



Western Australia

## **Biodiversity Conservation (Exemptions) Order 2018**

Compare between:

[22 Dec 2018, 00-a0-00] and [06 Nov 2019, 00-b0-00]



## **Biodiversity Conservation (Exemptions) Order 2018**

### **1. Citation**

This order is the *Biodiversity Conservation (Exemptions) Order 2018*.

### **2. Commencement**

This order comes into operation as follows —

- (a) clauses 1 and 2 — on the day on which this order is published in the *Gazette*;
- (b) the rest of the order — on the day after that day.

### **3. Existing authorities to modify occurrence of threatened ecological community**

(1) In this clause —

*existing authority* means a licence, permit, approval, consent, registration or other authority —

- (a) issued, granted, conferred or given under a written law or a State agreement; and
- (b) in force immediately before the day on which section 48 of the Act comes into operation; and
- (c) in force on the day on which the activity mentioned in subclause (2) is carried out.

(2) An activity that modifies an occurrence of a threatened ecological community is exempt from section 48(1) of the Act in circumstances where —

- (a) the activity is authorised by an existing authority; and

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- (b) the activity is carried out in accordance with any conditions to which the existing authority is subject; and
- (c) any clearing permit required under the *Environmental Protection Act 1986* in respect of the activity has been obtained.

**4. Activities involving dingoes**

- (1) In this clause —

biosecurity requirement means —

- (a) a pest exclusion notice under the *Biosecurity and Agriculture Management Act 2007* section 27(1); or
- (b) a requirement to take prescribed control measures under the *Biosecurity and Agriculture Management Act 2007* section 30(3); or
- (c) a pest control notice under the *Biosecurity and Agriculture Management Act 2007* section 31(1);

*dingo* means an animal that belongs to the native species *Canis familiaris dingo*; (also referred to as *Canis lupus dingo*).

- (2) ~~The activity of taking~~ A person who takes a dingo is exempt from section 149(1) of the Act in relation to that taking if the person takes the dingo in accordance with a biosecurity requirement.
- (3) ~~The activity of possessing~~ A person who possesses a dingo is exempt from section 152(1) of the Act in relation to that possession.
- (4) ~~The activity of disturbing~~ A person who disturbs a dingo is exempt from section 153(1) of the Act.
- ~~(5) The activity of using a prohibited device or prohibited method in the taking or in relation to that disturbance of a dingo is exempt from section 156(1) of the Act.~~

- ~~— (6) An occupier of land is exempt from section 156(2) and (3) of the Act in circumstances where the relevant taking or disturbance is the taking or disturbance of a dingo.~~
- ~~— (7) The activity of dealing in a dingo is exempt from section 157(1) of if the Act.~~
- ~~— (8) The activity of processing a dingo is exempt from section 158(2) of person disturbs the Act.~~
- ~~— (9) The activity of importing dingo in accordance with a dingo is exempt from section 159 of the Act biosecurity requirement.~~
- ~~— (10) The activity of exporting a dingo is exempt from section 160 of the Act.~~

[Section 4 inserted: Gazette 5 Nov 2019 p. 3878-9.]

## 5. **Activities involving flora cultivars**

- (1) In this clause —  
*flora cultivar* means flora that —
  - (a) has been produced by selective breeding either through hybridisation or form selection; and
  - (b) is in a form that is morphologically distinguishable from its parent species growing in the wild.
- (2) The activity of supplying a flora cultivar is exempt from section 176(1) of the Act.
- (3) The activity of dealing in a flora cultivar is exempt from section 177(1) of the Act.
- (4) The activity of processing a flora cultivar is exempt from section 178(2) of the Act.

## 6. **Dealing in flora**

- (1) In this clause —

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*flora* does not include specifically controlled sandalwood as defined in the *Biodiversity Conservation Regulations 2018* regulation 3.

- (2) The activity of dealing in flora is exempt from section 177(1) of the Act in circumstances where the flora is purchased from —
  - (a) the holder of a licence authorising the supply of flora; or
  - (b) a person who otherwise has lawful authority to supply flora.
  
- (3) The exemption provided for in subclause (2) is subject to the condition that a person who deals in flora in reliance on the exemption must —
  - (a) make a record of the flora purchased that contains the following information —
    - (i) a description of the flora;
    - (ii) the quantity of the flora;
    - (iii) the day on which the flora is purchased;
    - (iv) the name and address of the person from whom the flora is purchased;and
  - (b) keep the record —
    - (i) for at least 2 years after the day on which the flora is purchased; and
    - (ii) at the place where the person deals in flora;and
  - (c) make the record available to a wildlife officer if asked by the wildlife officer to do so.
  
- (4) The activity of dealing in flora is also exempt from section 177(1) of the Act in circumstances where the flora is supplied as a living potted plant or by retail directly to the public.

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**Notes**

- <sup>1</sup> This is a compilation of the *Biodiversity Conservation (Exemptions) Order 2018*. The following table contains information about that order.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Biodiversity Conservation (Exemptions) Order 2018</i>	21 Dec 2018 p. 4847-50	cl. 1 and 2: 21 Dec 2018 (see cl. 2(a)); Order other than cl. 1 and 2: 22 Dec 2018 (see cl. 2(b))



**Biodiversity Conservation (Exemptions) Order 2018**

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<a href="#"><u>Biodiversity Conservation (Exemptions) Amendment Order 2019</u></a>	<a href="#"><u>5 Nov 2019 p. 3878-9</u></a>	<a href="#"><u>cl. 1 and 2: 5 Nov 2019 (see cl. 2(a)); Order other than cl. 1 and 2: 6 Nov 2019 (see cl. 2(b))</u></a>
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