



Western Australia

# **Conservation and Land Management Amendment Act 2015**

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No. 28 of 2015

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# Conservation and Land Management Amendment Act 2015

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Western Australia

## **Conservation and Land Management Amendment Act 2015**

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**No. 28 of 2015**

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**An Act to amend the *Conservation and Land Management Act 1984*  
and to consequentially amend other Acts.**

*[Assented to 19 October 2015]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This is the *Conservation and Land Management Amendment Act 2015*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

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**Part 2 — Conservation and Land Management  
Act 1984 amended**

**3. Act amended**

This Part amends the *Conservation and Land Management Act 1984*.

**4. Long title amended**

In the long title delete “**to establish authorities to be responsible therefor,**” and insert:

**to establish the Conservation and Parks Commission,**

**5. Section 3 amended**

- (1) In section 3 delete the definitions of:

*associated body*

*Conservation Commission*

*Marine Authority*

*Marine Committee*

*member*

- (2) In section 3 insert in alphabetical order:

*Aboriginal body corporate* means a corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Commonwealth);

*Commission* means the Conservation and Parks Commission established by section 18;

*joint responsible body* means each person or body that, jointly with the Commission —

- (a) is vested with land, or land and waters; or

- (b) has the care, control and management of land, or land and waters;

**member** means a member of the Commission;

**public road** means a road as defined —

- (a) if the *Road Traffic Act 1974* section 5(1) is in operation, in that section; or
- (b) otherwise, in the *Road Traffic (Administration) Act 2008* section 4;

**public utility works** means —

- (a) drainage, electricity, gas, sewerage, telephone and water services and any other services prescribed for the purposes of this definition; and
- (b) navigational aids; and
- (c) wharves, piers, jetties and bridges; and
- (d) break-waters, slips, vessel launch ramps and associated works; and
- (e) widening or realignment of public roads; and
- (f) any other works prescribed for the purposes of this definition;

**regional park** means an area recognised under section 8E as a regional park;

**vessel** has the meaning given in the *Western Australian Marine Act 1982* section 3(1);

**6. Section 4 amended**

In section 4(1) after “96,” insert:

121

**7. Section 5 amended**

In section 5(1):

(a) delete paragraph (g) and insert:

(g) any other land reserved under the *Land Act 1933* and vested under a written law in the Commission; and

(b) in paragraph (h) delete “Conservation Commission or the Marine Authority, whether solely or jointly with another person.” and insert:

Commission or the Executive Body, either solely or jointly with another person or persons.

**8. Section 6 amended**

(1) In section 6(3):

(a) after paragraph (a) insert:

(ba) are lands referred to in paragraph (a) that become vested in the Commission jointly with an Aboriginal body corporate under section 8AA(5); or

(b) in paragraph (b) delete “Conservation Commission by section 7(2); or” and insert:

Commission by section 7(2) or 8AA(8), or in the Commission jointly with an Aboriginal body corporate under section 8AA(4) or (5); or

- (c) in paragraph (c) delete “Conservation Commission.” and insert:

Commission, either solely or jointly with an Aboriginal body corporate.

- (2) Delete section 6(4) and insert:

- (4) Conservation parks, for the purposes of this Act, comprise all lands that —

- (a) are reserved under the *Land Act 1933* Part III, or the *Land Administration Act 1997* Part 4, for the purpose of a conservation park and vested in the Commission under section 7(2a) or 8AA(8), or in the Commission jointly with an Aboriginal body corporate under section 8AA(4) or (5); or
- (b) under any other Act become reserved for the purpose of a conservation park and vested in the Commission, either solely or jointly with an Aboriginal body corporate.

- (3) In section 6(5):

- (a) delete paragraph (a) and insert:

- (a) by section 7(4), are vested in the Commission, either solely or jointly with some other body or bodies; or

- (b) in paragraph (b) delete “Conservation Commission by section 7(2); or” and insert:

Commission by section 7(2) or 8AA(8), or in the Commission jointly with an Aboriginal body corporate under section 8AA(4) or (5); or

- (c) in paragraph (c) delete “Conservation Commission.” and insert:

Commission, either solely or jointly with an Aboriginal body corporate.

**9. Section 7 amended**

- (1) Delete section 7(1) and insert:

(1A) In this section, unless the contrary intention appears — *vested* has the meaning assigned to it by section 19(3).

