



Western Australia

Wildlife Conservation Act 1950

Compare between:

[30 Jan 2012, 08-d0-01] and [08 Dec 2012, 08-e0-02]

Wildlife Conservation Act 1950

An Act to provide for the conservation and protection of wildlife.

[Long title amended by No. 67 of 1975 s. 3.]

1. Short title

This Act may be cited as the *Wildlife Conservation Act 1950*¹.

[Section 1 amended by No. 45 of 1967 s. 1(3); No. 67 of 1975 s. 3.]

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation¹.

[3. Omitted under the Reprints Act 1984 s. 7(4)(f).]

4. Severability

This Act shall be construed so as not to exceed the legislative power of the State the intention being that, if any provision of this Act would, but for this section, be construed as being in excess of that power, it shall, to the extent to which it is not in excess of that power, be a valid enactment.

[5. Deleted by No. 45 of 1967 s. 3.]

6. Terms used, 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;

CEO has the meaning given by section 3 of the *Conservation and Land Management Act 1984*;

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;

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; and
- (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;

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 meanings;

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; and
 - (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); No. 28 of 2006 s. 220; No. 77 of 2006 Sch. 1 cl. 187(1)-f); [No. 36 of 2011 s. 48.](#)]

7. Administration

Subject to the direction and control of the Minister, this Act shall be administered by the CEO.

[Section 7 inserted by No. 112 of 1984 s. 5; amended by No. 28 of 2006 s. 221.]

8. Cost of administration

The cost of the administration of this Act shall be paid out of moneys to be appropriated by Parliament for the purpose.

9. Relationship to Crown, government departments and local governments and other persons exercising rights or duties

- (1) The provisions of this Act relating to flora bind the Crown.
- (2) Where in relation to a provision of this Act relating to flora a matter arises, or may arise, with respect to any right, power or authority of, or the discharge of any duty by, a government department or a local government, the following provisions apply —
 - (a) where the matter relates to a government department — the Minister charged with the administration of the government department may consult with the Minister; and
 - (b) where the matter relates to a local government — the local government shall refer the matter to the Minister charged with the administration of the *Local Government Act 1995*, who may consult with the Minister; and
 - (c) where the Ministers agree, the Minister shall give such directions as are agreed to as a result of those consultations; and
 - (d) where the Ministers do not agree the matter shall be referred to the Governor; and
 - (e) the Governor may finally and conclusively determine the matter and effect shall be given to any such determination.
- (3) Where in relation to a provision of this Act relating to flora a matter arises, or may arise, with respect to the exercise of any right or the performance of any duty or obligation conferred or imposed on a person, not being a government department or

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local government, by or under any Act or agreement to which the State is a party and which is ratified or approved by an Act the matter shall be finally and conclusively determined by the Minister upon a written application by that person to the Minister and effect shall be given to that determination.

(4) In this section —

government department includes any instrumentality of the Crown in the right of the State, whether a corporation, agency or other authority.

[Section 9 inserted by No. 86 of 1976 s. 5 (as amended by No. 28 of 1979 s. 4); amended by No. 14 of 1996 s. 4.]

[9A-13. Deleted by No. 112 of 1984 s. 6.]

14. Protection of fauna

- (1) Except to the extent which the Minister declares by notice published in the *Government Gazette* pursuant to the provisions of this section all fauna is wholly protected throughout the whole of the State at all times.
- (2) Subject to section 15A, the Minister may from time to time, by notice published in the *Government Gazette* —
 - (a) declare that any of the fauna is not protected or is protected to such extent for such period of time throughout the whole or such part or parts of the State as he shall think fit; and
 - (b) for these purposes declare a close season or an open season in respect of any of the fauna and place such restrictions on either the taking or disposal or the taking and disposal of the fauna as he considers advisable.
- (3) The Minister may from time to time, by notice published in the *Government Gazette*, vary the provisions and operation of a notice promulgated pursuant to the power conferred upon him by this section by cancelling those provisions and that operation wholly or in part absolutely, or by cancelling those provisions

and that operation wholly or in part, and substituting other provisions and their operation for those so cancelled.

- (4) The Minister may, from time to time by notice published in the *Government Gazette*, declare that any fauna specified in the notice is for the purposes of this Act fauna which is likely to become extinct, or is rare, or otherwise in need of special protection and while such declaration is in operation —
- (a) such fauna is wholly protected throughout the whole of the State at all times; and
 - (b) a person who commits an offence under section 16 or section 16A with respect to or in relation to such fauna is liable, notwithstanding any other provision of this Act, to a penalty of \$10 000.
- (5) A declaration promulgated by a notice pursuant to the provisions of this section shall, by virtue of this section, have the force of law while in operation.

[Section 14 amended by No. 38 of 1954 s. 6; No. 99 of 1969 s. 7; No. 53 of 1970 s. 3; No. 67 of 1975 s. 16; No. 58 of 1985 s. 2; No. 18 of 1992 s. 4; No. 19 of 2010 s. 51.]

15. Minister may issue licences

- (1) Subject to section 15A, the Minister may, in addition to any licence required under the provisions of section 17 or 17A, issue such licences as are prescribed.
- (2A) The Minister may renew the period of operation of a licence from time to time, or transfer the authority it confers from one person to another, or, where its operation relates to any place, may transfer that operation to another place of the same kind.
- (2B) Where the holder of a licence contravenes or fails to comply with any conditions endorsed upon or attached to the licence the Minister may, at any time and from time to time, by notice in writing given to the holder of a licence, cancel the licence or suspend it for such period as the Minister thinks fit.

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- (2C) Where the Minister considers that in the interest of conservation the operation of a licence should not be permitted to continue the Minister may, at any time and from time to time, by notice in writing given to the holder of a licence, cancel the licence or suspend it for such period as the Minister thinks fit.
- (2CA) The Minister may, by written notice given to the holder of a licence, cancel a licence or suspend it for such period as the Minister thinks fit if —
- (a) the holder of the licence is convicted of an offence under the *Animal Welfare Act 2002*; or
 - (b) a licence under that Act held by the holder of the licence is suspended or revoked.
- (2D) Where the holder of a licence cannot reasonably be served with a notice required by this section or his whereabouts are unknown, the service of that notice may be effected by an advertisement published in a newspaper circulating in the general area in which he was last known to be.
- (3A) The Minister may delegate all or any of the powers conferred upon him, with the exception of this power of delegation, to the CEO, or to any wildlife officer.
- (3B) Where the exercise of the power is dependent upon the opinion, belief, satisfaction or other state of mind of the Minister in relation to any matter, the power, when delegated, may be exercised by the delegate upon his opinion, belief, satisfaction or state of mind in relation to the matter.
- (3C) Every delegation pursuant to the provisions of this section shall be revocable at will, and no delegation shall prevent the Minister from exercising the power.
- (4) Subject to section 23D, no person shall be entitled to a grant, renewal or transfer of a licence as of right.

- (5) A grant, renewal or transfer of a licence may be authorised subject to such conditions as, having regard to the conservation or management of fauna or flora or the management of animals that are not fauna, the Minister considers fit, which conditions shall be endorsed upon or attached to the licence when granted, renewed or transferred, as the case may be; and may be added to, cancelled, suspended and otherwise varied by the Minister from time to time during the operation of the licence.
- (6) If such licences as are prescribed under subsection (1) are transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of **licence** paragraph (d), the licences are declared not to be personal property for the purposes of that Act.

