and, on appeal, the District Court annuls the direction, the District Court may order the payment by the Minister to the owner of such compensation (if any), costs (if any) and expenses (if any) as it considers reasonable having regard to any loss, costs and expenses incurred by the owner by reason of the disposal under this section.

(7) Where a Peace Commissioner gives a direction pursuant to this section, he shall, on the production to him of the thing to which the direction relates by the person applying for the direction, give to that person a certificate in the prescribed form describing the thing, stating that a direction under this section has been given by him in respect of it and, in case the thing is fauna, specifying any marks on, or peculiarities or other particulars of, the fauna of which he has been made aware by the person making the application and in any proceedings for an offence under this Act the certificate shall be accepted as sufficient evidence of the facts stated in the certificate until the contrary is shown by the defendant.

(8) Moneys payable pursuant to a disposal under this section shall be paid to the Minister.

Enactments Repealed

Section 10 .

Session and Chapter or Number and Year	Short Title	Extent of Repeal
		The whole
10 Will. 3, c. 8	Deer Protection Act, 1698.	Act.
		The whole
27 Geo. 3, c. 35	Game Act, 1787.	Act.
		The whole
7 Geo. 4, c. 9	Night Poaching Act, 1826.	Act.
		The whole
25 & 26 Vict., c. 114	Poaching Prevention Act, 1862.	Act.
		The whole
No. 11 of 1930	Game Preservation Act, 1930 .	Act.
		The whole
No. 16 of 1930	Wild Birds Protection Act, 1930.	Act.
No. 13 of 1946	Forestry Act, 1946 .	Section 61 .
	Protection of Animals	
No. 10 of 1965	(Amendment) Act, 1965 .	Section 8 .

Second Schedule

Provisions which may be included in an order under Section 14

Section 14 .

1. The Board shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land.

2. The Board shall consist of a chairman and not less than a prescribed number of ordinary members.

3. (1) Where the chairman or an ordinary member of the Board is nominated as a candidate for election to either House of the Oireachtas or as a member of Seanad Éireann, he shall thereupon cease to be a member of the Board.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein shall be disqualified from being a member of the Board.

4. The chairman and each ordinary member of the Board shall be appointed by the Minister and the Minister when making the appointment shall fix his term of office and, subject to such other provisions of this Schedule as may be relevant, he shall hold his office on such terms and conditions as the Minister, with the consent of the Minister for the Public Service, determines.

5. A member of the Board may at any time resign his office by letter addressed to the Minister and the resignation shall take effect as on and from the date of the receipt of the letter by the Minister.

6. The Minister may remove from office a member of the Board who has become incapable through ill-health of efficiently performing his duties or whose removal appears to the Minister to be necessary for the effective performance by the Board of its functions.

7. A member of the Board (other than the chairman) may be appointed by the Minister from among his serving officers.

8. A member of the Board shall be paid by the Board such remuneration (if any) and allowances for expenses as the Minister, with the consent of the Minister for the Public Service, determines.

9. A member of the Board whose term of office expires by the effluxion of time shall be eligible for reappointment.

10. Where a casual vacancy occurs among the members of the Board, the Minister shall appoint a person to fill the vacancy as soon as possible.

11. (1) The Board shall keep in such form as may be approved by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of all moneys received or expended by it.

(2) The Board shall keep a profit and loss account and a balance sheet.

(3) The Board shall keep such special accounts (if any) as the Minister, with the consent of the Minister for Finance, may from time to time direct.

(4) All accounts kept pursuant to this Article shall be submitted by the Board to the Comptroller and Auditor General for audit.

(5) Immediately after their audit, a copy of the accounts (including any special accounts) kept by the Board pursuant to this Article, a copy of the balance sheet (if any) and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

12. There may, subject to such conditions, if any, as the Minister thinks proper, be paid to the Board in each financial year out of moneys provided by the Oireachtas a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Finance and after consultation with the Board in relation to its programme of expenditure for that year, may fix.

