

# AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

## PROTECTION OF BIRDS AMENDMENT ACT 2015

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WHEREAS it is expedient to amend the Protection of Birds Act 1975 to: define pest bird, enable the Minister to issue licences for the treatment and rehabilitation of protected birds, expand the powers of the Minister to authorize any person to control or destroy any bird in certain cases, make it an offence to obstruct an officer acting in the execution of any provision of the Act, increase the penalty on conviction of an offence under the Act, and make related amendments to the Firearms Act 1973;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

#### Citation

1 This Act, which amends the Protection of Birds Act 1975 ("the principal Act"), may be cited as the Protection of Birds Amendment Act 2015.

#### Amends section 1

2 Section 1 of the principal Act is amended—

(a) in subsection (1)—

(i) by repealing the definition of "conservation officer" and inserting in proper alphabetical order the following definitions—

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“authorized officer” has the meaning given in section 4(3);

“pest bird” means any bird or species of bird, not being a protected bird, that—

(a) has a detrimental impact on the environment; agriculture, fisheries or other human activity; public health or public safety; and

(b) is listed in the Schedule;”;

(ii) in the definition of protected bird, by repealing paragraph (v) and replacing it with the following—

“(v) a pest bird;” and

(b) by repealing subsection (2) and replacing it with the following—

“(2) Nothing in this Act shall derogate from or abridge any provision of—

(a) the Agriculture Act 1930;

(b) the Care and Protection of Animals Act 1975;

(c) the Protected Species Act 2003;

(d) the Endangered Animals and Plants Act 2006; or

(e) any statutory instrument made under any of the Acts referred to in paragraphs (a) to (d).”.

Amends section 3

3 Section 3 of the principal Act is amended—

(a) in the heading by inserting after “museum” the words “and rehabilitation”; and

(b) in subsection (2)(c), by deleting the full stop and replacing it with “; or” and by inserting immediately after that subsection the following—

“(d) for the purpose of treating and rehabilitating birds. ”.

Repeals and replaces section 4

4 The principal Act is amended by repealing section 4 and replacing it with the following—

“Minister may authorize control or destruction of birds

4 (1) If the Minister is satisfied that for the protection of—

(a) the environment;

(b) agriculture, fisheries, or other human activity;

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- (c) public health; or
- (d) public safety,

it is expedient to control or destroy any bird or species of bird which is a protected bird, he may authorize in writing any officer of the Department, or any other person, to take such measures for such control or destruction as the Minister may approve.

(2) The Minister may authorize in writing any officer of the Department, or any other person, to take such measures for the control or destruction of such pest bird or species of pest bird as the Minister may approve.

(3) Any officer of the Department, or any other person, duly authorized under subsection (1) or subsection (2) is in this Act referred to as an “authorized officer”.

(4) Any measures taken under this section shall be subject to such conditions as the Minister may impose.”.

Inserts new section 4A

5 The principal Act is amended by inserting after section 4 the following—

“Minister may amend Schedule

4A (1) The Minister may by order, after giving consideration to the degree to which any bird or species of bird is having a detrimental impact on—

- (a) the environment;
- (b) agriculture, fisheries or other human activity;
- (c) public health; or
- (d) public safety,

amend the Schedule.

(2) An order made under subsection (1) is subject to the negative resolution procedure.”.

Inserts new section 6A

6 The principal Act is amended by inserting after section 6 the following—

“Obstruction an offence

6A Any person who—

- (a) wilfully obstructs; or
- (b) removes, destroys or interferes with the equipment of,

an authorized officer or any officer of the Department acting in the execution of any provision of this Act commits an offence.”.

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Amends section 7

7 Section 7(2) of the principal Act is amended by deleting “\$200” and replacing it with “\$2,000”.

Inserts the Schedule

8 The principal Act is amended by inserting after section 8 the following—

“SCHEDULE

(Section 4A)

PEST BIRDS

The following birds are pest birds for the purposes of this Act:

- (a) Common crow (*Corvus brachyrhynchos*);
- (b) Starling (*Sturnus vulgaris*);
- (c) Kiskadee (*Pitangus sulphuratus*);
- (d) House (English) sparrow (*Passer domesticus*);
- (e) Pigeon (*Colombo livia domestica*) that is feral;
- (f) Chicken (*Gallus gallus domesticus*) that is feral. ”.

Amends the Firearms Act 1973

9 The Firearms Act 1973 is amended—

- (a) in section 4(2)(d) by deleting the full stop and replacing it with a semicolon and inserting after that paragraph the following—

“(e) for the holder of an annual licence specified in section 5(2)(aa) to use such firearm in accordance with such licence.”;

- (b) in section 6(2)—

- (i) in paragraph (a) by deleting the word “or”; and

- (ii) in paragraph (b) by deleting the full stop and replacing it with “; or” and inserting after that paragraph the following—

- “(c) the holder of an annual licence specified in section 5(2)(aa) for ammunition for use in the firearm to which such licence relates.”.

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### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Protection of Birds Act 1975 to: define pest bird, enable the Minister to issue licences for the treatment and rehabilitation of protected birds, expand the powers of the Minister to authorize any person to control or destroy any bird in certain cases, create an offence of obstruction, increase the penalty on conviction of an offence under the Act, and make related amendments to the Firearms Act 1973.

Clause 1 provides the citation for the Bill.

Clause 2 repeals the definition of conservation officer and inserts the definition of authorized officer which includes any person authorized by the Minister under section 4. This clause also inserts the definition of pest bird, which is any bird or species of bird, not being a protected bird, having a detrimental impact on the environment, agriculture, fisheries or other human activity, public health or public safety and which is listed in the Schedule. This clause also adds the Protected Species Act 2003 and the Endangered Animals and Plants Act 2006 to the list of Acts from which the principal Act shall not derogate.

Clause 3 amends section 3 of the principal Act to include the treatment and rehabilitation of protected birds as a purpose for which the Minister may issue a licence.

Clause 4 amends section 4 of the principal Act to expand the powers of the Minister to authorize, subject to conditions, the control or destruction of protected birds by enabling the Minister to authorize in writing any person to carry out such activities, and also provides for such authorization to be given in relation to pest birds.

Clause 5 inserts new section 4A into the principal Act, which enables the Minister to amend the Schedule of pest birds after having regard to the degree to which any bird or species of bird is having a detrimental impact and to make such an order subject to the negative resolution procedure.

Clause 6 inserts new section 6A into the principal Act, which makes it an offence to wilfully obstruct, or remove, destroy or interfere with the equipment of, an authorized officer or any officer of the Department acting in the execution of any provision of the principal Act.

Clause 7 amends section 7 of the principal Act by increasing the penalty for an offence under the principal Act from \$200 to \$2,000.

Clause 8 inserts the Schedule, which lists the common crow, starling, kiskadee, house sparrow, feral pigeon and feral chicken as pest birds.

Clause 9 makes related amendments to sections 4(2) and 6(2) of the Firearms Act 1973 to clarify that a firearm may be used and that an ammunition licence may be issued in connection with Government approved and supervised pest control.