[Section 15 amended by No. 38 of 1954 s. 7; No. 45 of 1967 s. 15; No. 99 of 1969 s. 8; No. 67 of 1975 s. 17; No. 86 of 1976 s. 6; No. 112 of 1984 s. 7; No. 18 of 1992 s. 5; No. 73 of 1994 s. 4; No. 49 of 1996 s. 64; No. 57 of 1997 s. 132(3), (4), (23) and (24); No. 33 of 2002 s. 97(2); No. 28 of 2006 s. 221; No. 19 of 2010 s. 51; No. 42 of 2011 s. 72.]

15A. Ducks, geese and quail protected from recreational taking

- (1) The Minister shall not make any declaration under section 14(2) that would allow the taking of any species of duck, goose or quail for the purposes of sport or recreation.
- (2) Section 28 does not authorise the making of regulations prescribing any licence under section 15(1) that would allow the taking of any species of duck, goose or quail for the purposes of sport or recreation.
- (3) In subsections (1) and (2) references to the ***purposes of sport or recreation*** include, subject to section 23, one or both of those purposes whether or not combined with the objective of taking ducks, geese or quail for food.

[Section 15A inserted by No. 18 of 1992 s. 6; amended by No. 19 of 2010 s. 51.]

16. Taking of protected fauna an offence

- (1) Subject to subsection (3), a person who infringes the protection conferred by subsection (1) or declared pursuant to section 14(2) to (5), by taking fauna while protected, otherwise than by —
- (a) the authority of a licence issued pursuant to the provisions of section 15; or
 - (b) the authority of the provisions of section 17(2)(c), or of section 23,
- commits an offence against this Act.
- (1a) In the case of fauna other than fauna in respect of which a declaration under section 14(4) is in operation, subsection (1) does not apply to the taking of fauna incidental to clearing referred to in section 51C(a), (b) or (c) of the *Environmental Protection Act 1986*.
- (2) Subject to subsection (3), a person who fails to observe any of the restrictions placed on the taking or disposal or the taking and disposal of fauna pursuant to section 14(2) to (5) commits an offence against this Act.
- (3) Despite subsections (1) and (2) an inspector under the *Animal Welfare Act 2002*, or a person assisting an inspector under that Act, may —
- (a) destroy fauna if that is permitted under section 41 of that Act; and
 - (b) be in possession of fauna that has been seized under that Act for such period as is reasonably necessary for the person to comply with section 45 of that Act.

[Section 16 amended by No. 45 of 1967 s. 16; No. 53 of 1970 s. 4; No. 57 of 1997 s. 132(23); No. 33 of 2002 s. 97(3); No. 54 of 2003 s. 120(2); No. 19 of 2010 s. 51.]

16A. Unlawful possession of protected fauna

- (1) A person who has in his possession any protected fauna or the skin or carcass of any protected fauna, except where the fauna was lawfully taken, commits an offence against this Act.
- (2) A person who sells, buys, transports or has in his possession or control the skin or carcass of any fauna to which a tag is required to be affixed under this Act and to which no such tag is affixed commits an offence against this Act unless the provisions of subsection (3) apply.
- (3) The provisions of subsection (2) do not apply to any skin or carcass, or any part thereof, lawfully taken and processed for the purposes of sale pursuant to section 17A.

[Section 16A inserted by No. 53 of 1970 s. 5; amended by No. 67 of 1975 s. 18; No. 58 of 1985 s. 3.]

17. Certain dealings in fauna prohibited unless by authority of licence

- (1) This section applies to fauna whether protected or not protected.
- (2) Unless by the authority of a licence which is in operation, no person shall —
 - (a) commence or carry on the business of conducting a farm for the purpose of breeding or raising any kind of fauna or, for the purpose of stocking the farm, take any kind of fauna; or
 - (b) commence or keep an establishment for the breeding or holding of fauna for gain or reward; or
 - (c) bring any fauna into the State; or
 - (d) export fauna from the State; or
 - (e) sell, or take for the purpose of sale, any fauna other than fauna that has been taken for the purposes of sale under the authority of a licence granted by or under the *Fish*

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Resources Management Act 1994 or a licence or permit granted by or under any other Act; or

- (f) bring into the State from any place outside the State, or keep in the State, any animal, or class of animal, whose habits or nature might in the opinion of the Minister become or threaten to become injurious to fauna or flora; or
 - (g) process fauna, other than fauna that is processed pursuant to a licence granted by or under the *Fish Resources Management Act 1994* for the purposes of sale; or
 - (h) release from confinement any animal in any part of the State where it is not ordinarily found in a condition of natural liberty in that part or to keep any such animal in confinement for the purpose of so releasing it.
- (3) A person who —
- (a) uses any means or device prescribed by the regulations as an illegal means or device in the taking of fauna; or
 - (b) permits or suffers any such illegal means or device to be used in the taking of fauna on land of which he is the occupier; or
 - (c) permits or suffers any such illegal means or device to be on land of which he is the occupier,

commits an offence against this Act.

[Section 17 amended by No. 38 of 1954 s. 8; No. 45 of 1967 s. 17; No. 99 of 1969 s. 9; No. 34 of 1977 s. 6; No. 53 of 1994 s. 264; No. 57 of 1997 s. 132(5) and (23).]

17A. Licences to process fauna and carry on processing establishments

After the expiration of 3 months from the date of the coming into operation of the *Fauna Protection Act Amendment Act 1967*¹, a person shall not —

- (a) process fauna for the purposes of sale; or

- (b) carry on or cause to be carried on a processing establishment,

unless he is the holder of a current —

- (c) licence issued by the Minister under section 15 authorising him to do so; or
(d) licence under the *Fish Resources Management Act 1994* authorising him to do so; or
(e) certificate of exemption from the provisions of this section granted by the Minister.

Penalty: \$1 000, and in the case of a continuing offence a further penalty of not less than \$50 or more than \$200 for each day the offence continues after the Minister serves notice of the offence on the offender.

[Section 17A inserted by No. 45 of 1967 s. 13; amended by No. 58 of 1985 s. 4; No. 53 of 1994 s. 264; No. 57 of 1997 s. 132(23).]

[17B. Deleted by No. 18 of 1992 s. 7.]

[17C-17F. Deleted by No. 112 of 1984 s. 8.]

18. Royalty on skins

- (1A) Subject to the provisions of subsection (1B), the skins of fauna taken in the State, and whether taken lawfully or not, and the carcasses of such species of kangaroo as is prescribed which are so taken, are charged with payment of royalty to the Crown at the rates prescribed by the regulations.
- (1AA) The rates of royalty so prescribed may be uniform or vary according to the kind of fauna from which the skin is taken or the kind of carcass and the purpose for which the skin or carcass is taken, unless by the regulations the skin or carcass is exempt from payment of royalty.

