

6. Interpretation, and declarations by Minister

(1) In this Act, unless the context requires otherwise —

“**animal**” means any living thing that is not a human being or a plant and includes in relation to any such animal the eggs, larvae or semen;

“**carcass**” includes any part of a carcass;

“**class**” in relation to animals, means any group or grouping of animals;

“**close season**” means, in relation to any of the fauna, the period of time during which that fauna is, subject to the provisions of this Act, protected from being taken;

“**Crown land**” means all land other than private land;

“**Executive Director**” means the Executive Director of the Department of Conservation and Land Management appointed under section 36 of the *Conservation and Land Management Act 1984*;

“**fauna**” means, subject to sections 20(6) and 27(4) —

- (a) any animal indigenous to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth;
- (b) any animal that periodically migrates to and lives in any State or Territory of the Commonwealth or the territorial waters of the Commonwealth; and
- (c) any animal declared as fauna pursuant to subsection (2), and includes in relation to any such animal —
 - (d) any class or individual member thereof;
 - (e) the eggs, larvae or semen;
 - (f) the carcass, skin, plumage or fur thereof,

but does not include any prescribed animal or prescribed class of animal;

“**flora**” means any plant (including any wildflower, palm, shrub, tree, fern, creeper or vine) which is —

- (a) native to the State; or
- (b) declared to be flora pursuant to subsection (4),

and includes any part of flora and all seeds and spores thereof;

“**Fund**” means the Conservation and Land Management Fund referred to in section 65 of the *Conservation and Land Management Act 1984*;

“**honorary wildlife officer**” means a person appointed to be an honorary wildlife officer under section 46 of the *Conservation and Land Management Act 1984*;

“**illegal device**” means any specified device declared to be an illegal device by the regulations and any specified device which is used in a manner other than that prescribed for its use by the regulations;

“**illegal means**” means any specified means declared to be an illegal means, and any specified means used in a manner other than that prescribed by the regulations;

“**keep**” means to have in possession or control in any place whatsoever even though another person may have the actual possession or custody of the animal in question;

“licence” means a licence issued pursuant to the provisions of this Act;

“nature reserve” has the meaning assigned to it by sections 6(5) and 16B(3) of the *Conservation and Land Management Act 1984*;

“open season” means, in relation to any of the fauna, the period of time during which that fauna may, subject to the provisions of this Act, be taken;

“private land” means any land that has been or may hereafter be alienated from the Crown for any estate of freehold, or is or may hereafter be the subject of any conditional purchase agreement, or of any lease or concession with or without a right of acquiring the fee simple thereof other than for pastoral or timber purposes;

“processing establishment” means any land, building, tent or other structure of any kind or any vehicle, boat or other conveyance of any kind on or in which processing of fauna other than fish is carried out for the purposes of sale;

“protected” means, in relation to any of the fauna, protected from being taken, and **“protection”** has a corresponding meaning;

“protected flora” means, any flora for the time being declared to be protected flora for the purposes of this Act;

“skin” includes any part of a skin;

“to process” in relation to any fauna other than fish means to cut, skin, treat, chill, freeze, can, cure, pack or preserve any part of the fauna and derivatives and inflections have corresponding meanings;

“to sell” means to sell by wholesale or retail, or to barter or exchange, and includes to supply for profit, offer for sale, receive for sale, having possession for sale, expose for sale, send forward or deliver for sale, cause or suffer or allow to be sold, and to dispose or offer for disposal under hire-purchase agreement, and derivatives and inflections have corresponding meanings;

“to take” in relation to any fauna, includes to kill or capture any fauna by any means or to disturb or molest any fauna by any means or to use any method whatsoever to hunt or kill any fauna whether this results in killing or capturing any fauna or not; and also includes every attempt to take fauna and every act of assistance to another person to take fauna and derivatives and inflections have corresponding meaning;

“to take” in relation to any flora includes to gather, pluck, cut, pull up, destroy, dig up, remove or injure the flora or to cause or permit the same to be done by any means;

“wildlife officer” means an officer designated as such under section 45(1)(a) of the *Conservation and Land Management Act 1984* or an honorary wildlife officer when performing a function conferred on the officer that is referred to in section 46(3) of that Act;

“wildlife sanctuary” means an area of land which is the subject of an agreement made under section 16 of the *Conservation and Land Management Act 1984* for management as a nature reserve.

- (1a) Where any fauna or flora is taken in any part of the State where the fauna or flora is protected, that fauna or flora shall continue to be protected notwithstanding that it may have been removed from that part of the State to

another part where the same species, class or description of fauna or flora is not protected.

- (2) The Minister may by notice declare any animal or any class of animal specified in the notice to be fauna for the purposes of this Act either generally or in relation to the time and place specified in the notice, and the animal or class of animal so specified shall be fauna for the purposes of this Act either generally or in relation to the time and place specified in terms of the notice.
- (3) Any notice published pursuant to subsection (2) may be varied or cancelled by the Minister by subsequent notice published in the *Government Gazette*.
- (3a) Every notice under subsection (2) or subsection (3) shall be published in the *Government Gazette* and shall take effect, subject to the provisions of section 42 of the *Interpretation Act 1984*, as though it were a regulation.
- (4) The Minister may —
 - (a) by notice published in the *Government Gazette* declare any class or description of plant (including any wildflower, palm, shrub, tree, fern, creeper or vine) specified in the notice which is not native to the State to be flora for the purposes of this Act in any part or parts of the State specified; and
 - (b) by notice so published vary or revoke any notice published under paragraph (a).
- (5) Notwithstanding anything to the contrary contained in the preceding provisions of this section any plant (including any wildflower, palm, shrub, tree, fern, creeper or vine) which is a declared plant within the meaning of the *Agriculture and Related Resources Protection Act 1976* throughout the whole of the State or in any part of the State, shall not be flora for the purposes of this Act throughout the State or in that part of the State, as the case requires.
- (6) The Minister may —
 - (a) by notice published in the *Government Gazette* declare any class or description of flora to be protected flora for the purposes of this Act, either throughout the whole of the State or in such part or parts of the State as are specified in the notice;
 - (b) by notice so published, declare —
 - (i) all flora; or
 - (ii) all flora other than such classes or descriptions of flora as are specified in the notice,in such part or parts of the State as is or are specified in the notice to be protected flora for the purposes of this Act; and
 - (c) by notice so published, vary or revoke any notice published under paragraph (a) or (b).

[Section 6 amended by No. 38 of 1954 s. 2; No. 45 of 1967 s. 4; No. 99 of 1969 s. 3; No. 67 of 1975 s. 4; No. 86 of 1976 s. 4; No. 34 of 1977 s. 3; No. 28 of 1979 s. 3; No. 112 of 1984 s. 4; No. 20 of 1991 s. 57; No. 53 of 1994 s. 264; No. 57 of 1997 s. 132(1) and (2).]