13. (1) The Minister, with the consent of the Minister for the Public Service, may appoint such officers and servants as are in his opinion necessary to assist the Board in the performance of its functions.

(2) The officers and servants so appointed shall hold office on such terms and receive such remuneration as the Minister for the Public Service determines.

14. (1) The Board shall hold such and so many meetings as may be necessary for the performance of its functions.

(2) The Minister may fix the date, time and place of the first meeting of the Board.

15. The quorum for a meeting of the Board shall be such as is specified in an order made under [section 14](#) of this Act and which relates to the Board and is for the time being in force.

16. Each member of the Board at a meeting thereof shall have a vote.

17. Every question at a meeting of the Board shall be determined by a majority of votes of the members present and, in the event that voting is equally divided, the chairman shall have a casting vote.

18. Subject to having a quorum, the Board may act notwithstanding a vacancy among its members.

19. Subject to the provisions of any order made under [section 14](#) of this Act and which relates to the Board, the Board may provide for any matters of procedure.

20. The Board shall, as soon as may be after its establishment, provide itself with a seal.

21. The Board may perform any of its functions through or by any of its officers duly authorised by the Board in that behalf.

22. The seal of the Board shall be authenticated by the signature of two members of the Board or by the signature of a member of the Board and of an officer or servant of the Board authorised by the Board to act in that behalf.

23. Judicial notice shall be taken of the seal of the Board and every document purporting to be an instrument made by the Board and to be sealed with the seal (purporting to be authenticated in accordance with Article 22 of this Schedule) of the Board shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

24. (1) The Minister may, with the approval of the Minister for the Public Service, make and carry out according to its terms a scheme for the granting of pensions, gratuities or other allowances to or in respect of the chairman and ordinary members of the Board appointed in a wholetime capacity ceasing to hold office, other than persons in respect of whom an award under the Superannuation Acts, 1834 to 1963, may be made.

(2) A scheme under this Article may provide that the termination of the appointment of the chairman or of an ordinary member of the Board during that person's term of office shall not preclude the award to him under the scheme of a pension, gratuity or other allowance.

(3) The Minister may, with the approval of the Minister for the Public Service, amend a scheme made by him under this Article.

(4) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or allowance payable in pursuance of a scheme under this Article, such dispute shall be submitted to the Minister who shall refer it to the Minister for the Public Service, whose decision thereon shall be final.

(5) Every scheme made by the Minister under this Article shall be laid before each House of the Oireachtas as soon as may be after it is made and if either House, within the next twenty-one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(6) Where an established civil servant is definitively transferred to the Board as a member thereof, the superannuation benefits to be granted to him shall, if the Minister for the Public Service in his discretion so directs, be calculated in accordance with the provisions of the Superannuation Acts, 1834 to 1963, as if, during the period of his service as a wholetime member of the Board subsequent to his transfer, he had been an established civil servant and had been paid during that period out of moneys provided by the Oireachtas within the meaning of section 17 of the Superannuation Act, 1859.

25. (1) The Board may accept gifts of money, land or other property upon such terms and conditions (if any) as may be specified by the donor.

(2) The Board shall not accept a gift if the conditions attached by the donor to the acceptance are inconsistent with the functions of the Board.

(3) Any funds of the Board, being a gift or the proceeds of a gift to it, may, subject to any terms or conditions of the gift, be invested by the Board in any manner in which a trustee is empowered by law to invest trust funds.

Third Schedule

Species of wild birds excluded (subject to Section 22 (2)) from Sections 19 and 22
[Sections 19](#) , [22](#) , [31](#) and [35](#) .

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 homing pigeons or doves

Rook

Starling

Fourth Schedule

Fauna referred to in Section 22 (6) or 23 (8)

[Sections 22](#) and [23](#) .

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

Fifth Schedule

Animals referred to in Section 23

[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