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- (1B) The Minister may from time to time and for such period as he thinks fit, by notice published in the *Gazette*, exempt from the payment of royalty skins or carcasses taken from a specified part of the State by a specified class or classes of persons.
- (1C) The Minister may from time to time cancel the notice or vary it by way of addition, substitution or otherwise.
- (2) Where a person removes the skin of fauna which he has taken for the purpose of selling the skin or the carcass of the fauna or both for profit, he shall pay the prescribed royalty in respect of the skin or the carcass of the fauna or both unless exempted pursuant to the provisions of the regulations or the notice referred to in subsection (1B).
- (3) A person who buys or sells skins or carcasses of fauna, whether as principal or agent shall, unless the skins or carcasses are exempted from payment of royalty, or royalty has, at the time of the buying or selling, been paid, be liable for payment of the prescribed royalty thereon.
- (4) Wildlife officers or officers appointed and authorised to receive royalty pursuant to the provisions of this Act shall, on receipt of royalty, brand or cause to be branded in manner prescribed, each skin or carcass in respect of which the royalty is paid, or affix or cause to be affixed to each such skin or carcass a prescribed tag, as evidence of the payment.
- (5) Skins or carcasses of prescribed fauna intended for export and exempt from payment of royalty shall be branded by the wildlife officer or the officer so authorised with a prescribed brand or shall have a prescribed tag affixed to them by that officer.
- (6) By virtue of this section a wildlife officer or an officer so authorised may seize and take control of any skin or carcass upon which royalty is payable but has not been paid and may retain the skin or carcass until the royalty is paid or it is sold or otherwise disposed of pursuant to the provisions of section 20A.

- (7) The Minister, by virtue of this subsection, may sue for and recover royalty payable pursuant to the provisions of this section, in a court of competent jurisdiction, and may apply for, and if the court sees fit, obtain an order for the sale of such skin or carcass, and where a skin or carcass is sold pursuant to an order of the court, the proceeds of the sale shall, after payment of the costs of the sale and proceedings before the court, be appropriated to payment of the royalty, and any balance of the proceeds then remaining shall be applied as the court directs.
- (8) A person who neglects or fails to make, or who evades, or attempts to evade, payment of royalty payable by him pursuant to the provisions of this section, commits an offence against this Act.

[Section 18 amended by No. 38 of 1954 s. 9; No. 99 of 1969 s. 11; No. 67 of 1975 s. 21; No. 34 of 1977 s. 7; No. 57 of 1997 s. 132(6), (7) and (8); No. 19 of 2010 s. 51.]

[19. Deleted by No. 112 of 1984 s. 9.]

20. Authority of wildlife officers

- (1) The office of wildlife officer is prescribed to be a public officer for the purposes of the *Criminal Investigation (Identifying People) Act 2002* and as such may exercise the powers in Part 3 of that Act.
- (2) A wildlife officer who finds a person committing an offence against this Act or who on reasonable grounds suspects that an offence against this Act has been committed or is about to be committed may, without warrant other than the provisions of this section —
- (a) take possession and control of —
 - (i) any weapon, instrument, illegal device or other thing or means which the wildlife officer, on reasonable grounds, believes has been used, is being used, or is about to be used, by the offender in the commission of the offence;

- (ii) any fauna or flora which the wildlife officer on reasonable grounds believes to be involved in the commission of the offence,

and deliver any firearms into the custody of a member of the Police Force, detaining or delivering to any person appointed in writing by the Minister for the purpose any fauna or flora or other thing so taken to be dealt with according to law but if the wildlife officer is of opinion that it is impracticable to detain or deliver up any fauna because of the number thereof, the lack of food or water for the fauna, the distance to be travelled or any like cause, the wildlife officer may turn at large the fauna;

- (b) stop, detain and search any vehicle, vessel or conveyance or enter upon and search any land not being a dwelling house or enter and search any hut, tent, caravan or other erection, which is not a permanent residence, or enter and search any shop, warehouse, factory, bond store office or any other premises of whatever description or enter into or upon and search any lake, river, pond, lagoon or other water whether natural or artificially constructed in which the wildlife officer, on reasonable grounds, suspects there is any fauna or flora taken, or any weapon, instrument, illegal device or other thing or means used or about to be used, in the commission of an offence against this Act, and to seize the fauna or flora, weapon, instrument, illegal device or other thing or means found and deliver any firearm into the custody of a member of the Police Force, detaining or delivering to any person appointed in writing by the Minister for the purpose any fauna or flora or other thing so seized to be dealt with according to law.

- (2a) Where a wildlife officer pursuant to paragraph (b) of subsection (2) —

- (a) has searched a vehicle; and

- (b) has found therein and seized fauna or flora which, on reasonable grounds, he believes to be involved in the commission of an offence against this Act,

and there is then no sufficient means of transport available to the wildlife officer for the purpose of delivering the fauna or flora to a suitable place of detention or to a person appointed by the Minister, as required by that paragraph, the wildlife officer may direct the person apparently in charge thereof to drive the vehicle, together with the fauna or flora, to the nearest police station as the wildlife officer for the purpose directs.

- (2b) A person to whom a direction is given under subsection (2a) shall comply with the direction.

Penalty: \$2 000.

- (3A) If it appears to a justice of the peace on an application supported by evidence on oath that there are reasonable grounds for suspecting that there is in any of the premises excepted under subsection (2)(b) —

- (a) anything with respect to which an offence has been or is suspected, on reasonable grounds, to have been committed; or
- (b) anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of an offence; or
- (c) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing an offence,

he may issue his warrant directing the wildlife officer named therein, or all wildlife officers, to search the premises and to seize the thing found and to take it before a justice to be dealt with according to law.

- (3B) The warrant is to be executed by day, unless the justice of the peace, by the warrant, has authorised it to be executed by night, in which case it may be so executed.

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- (3C) Where a wildlife officer enters upon or searches the enclosed garden or curtilage of a dwelling house the owner or occupier of that dwelling house may apply to the Magistrates Court for a review of the exercise of that power on the grounds there were no reasonable grounds for its exercise and the court shall inquire into the matter and make its findings known to the applicant and to the Minister.
- (4) This Act does not prevent section 428 of *The Criminal Code* operating in respect of fauna or flora reasonably suspected of having been taken otherwise than as authorised by or pursuant to the provisions of this Act.
- (5) As regards a wildlife officer who is a member of the Police Force, the provisions of this Act relating to wildlife officers are not in derogation of but are in addition to those of other Acts relating to members of the Police Force.
- (6) In subsections (2) and (2a) and section 20A(1) —
fauna means any animal and includes in relation to any animal the carcass, skin, plumage or fur.

[Section 20 amended by No. 38 of 1954 s. 11; No. 45 of 1967 s. 24; No. 99 of 1969 s. 13; No. 67 of 1975 s. 23; No. 86 of 1976 s. 9; No. 58 of 1985 s. 6; No. 57 of 1997 s. 132(9), (10) and (22); No. 6 of 2002 Sch. 2 cl. 7; No. 70 of 2004 s. 82; No. 84 of 2004 s. 80; No. 19 of 2010 s. 51.]

20A. Powers of disposal and proceeds of sale

- (1) Where a wildlife officer or an officer authorised to receive royalty under section 18 or to receive fauna or flora or other things taken or seized pursuant to section 20 takes control of any fauna or flora, or the skin or carcass of any fauna, or any other thing likely, in his opinion, to suffer, deteriorate or perish if no action is taken to protect it, he may take such action by way of care, processing, sale or other disposal as appears to him to be reasonably necessary.

- (2) The payment of the charges and expenses attributable to any action taken by an officer under subsection (1) shall be deducted from any moneys thereby derived, and the net proceeds thereafter brought to account in accordance with the provisions of the *Financial Management Act 2006*, and dealt with according to law.

[Section 20A inserted by No. 67 of 1975 s. 24; amended by No. 86 of 1976 s. 10; No. 57 of 1997 s. 132(11) and (12); No. 77 of 2006 Sch. 1 cl. 187(2).]