(1B) This section does not apply to —

- (a) land that is vested under section 8AA(4) or (5);  
or
- (b) section 8A land.

(1) The following lands and waters are by this subsection vested in the Commission —

- (a) State forest;
- (b) timber reserves;
- (c) marine management areas;
- (d) marine nature reserves;
- (e) marine parks.

- (2) Delete section 7(5) and (6).

**10. Section 8AA inserted**

After section 7 insert:

**8AA. Land may be vested jointly in Commission and Aboriginal body corporate**

- (1) In this section —  
*vested* has the meaning assigned to it by section 19(3).
- (2) The Minister, after consultation with the Commission, may make a written determination that —
- (a) land that is proposed to be a national park, nature reserve or conservation park, or part of a national park, nature reserve or conservation park, is, when reserved under the *Land Administration Act 1997* Part 4, to be vested jointly in the Commission and a specified Aboriginal body corporate; or
  - (b) a national park, nature reserve or conservation park, or part of a national park, nature reserve or conservation park that is vested solely in the Commission, is to be vested jointly in the Commission and a specified Aboriginal body corporate.
- (3) The Minister must not make a determination under subsection (2) unless the Aboriginal body corporate has consented to the joint vesting.
- (4) Land in respect of which a determination is made under subsection (2)(a) is, when reserved under the *Land Administration Act 1997* Part 4, by this subsection vested jointly in the Commission and the Aboriginal body corporate.



- (5) Land in respect of which a determination is made under subsection (2)(b) is, on and from the date of the determination or a later date that is specified in the determination, by this subsection vested jointly in the Commission and the Aboriginal body corporate.
- (6) Action under subsection (5) does not change —
  - (a) the purpose for which the land is reserved under the *Land Administration Act 1997*; or
  - (b) the category of the land under this Act.
- (7) In the case of land that is vested jointly in the Commission and an Aboriginal body corporate under subsection (4) or (5) the functions of the Aboriginal body corporate in relation to the land are limited to those conferred on a joint responsible body by this Act.
- (8) If an Aboriginal body corporate in which land is vested under this section is deregistered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Commonwealth) Part 12-1 or 12-2, the land ceases to be vested in the Aboriginal body corporate and by this section vests solely in the Commission.
- (9) The Minister may revoke or amend a determination made under subsection (2) at any time before the vesting under subsection (4) or (5) of the land in respect of which the determination is made.

**11. Part II Division 2A inserted**

After Part II Division 1 insert:

**Division 2A — Regional parks**

**8D. Terms used**

In this Division —

***alienated land*** has the meaning given in the *Land Administration Act 1997* section 3(1);

***Crown land*** has the meaning given in the *Land Administration Act 1997* section 3(1);

***eligible land*** means land, waters, or land and waters, that are above the low water mark and are —

- (a) alienated land; or
- (b) Crown land unless it is land to which this Act applies or section 8A land;

***Minister for Planning*** means the Minister administering the *Planning and Development Act 2005*;

***person responsible***, for eligible land, means —

- (a) if the land is alienated land, each of these persons —
  - (i) the owner;
  - (ii) any person who has an interest in the land that is registered under the *Transfer of Land Act 1893* or the *Registration of Deeds Act 1856*;
  - (iii) the lessee, if any, of the land;
- (b) if the land is Crown land, each of these persons —
  - (i) the Land Administration Minister;

- (ii) the management body (as defined in the *Land Administration Act 1997* section 3(1)), if any, of the land under that Act;
- (iii) the person, if any, in whom the land is vested under a written law other than the *Land Administration Act 1997*;
- (iv) the person, if any, who has the control and management of the land under a written law other than the *Land Administration Act 1997*;
- (v) the lessee, if any, of the land;
- (vi) if exclusive native title has been determined under the NT Act to exist in relation to the land, the registered native title body corporate (as defined in the NT Act section 253) in respect of the native title rights and interests concerned.

**8E. Recognition of regional parks**

- (1) The Minister, with the concurrence of the Minister for Planning, may by order published in the *Gazette* recognise as a regional park for the purposes of section 8F an area of land that the Minister considers to have regionally significant conservation, landscape protection or recreation values.
- (2) The area may include any or all of the following categories of land —
  - (a) eligible land;
  - (b) land to which this Act applies;
  - (c) section 8A land.

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- (3) The Minister must not include an area of eligible land in an area recognised as a regional park unless each person responsible for that area of eligible land has given written consent.