[21. Deleted by No. 67 of 1975 s. 25.]

22. Property in fauna

- (1) The property in fauna, until lawfully taken, is, by virtue of this Act, vested in the Crown.
- (2) The provisions of the last preceding subsection do not entitle any person to compensation.

~~23. Exemption in certain cases~~

23. Aboriginal persons may take flora and fauna for customary purposes

- (1) ~~Notwithstanding any~~ In this section —

Aboriginal customary purpose means —

(a) preparing or consuming food customarily eaten by Aboriginal persons; or

(b) preparing or using medicine customarily used by Aboriginal persons; or

(c) engaging in artistic, ceremonial or other ~~provisions~~ cultural activities customarily engaged in by Aboriginal persons; or

(d) engaging in activities incidental to a purpose stated in paragraph (a), (b) or (c);

Aboriginal person means a person wholly or partly descended from the original inhabitants of ~~this~~ Australia;

CALM Act, ~~a person who~~ means the *Conservation and Land Management Act 1984*;

CALM Act land means —

- (a) land, or land and waters, listed in the CALM Act section 5; and
- (b) land that, under the CALM Act section 8C, is ~~a person~~ under the management of ~~Aboriginal descent~~ the CEO; and
- (c) land to which the CALM Act section 131 applies;

exclusive native title, in relation to an area of land or waters, means native title rights and interests (as ~~that term is~~ defined in section 4223 of the *Aboriginal Affairs Planning Authority* NT Act ~~1972, may take~~) —

- (a) that exist in relation to the area, whether or not they have been determined under the NT Act to exist; and
- (b) that confer possession, occupation, use and enjoyment of the area on the holders of the native title rights and interests to the exclusion of all others;

exclusive native title holder, for an area in relation to which exclusive native title exists, means —

- (a) the registered native title body corporate (as defined in section 253 of the NT Act) in respect of the native title rights and interests concerned; or
- (b) if there is no such body corporate, each person who holds the native title rights and interests concerned or a person acting with the authority of each such person;

NT Act means the *Native Title Act 1993* (Commonwealth).

- (2) This section does not affect the operation of the CALM Act.
- (3) It is a defence to a charge of an offence against this Act of taking fauna or flora ~~upon Crown~~ to prove —

- (a) the accused is an Aboriginal person; and
- (b) the accused took the fauna or flora for an Aboriginal customary purpose; and
- (c) in taking the fauna or flora the accused complied with any regulations that restrict or exclude the operation of this subsection; and
- (d) if the offence is alleged to have been committed on land ~~or upon any other land, not being a nature reserve or wildlife sanctuary, but where occupied,~~ than CALM Act land, the person who has control or management of the land consented to the taking of the fauna or flora; and
- (e) if the offence is alleged to have been committed in an area in respect of which exclusive native title exists, the accused either —
- (i) held the exclusive native title alone or with other persons; or
- (ii) took the fauna or flora with the consent of the ~~occupier of that land,~~ exclusive native title holder.
- (4) If, but for this subsection, the defence provided by subsection (3) would entitle an Aboriginal person to do an act that is inconsistent with the continued existence, enjoyment or exercise of any native title rights and interests (as defined in section 223 of the NT Act) held by another Aboriginal person, the defence does not apply to that act unless it is proved the accused did the act in order to obtain fauna or flora sufficient only for food for ~~himself~~ the accused and his or her family, but not for sale.
- ~~(1A) The Governor may, if he is satisfied that the provisions of this section are being abused or that any species of~~ 5) An Aboriginal person who takes fauna or flora ~~which is being taken~~ for an Aboriginal customary purpose must not sell the flora or fauna, or any part of it, unless, under the ~~authority of this section is likely to become unduly depleted, by regulation~~

s. 23A

~~suspend or~~ regulations, the sale is excepted or the person is authorised or licensed to do so.

Penalty: a fine of \$4 000.

(6) Regulations made under section 28 may restrict or exclude the operation of ~~this section in such~~ subsection (3) by reference to any of, or a combination of, the following —

(a) the fauna or flora taken;

(b) the class of person taking the fauna or flora;

(c) the time of taking;

(d) the place of taking;

(e) ~~the manner and for such period and in such part or parts of the State as he thinks proper~~ of taking;

~~(2) — The CEO may issue a certificate to any person authorising him to sell f) the skins quantity of kangaroos which he has lawfully fauna or flora taken for food under;~~

(g) the ~~provisions~~ circumstances of ~~this section~~ the taking.

[Section 23 ~~amended~~ inserted by No. 3836 of 1954 2011 s. 13; No. 67 of 1975 s. 26; No. 86 of 1976 s. 11; No. 112 of 1984 s. 10; No. 28 of 2006 s. 221; No. 19 of 2010 s. 51.] 49.]

23A. Property in protected flora on Crown land

- (1) The property in protected flora on Crown land, until lawfully taken, is, by virtue of this Act, vested in the Crown.
- (2) The provisions of subsection (1) do not entitle any person to compensation.

[Section 23A inserted by No. 86 of 1976 s. 12.]

23B. Protected flora on Crown land not to be taken without licence

- (1) A person shall not on Crown land wilfully take any protected flora unless the taking of the protected flora is authorised by,

and carried out in accordance with the terms and conditions of, a licence issued to him under section 23C.

- (2) In any proceedings for an offence against subsection (1) it is a defence for the person charged to prove that the taking occurred as an unavoidable incident or consequence in the performance of any right, power or authority conferred upon, or in the discharge of any duty or obligation imposed upon, the person by or under any Act or agreement to which the State is a party and which is ratified or approved by an Act or notwithstanding the fact that the performance of that right, power or authority, or the discharge of the duty or obligation, was exercised in a reasonable manner.

[Section 23B inserted by No. 86 of 1976 s. 13 (as amended by No. 28 of 1979 s. 5); amended by No. 57 of 1997 s. 132(23).]

23C. Licences to take protected flora on Crown land

- (1) Any person may, in the prescribed form containing or accompanied by the prescribed particulars and on payment of the prescribed fee, apply to the Minister for the issue to him of a licence to take protected flora on Crown land —
- (a) for commercial purposes; or
 - (b) for scientific purposes or any prescribed purpose,
- and the Minister may issue or refuse to issue such a licence.
- (2) Subject to this section a licence issued authorises the licence holder, subject to such terms and conditions as are specified in the licence, to take for the purposes so specified on such areas of Crown land as are so specified and during such period or periods as are so specified, the classes or descriptions of protected flora so specified.
- (2a) Subject to subsection (5), a licence is valid from the date of issue for the period stated in the licence.
- (3) Without limiting the terms or conditions which may be included in a licence issued under this section, the terms and conditions

s. 23D

on which a licence to take protected flora for commercial purposes may be granted may include terms or conditions —

- (a) providing that flora taken under the authority of the licence be charged with payment of royalties to the CEO by the licence holder at such rate or rates as are specified in the terms or conditions;
 - (b) requiring the licence holder to ensure that any protected flora taken pursuant to the licence is marked, tagged or otherwise made identifiable as flora taken by him.
- (4) Any royalties payable pursuant to the terms or conditions of a licence issued under this section —
- (a) shall be credited by the CEO to the Nature Conservation and National Parks Account referred to in the *Conservation and Land Management Act 1984* section 68(1); and
 - (b) may be sued for and recovered by the CEO as a debt due to him in his capacity as such.
- (4a) The Minister may reduce or waive the fee payable in respect of a licence issued under this section.
- (5) The Minister may at any time, by notice in writing served on a person to whom a licence has been issued under this section, revoke the licence, but the revocation does not affect any liability or obligation incurred by the person prior to the revocation.

[Section 23C inserted by No. 86 of 1976 s. 14; amended by No. 53 of 1980 s. 2; No. 112 of 1984 s. 11; No. 49 of 1996 s. 64; No. 57 of 1997 s. 132(13) and (23); No. 28 of 2006 s. 221; No. 77 of 2006 Sch. 1 cl. 187(3).]

23D. Taking and sale of protected flora on private land

- (1) A person shall not take any protected flora on private land unless —
 - (a) he is the owner or occupier of the private land; or

- (b) he is authorised so to do by the owner or occupier of the private land.
- (1a) In any proceedings for an offence against subsection (1) it is a defence for the person charged to prove that the taking occurred as an unavoidable incident or consequence in the performance of any right, power or authority conferred upon, or in the discharge of any duty or obligation imposed upon, the person by or under any Act or agreement to which the State is a party and which is ratified or approved by an Act or notwithstanding the fact that the performance of that right, power or authority, or the discharge of the duty or obligation, was exercised in a reasonable manner.
- (2) A person shall not sell any protected flora taken by him on private land unless —
- (a) he is the holder of a commercial producer's licence or a nurseryman's licence issued under this section; and
 - (b) the flora —
 - (i) if taken by a person who is the holder of a commercial producer's licence — is of a class or description specified in his licence and is taken from the private land specified in the licence; and
 - (ii) if taken by a person who is the holder of a nurseryman's licence — is of a class or description specified in his licence and has been grown and cultivated by him on the private land specified in the licence;
- and
- (c) the flora is marked, tagged or otherwise identified in accordance with the terms and conditions of his licence.
- (3) A person —
- (a) who is an owner or occupier of private land; or

s. 23D

- (b) who is authorised to take any protected flora on private land by an owner or occupier of the private land,
- may on payment of the prescribed fee apply to the Minister for the issue to him of a commercial producer's licence or a nurseryman's licence.
- (4) An application under subsection (3) shall be in the prescribed form and shall specify —
- (a) the land to which the application relates;
 - (b) the classes or descriptions of flora to which the application relates.
- (5) Subject to subsections (6) and (7), the Minister shall issue a licence to any person who has made an application in accordance with the provisions of this section, but the licence shall be issued subject to such conditions as, having regard to the conservation of protected flora, the Minister considers fit, which conditions shall be endorsed upon or attached to the licence.
- (5a) Subject to subsection (6), a licence is valid from the date of issue for the period stated in the licence.
- (5b) The Minister may reduce or waive the fee payable in respect of a licence issued under this section.
- (6) The Minister may —
- (a) by notice in writing served on the person, revoke any licence issued under this section if the person to whom the licence has been issued is convicted of any offence against this Act; and
 - (b) refuse to issue a licence to a person who has been convicted of an offence against this Act.
- (7) In considering an application under subsection (3) the Minister shall have regard to the principles set out in Schedule 5 to the *Environmental Protection Act 1986* and shall not issue a licence

if the taking of the protected flora to which the licence would relate would be seriously at variance with those principles.

- (8) Subsection (7) does not apply if the taking of the protected flora to which the licence would relate is authorised by a clearing permit granted and in force under Part V Division 2 of the *Environmental Protection Act 1986*.

[Section 23D inserted by No. 86 of 1976 s. 15 (as amended by No. 28 of 1979 s. 6); amended by No. 53 of 1980 s. 3; No. 57 of 1997 s. 132(14), (15) and (23); No. 54 of 2003 s. 120(3) and (4).]

23DA. Transitional

A licence issued under section 23C or section 23D prior to the commencement of the *Wildlife Conservation Amendment Act 1980*¹ shall expire in accordance with its terms and if no period of validity or date of expiry is stated in the licence shall expire 12 months after the date of commencement of the *Wildlife Conservation Amendment Act 1980*¹.

[Section 23DA inserted by No. 53 of 1980 s. 4; amended by No. 57 of 1997 s. 132(23).]

23E. Dealings in protected flora

- (1) A person shall not sell any protected flora unless —
- (a) the sale is lawful by virtue of the provisions of section 23C or 23D; or
 - (b) he purchased the flora from another person lawfully entitled to sell the flora to him and forthwith after the purchase he made or obtained a legible record of —
 - (i) the quantity and class or description of flora so purchased; and
 - (ii) the date of the purchase; and
 - (iii) the name and address of the person from whom he purchased the flora.

s. 23F

- (2) A person who makes or obtains a record pursuant to subsection (1)(b) shall retain the record for not less than 12 months and produce it on demand to a wildlife officer.

[Section 23E inserted by No. 86 of 1976 s. 16.]

23F. Rare or endangered species of flora

- (1) In this section **rare flora** means flora for the time being declared to be rare flora for the purposes of this section.
- (2) Where the Minister is of opinion that any class or description of protected flora is likely to become extinct or is rare or otherwise in need of special protection, he may, by notice published in the *Government Gazette*, declare that class or description of flora to be rare flora for the purposes of this section throughout the State.
- (3) The Minister may vary or revoke a notice published under subsection (2) by subsequent notice or notices published in the *Government Gazette*.
- (4) A person shall not, whether or not he is —
- (a) the holder of a licence issued under this Act to take protected flora; or
 - (b) the owner or occupier of private land on which rare flora exists; or
 - (c) authorised by the owner or occupier of land on which rare flora exists,
- take any rare flora unless —
- (d) where he is not the holder of a licence issued under this Act, he first obtains the consent thereto in writing of the Minister;
 - (e) where he is the holder of a licence issued under this Act, he first obtains the further consent thereto in writing of the Minister.

[(5) deleted]

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- (6) A person who takes any rare flora contrary to the provisions of this section is liable on conviction to a penalty not exceeding \$10 000.
- (7) Where an owner or occupier of private land who has been refused consent to take rare flora on that land satisfies the Minister that he will suffer loss of use or enjoyment of the land by reason of that refusal, the Minister shall inform the Treasurer in writing accordingly and the owner or occupier shall be paid compensation for that loss at such rate or rates per annum as —
- (a) is agreed between the owner or occupier and the Treasurer; or
 - (b) in default of agreement, is determined by a valuer appointed by agreement between the Treasurer and the owner or occupier, or in default of agreement on such an appointment, by a valuer appointed by the Minister,
- for such period, not exceeding 5 years, as the loss continues.
- (8) Where compensation has been paid under subsection (7) for a period of 5 years in respect of any particular land, the Minister shall not refuse an application by the owner or occupier of that land to take rare flora on that part of the land for the loss of use or enjoyment of which compensation has been so paid.
- (9) Notwithstanding that compensation has been paid under subsection (7), whether for a period of 5 years or for a lesser period, for the loss of use or enjoyment of any land, that land may at any time be taken by the Minister administering the *Land Administration Act 1997* under and subject to Part 9 of the *Land Administration Act 1997* for any of the purposes of this Act.

[Section 23F inserted by No. 86 of 1976 s. 17 (as amended by No. 28 of 1979 s. 7); amended by No. 58 of 1985 s. 7; No. 31 of 1997 s. 142 and 143; No. 57 of 1997 s. 132(23).]

[24. Deleted by No. 112 of 1984 s. 12.]

25. Certain conduct prohibited

- (1) No person shall —
- (a) wilfully mislead, hinder, assault, resist or obstruct, incite or encourage any other person to mislead, hinder, assault, resist or obstruct, any person in any particular likely to affect the discharge of that person's duty pursuant to the provisions of this Act;
 - (b) without lawful excuse have in his possession a licence issued under this Act, or any thing resembling such a licence and calculated to deceive;
 - (c) refuse to produce any licence issued to him pursuant to the provisions of this Act when required to do so by a wildlife officer;
 - (d) refuse to state his name or address when lawfully required to do so by a wildlife officer;
 - (e) state a false name or address to a wildlife officer when lawfully required by a wildlife officer to give his name and address;
 - (f) use abusive language to a wildlife officer;
 - (g) fail to observe the conditions of any licence issued to him pursuant to the provisions of this Act;
 - (h) refuse, or without lawful excuse, neglect to furnish any return required under the regulations to be furnished by him, or furnish or cause to be furnished any such return that is false in any material particular.

[(2)-(3) deleted]

[Section 25 amended by No. 38 of 1954 s. 14; No. 113 of 1965 s. 8; No. 99 of 1969 s. 15; No. 67 of 1975 s. 28; No. 57 of 1997 s. 132(16) and (23).]

26. Offences

- (1) Any person who contravenes or who fails to comply with any provisions of this Act or the regulations is guilty of an offence against this Act and is liable, if no other penalty be prescribed, to a maximum penalty of \$4 000 in the case of a contravention or failure to comply with a provision of the Act and of \$2 000 in the case of a contravention or failure to comply with a provision of a regulation, and any licence issued pursuant to the provisions of this Act and held by him may be cancelled.

[(2) deleted]

- (3) All proceedings in respect of any such offences shall be taken by and in the name of the CEO or by and in the name of any person authorised in that behalf by the CEO.

[Section 26 amended by No. 45 of 1967 s. 25; No. 28 of 1979 s. 8; No. 112 of 1984 s. 13; No. 58 of 1985 s. 8; No. 57 of 1997 s. 132(23); No. 59 of 2004 s. 141; No. 28 of 2006 s. 221.]

26A. Limitation period for prosecutions

A prosecution for an offence against this Act must be commenced within 2 years after the date on which the offence was allegedly committed.

[Section 26A inserted by No. 84 of 2004 s. 80.]

27. Forfeiture

- (1) Where any fauna, flora, weapon, instrument, illegal means or device, or thing, which is seized by a wildlife officer pursuant to the powers conferred upon him by this or any other Act, is involved in the commission of an offence against this Act, it may, on conviction of the offender, if the court of summary jurisdiction convicting the offender so orders, be forfeited to the Crown and shall, after the expiration of the time limited for appeal, be destroyed or otherwise dealt with in such manner as the Minister directs.

s. 27A

- (2) A person who feels aggrieved as prosecutor, accused, or otherwise, may, without prejudice to any other right of appeal he may have, appeal against the forfeiture ordered under subsection (1) in accordance with Part 2 of the *Criminal Appeals Act 2004*.
- (3) The provisions of this section do not apply to any vehicle, vessel or aircraft, unless the court of summary jurisdiction convicting the offender is satisfied that the vehicle or vessel has been abandoned.
- (4) In subsection (1) —
fauna means any animal and includes in relation to any animal the carcass, skin, plumage or fur.

[Section 27 amended by No. 99 of 1969 s. 16; No. 67 of 1975 s. 29; No. 86 of 1976 s. 18; No. 57 of 1997 s. 132(17) and (22); No. 59 of 2004 s. 141; No. 84 of 2004 s. 78 and 80; No. 19 of 2010 s. 51.]

27A. Illegal devices, etc. found may be forfeited

- (1) Subject to the provisions of section 27, when and as often as any illegal device or any fauna or flora or any other animal other than fauna (**other animal**) is found by a wildlife officer, and the owner thereof cannot be found, he shall give notice of the finding in the prescribed form, and thereafter shall cause the illegal device or fauna or flora or other animal so found to be taken before a justice, who may, if satisfied that there are reasonable grounds for believing that the illegal device had been or was intended to be used or the fauna or flora had been taken or consigned for sale in contravention of this Act or regulations made or a notice published under this Act, or the other animal had been brought into the State in contravention of section 17(2)(f) or had been released from confinement, or kept in confinement, in contravention of section 17(2)(h), condemn the same as forfeited to the Crown and thereupon it is forfeited accordingly.

- (2) A person making a claim to ownership of any illegal device or fauna or flora or animal other than fauna so found may appear before the justice before whom the illegal device or fauna or flora or animal other than fauna is taken and he may make such proper representations to the justice as he may think fit.

[Section 27A inserted by No. 38 of 1954 s. 15; amended by No. 67 of 1975 s. 30; No. 86 of 1976 s. 19; No. 57 of 1997 s. 132(18) and (19); No. 10 of 1998 s. 75.]

27B. Power to dispose of illegal devices and forfeited articles

The CEO may, with the approval of the Minister, in manner prescribed and after the expiration of the time limited for appeal by Part 2 of the *Criminal Appeals Act 2004*, sell or dispose of all illegal devices or fauna or flora or animals other than fauna forfeited under the provisions of section 27A.

[Section 27B inserted by No. 38 of 1954 s. 15; amended by No. 67 of 1975 s. 31; No. 86 of 1976 s. 20; No. 112 of 1984 s. 14; No. 57 of 1997 s. 132(20); No. 59 of 2004 s. 141; No. 84 of 2004 s. 78; No. 28 of 2006 s. 221.]

27C. Proof of exemption upon person pleading it

Where the accused or person charged with an offence against this Act, pleads in answer to the charge any exemption contained in this Act, the proof thereof is upon the accused or person charged.

[Section 27C inserted by No. 38 of 1954 s. 15; amended by No. 84 of 2004 s. 82.]

27D. Presumption as to identity

If, in a prosecution notice for an offence against this Act, the name of the accused is that given by the alleged offender at the time of, or immediately following, the occurrence giving rise to the charge, there is a presumption, rebuttable by evidence to the contrary, that the accused is the alleged offender.

[Section 27D inserted by No. 84 of 2004 s. 80.]

28. Regulations

- (1) The Governor may make regulations prescribing all forms, fees, and matters which by this Act are required or permitted to be prescribed, or are convenient for carrying into or facilitating the operation of the provisions of this Act, and, in particular and without prejudice to the generality of this power, may make regulations —

[(a)-(am) deleted]

- (an) prescribing all or any matters or things considered necessary or desirable by the Governor to give effect to the provisions of section 18, and without limiting the generality of the powers conferred on the Governor by this paragraph, the regulations may make provision for all or any of the following —
- (i) prescribing methods of collecting royalty payable under this Act and the manner of payment thereof;
 - (ii) the branding or marking of, or the affixing of a prescribed tag to, skins or carcasses, or the doing of any other act or thing to indicate that royalty is payable thereon or has been paid thereon in accordance with this Act;
 - (iii) regulating the manufacture, issue, sale and use of such tags and prescribing the fee payable therefor;
 - (iv) prohibiting dealings in protected flora or in fauna or the carcasses thereof or the tanning or dressing of skins thereof until all royalty payable thereon has been paid;
 - (v) prescribing the powers and duties of officers with respect to the collection of royalty;

and

- (b) limiting the number of persons that may be allowed to take fauna in any one locality at any one time and regulating the activities of those persons with respect to the taking of fauna; and
- (c) controlling and regulating the sale or disposal of protected flora or of live or dead fauna for gain or reward; and
- (d) prescribing the conditions under which fauna may be kept in captivity; and
- (e) prescribing the particulars to be recorded and kept available for inspection in accordance with the requirements of this Act and the manner in which the particulars are to be recorded, and prescribing the matters to be recorded in returns and the times and manner of furnishing returns to the Minister; and
- (f) prescribing matters relating to research which the Minister causes to be carried out, into the conservation of fauna or flora, and, without limiting the generality of the foregoing provisions of this paragraph, prohibiting all such acts, matters and things as do or are likely to hinder or obstruct or otherwise adversely affect the carrying out of that research; and
- (g) subject to section 15A, prescribing the licences required under and for the purposes of the provisions of this Act, and the minimum and maximum fees payable for any licence, enabling the differentiation of fees payable in respect of any particular kind of licence; and
- (h) providing penalties, not exceeding \$2 000, for the breach of any regulation and providing for the manner of the sale or disposal of any instrument, weapon, illegal device, or other things forfeited to the Crown in accordance with the provisions of section 27A; and
- (i) prescribing the animals or the species of animals which may be prohibited from being brought into the State under the provisions of section 17; and

- (j) prescribing the maximum number of any species of fauna that a person may take during any period or periods of time in an open season and the maximum number that a person may have under his control or in his possession or keep in any cool store or any freezing chamber or other premises at any one time.
- (2) Regulations may be made to apply or to have operation throughout the State or any prescribed part or parts of the State, may be of general or specially limited application according to time, place, purposes or circumstances, and may be general or restricted to any prescribed class or subject matter.

[Section 28 amended by No. 38 of 1954 s. 16; No. 45 of 1967 s. 26; No. 99 of 1969 s. 17; No. 67 of 1975 s. 33; No. 86 of 1976 s. 21 and 22; No. 34 of 1977 s. 8; No. 112 of 1984 s. 15; No. 58 of 1985 s. 10; No. 18 of 1992 s. 8; No. 57 of 1997 s. 132(21), (23) and (24); No. 74 of 2003 s. 133.]

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Notes

- ¹ This is a compilation of the *Wildlife Conservation Act 1950* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Fauna Protection Act 1950</i> ²	77 of 1950 (14 and 15 Geo. VI No. 77)	5 Jan 1951	1 Jul 1952 (see s. 2 and <i>Gazette</i> 13 Jun 1952 p. 1497-8)
<i>Fauna Protection Act Amendment Act 1954</i>	38 of 1954 (3 Eliz. II No. 38)	3 Dec 1954	3 Dec 1954
<i>Limitation Act 1935</i> s. 48A(1)	35 of 1935 (26 Geo. V No. 35) (as amended by No. 73 of 1954 s. 8)	14 Jan 1955	Relevant amendments (see s. 48A and Second Sch. ³) took effect on 1 Mar 1955 (see No. 73 of 1954 s. 2 and <i>Gazette</i> 18 Feb 1955 p. 343)
Reprint of the <i>Fauna Protection Act 1950</i> approved 19 Apr 1956 in Vol. 9 of Reprinted Acts (includes amendments listed above)			
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Fauna Protection Act Amendment Act 1967</i>	45 of 1967	21 Nov 1967	1 Jun 1968 (see s. 2 and <i>Gazette</i> 24 May 1968 p. 1509)
Reprint of the <i>Fauna Conservation Act 1950</i> approved 5 Jul 1968 in Vol. 22 of Reprinted Acts (includes amendments listed above)			
<i>Fauna Conservation Act Amendment Act 1969</i>	99 of 1969	25 Nov 1969	13 Feb 1970 (see s. 2 and <i>Gazette</i> 13 Feb 1970 p. 429)
<i>Fauna Conservation Act Amendment Act 1970</i>	53 of 1970	5 Nov 1970	5 Nov 1970
Reprint of the <i>Fauna Conservation Act 1950</i> approved 10 Apr 1973 (includes amendments listed above)			
<i>Fauna Conservation Act Amendment Act 1975</i>	67 of 1975	7 Nov 1975	5 Dec 1975 (see s. 2 and <i>Gazette</i> 5 Dec 1975 p. 4359)

Wildlife Conservation Act 1950

Short title	Number and year	Assent	Commencement
<i>Wildlife Conservation Act Amendment Act 1976</i>	86 of 1976 (as amended by No. 28 of 1979 s. 4-7)	4 Nov 1976	28 Apr 1980 (see s. 2 and <i>Gazette</i> 18 Apr 1980 p. 1115)
<i>Wildlife Conservation Act Amendment Act 1977</i>	34 of 1977	7 Nov 1977	1 Aug 1978 (see s. 2 and <i>Gazette</i> 21 Jul 1978 p. 2627)
<i>Wildlife Conservation Act Amendment Act 1979</i>	28 of 1979	21 Sep 1979	28 Apr 1980 (see s. 2 and <i>Gazette</i> 18 Apr 1980 p. 1115)
Reprint of the <i>Wildlife Conservation Act 1950</i> approved 30 Jun 1980 (includes amendments listed above)			
<i>Wildlife Conservation Amendment Act 1980</i>	53 of 1980	19 Nov 1980	19 Nov 1980
<i>Acts Amendment (Conservation and Land Management) Act 1984 Pt. II</i>	112 of 1984	19 Dec 1984	22 Mar 1985 (see s. 2 and <i>Gazette</i> 15 Mar 1985 p. 931)
<i>Wildlife Conservation Amendment Act 1985</i>	58 of 1985	28 Oct 1985	25 Nov 1985
<i>Conservation and Land Management Amendment Act 1991 s. 57</i>	20 of 1991	25 Jun 1991	23 Aug 1991 (see s. 2 and <i>Gazette</i> 23 Aug 1991 p. 4353)
<i>Acts Amendment (Game Birds Protection) Act 1992 Pt. 2</i>	18 of 1992	16 Jun 1992	16 Jun 1992 (see s. 2)
<i>Fish Resources Management Act 1994 s. 264</i>	53 of 1994	2 Nov 1994	1 Oct 1995 (see s. 2 and <i>Gazette</i> 29 Sep 1995 p. 4649)
<i>Statutes (Repeals and Minor Amendments) Act 1994 s. 4</i>	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Acts Amendment (Land Administration) Act 1997 s. 142 and 143</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)

Short title	Number and year	Assent	Commencement
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 132⁴</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 75</i>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
Reprint of the Wildlife Conservation Act 1950 as at 20 Nov 1998 (includes amendments listed above)			
<i>Criminal Investigation (Identifying People) Act 2002 Sch. 2 cl. 7</i>	6 of 2002	4 Jun 2002	29 Jun 2002 (see s. 2 and <i>Gazette</i> 28 Jun 2002 p. 3037)
<i>Animal Welfare Act 2002 s. 97</i>	33 of 2002	15 Nov 2002	4 Apr 2003 (see s. 2 and <i>Gazette</i> 4 Apr 2003 p. 1023)
<i>Environmental Protection Amendment Act 2003 s. 120</i>	54 of 2003	20 Oct 2003	8 Jul 2004 (see s. 2 and <i>Gazette</i> 30 Jun 2004 p. 2581)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 133</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Reprint 6: The Wildlife Conservation Act 1950 as at 3 Sep 2004 (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i>	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Criminal Law Amendment (Simple Offences) Act 2004 s. 82</i>	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78, 80 and 82</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 7 Div. 5</i>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
Reprint 7: The Wildlife Conservation Act 1950 as at 6 Oct 2006 (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006 Sch. 1 cl. 187</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)

Wildlife Conservation Act 1950

Short title	Number and year	Assent	Commencement
<i>Standardisation of Formatting Act 2010</i> s. 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
Reprint 8: The Wildlife Conservation Act 1950 as at 19 Nov 2010 (includes amendments listed above)			
<i>Conservation Legislation Amendment Act 2011 Pt. 3</i>	36 of 2011	13 Sep 2011	8 Dec 2012 (see s. 2(b) and <i>Gazette</i> 7 Dec 2012 p. 5963)
<i>Personal Property Securities (Consequential Repeals and Amendments) Act 2011</i> Pt. 6 Div. 3	42 of 2011	4 Oct 2011	30 Jan 2012 (see s. 2(c) and Cwlth Legislative Instrument No. F2011L02397 cl. 5 registered 21 Nov 2011)

- ^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> s. 95 ⁵	24 of 2007	12 Oct 2007	To be proclaimed 1 May 2013 (see s. 2(2)) and Gazette 5 Feb 2013 p. 823
<i>Conservation Legislation Amendment Act 2011 Pt. 3</i> ⁶	36 of 2011	13 Sep 2011	To be proclaimed (see s. 2(b))

- ² Now known as the *Wildlife Conservation Act 1950*; short title changed (see note under s. 1).
- ³ Section 48A and the Second Schedule were inserted by the *Limitation Act Amendment Act 1954* s. 8.
- ⁴ The amendments in the *Statutes (Repeals and Minor Amendments) Act 1997* s. 132(23) to s. 15(1a) and (1b) and 23C(2a) are not included because the provisions to be amended were repealed by s. 132(3) and (13) of that Act.
- ⁵ On the date as at which this compilation was prepared, the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* s. 95 had not come into operation. It reads as follows:

95. **Wildlife Conservation Act 1950 amended**

- (1) The amendments in this section are to the *Wildlife Conservation Act 1950*.
- (2) Section 6(5) is amended by deleting “a declared plant within the meaning of the *Agriculture and Related Resources Protection Act 1976*” and inserting instead —

“

a declared pest as that term is defined in the *Biosecurity and Agriculture Management Act 2007*

”

⁶ ~~On the date as at which this compilation was prepared, the *Conservation Legislation Amendment Act 2011 Pt. 3* had not come into operation. It reads as follows:~~

~~**Part 3 — Wildlife Conservation Act 1950 amended**~~

~~47. Act amended~~

~~— This Part amends the *Wildlife Conservation Act 1950*.~~

~~48. Section 6 amended~~

~~(1) In section 6(1) delete the definitions of:~~

~~*nature reserve*~~

~~*wildlife sanctuary*~~

~~(2) In section 6(1) in the definition of *wildlife officer* delete “that Act;” and insert:~~

~~— that Act.~~

~~49. Section 23 replaced~~

~~— Delete section 23 and insert:~~

~~23. Aboriginal persons may take flora and fauna for customary purposes~~

~~(1) In this section —~~

~~— *Aboriginal customary purpose* means —~~

- ~~— (a) — preparing or consuming food customarily eaten by Aboriginal persons; or~~
- ~~— (b) — preparing or using medicine customarily used by Aboriginal persons; or~~
- ~~— (c) — engaging in artistic, ceremonial or other cultural activities customarily engaged in by Aboriginal persons; or~~
- ~~— (d) — engaging in activities incidental to a purpose stated in paragraph (a), (b) or (c);~~
- ~~— *Aboriginal person* means a person wholly or partly descended from the original inhabitants of Australia;~~
- ~~— *CALM Act* means the *Conservation and Land Management Act 1984*;~~
- ~~— *CALM Act land* means —~~
 - ~~— (a) — land, or land and waters, listed in the CALM Act section 5; and~~
 - ~~— (b) — land that, under the CALM Act section 8C, is under the management of the CEO; and~~
 - ~~— (c) — land to which the CALM Act section 131 applies;~~
- ~~— *exclusive native title*, in relation to an area of land or waters, means native title rights and interests (as defined in section 223 of the NT Act) —~~
 - ~~— (a) — that exist in relation to the area, whether or not they have been determined under the NT Act to exist; and~~
 - ~~— (b) — that confer possession, occupation, use and enjoyment of the area on the holders of the native title rights and interests to the exclusion of all others;~~
- ~~— *exclusive native title holder*, for an area in relation to which exclusive native title exists, means —~~
 - ~~— (a) — the registered native title body corporate (as defined in section 253 of the NT Act) in respect of the native title rights and interests concerned; or~~
 - ~~— (b) — if there is no such body corporate, each person who holds the native title rights and interests concerned or a person acting with the authority of each such person;~~
- ~~— *NT Act* means the *Native Title Act 1993* (Commonwealth).~~
- ~~(2) — This section does not affect the operation of the CALM Act.~~
- ~~(3) — It is a defence to a charge of an offence against this Act of taking fauna or flora to prove —~~
 - ~~— (a) — the accused is an Aboriginal person; and~~

- ~~—(b) the accused took the fauna or flora for an Aboriginal customary purpose; and~~
- ~~—(c) in taking the fauna or flora the accused complied with any regulations that restrict or exclude the operation of this subsection; and~~
- ~~—(d) if the offence is alleged to have been committed on land other than CALM Act land, the person who has control or management of the land consented to the taking of the fauna or flora; and~~
- ~~—(e) if the offence is alleged to have been committed in an area in respect of which exclusive native title exists, the accused either —~~
 - ~~—(i) held the exclusive native title alone or with other persons; or~~
 - ~~—(ii) took the fauna or flora with the consent of the exclusive native title holder.~~
- ~~—(4) If, but for this subsection, the defence provided by subsection (3) would entitle an Aboriginal person to do an act that is inconsistent with the continued existence, enjoyment or exercise of any native title rights and interests (as defined in section 223 of the NT Act) held by another Aboriginal person, the defence does not apply to that act unless it is proved the accused did the act in order to obtain fauna or flora sufficient only for food for the accused and his or her family, but not for sale.~~
- ~~—(5) An Aboriginal person who takes fauna or flora for an Aboriginal customary purpose must not sell the flora or fauna, or any part of it, unless, under the regulations, the sale is excepted or the person is authorised or licensed to do so.~~
- ~~—Penalty: a fine of \$4 000.~~
- ~~—(6) Regulations made under section 28 may restrict or exclude the operation of subsection (3) by reference to any of, or a combination of, the following —~~
 - ~~—(a) the fauna or flora taken;~~
 - ~~—(b) the class of person taking the fauna or flora;~~
 - ~~—(c) the time of taking;~~
 - ~~—(d) the place of taking;~~
 - ~~—(e) the manner of taking;~~
 - ~~—(f) the quantity of fauna or flora taken;~~
 - ~~—(g) the circumstances of the taking.~~

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