**8F. CEO may coordinate management of regional parks**

- (1) The CEO may coordinate the management of a regional park.
- (2) For the purposes of subsection (1), the Commission may through the agency of the CEO prepare a plan of management for the regional park.

**12. Section 9 replaced**

Delete section 9 and insert:

**9. Changes to State forest**

- (1) Land ceases to be State forest only by virtue of an Act or in the manner provided for in subsection (3) or section 10A.
- (2) The purpose, or combination of purposes, notified in respect of a State forest under section 60(3)(a) or 60A cannot be amended except by virtue of an Act or in the manner provided for in section 10A.
- (3) The Minister, after consultation with the Commission and the Minister for Forest Products, may by order —
  - (a) amend a State forest for the purpose of correcting one or more unsurveyed boundaries of the State forest in such a manner that the area of the State forest, if reduced at all, is reduced by not more than 5%; or

- (b) excise 5% or 5 hectares, whichever is the less, of the area of the State forest for the purpose of public utility works or roads; or
  - (c) redescribe locations or lots, or adjust the areas of locations or lots, in a State forest if the external boundaries of the State forest remain unchanged; or
  - (d) amalgamate 2 or more State forests which have similar purposes notified under section 60(3)(a) or 60A.
- (4) The Minister must, not less than 30 days before acting under subsection (3) or section 10A in relation to a State forest, advertise the intention to so act —
- (a) in a newspaper circulating throughout the State; or
  - (b) on the Department's website.
- (5) On the making of an order under subsection (3)(a) or (b) excising land from a State forest, the excised land ceases to be State forest and becomes Crown land within the meaning of the *Land Administration Act 1997*.

**10A. Parliamentary procedure in relation to changes to State forest**

- (1) The Governor may cause to be laid before each House of Parliament a proposal that —
- (a) land comprising the whole or part of a State forest is to cease to be State forest; or
  - (b) the purpose, or combination of purposes, notified in respect of a State forest under section 60(3)(a) or 60A be amended.
- (2) Either House of Parliament may, by resolution of which notice has been given within 14 sitting days of

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that House after a proposal has been laid before it under subsection (1), pass a resolution disallowing the proposal.

- (3) If a proposal is disallowed under subsection (2), the proposal lapses.
- (4) As soon as a proposal is no longer subject to disallowance under subsection (2), the proposal may be implemented by order of the Governor published in the *Gazette*.
- (5) It does not matter whether or not the period of 14 sitting days referred to in subsection (2) or some of them occur during —
  - (a) the same session of Parliament; or
  - (b) the same Parliament,

as that in which the relevant proposal is laid before the House of Parliament concerned.

- (6) If the notice of a resolution referred to in subsection (2) is given to a House and that resolution is not lost but, before the period of 14 sitting days mentioned in subsection (2) expires, Parliament is prorogued or that House is dissolved or expires —
  - (a) the relevant proposal does not lapse but, subject to paragraph (b)(iii), it cannot be implemented; and
  - (b) on the commencement of the next session of Parliament —
    - (i) the Minister may cause the proposal to be laid before that House again; and
    - (ii) notice of a resolution disallowing the proposal may be given again in that House; and

- (iii) subsection (2) applies again but as if the references in subsection (2) to the period of 14 sitting days after the proposal was laid were references to the remaining sitting days after notice of a resolution disallowing the proposal is given under subparagraph (ii).
- (7) On the publication in the *Gazette* under subsection (4) of an order declaring that land ceases to be State forest, the land —
  - (a) in the case of land acquired under section 15 and set apart as a State forest, becomes vested in the Executive Body and section 131 applies to it; and
  - (b) in any other case, becomes Crown land within the meaning of the *Land Administration Act 1997*.

**13. Section 10 replaced**

Delete section 10 and insert:

**10. Reservation of, and changes to, timber reserves**

- (1) The Governor may, by order published in the *Gazette*, reserve any Crown land as a timber reserve.
- (2) The area of a timber reserve reserved by order under subsection (1) cannot be reduced other than in the manner provided for in subsection (3) or under section 17.
- (3) The Minister, after consultation with the Commission and the Minister for Forest Products, may by order —

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- (a) amend a timber reserve for the purpose of correcting one or more unsurveyed boundaries of the reserve in such a manner that the area of the land, if reduced at all, is reduced by not more than 5%; or
  - (b) excise 5% or 5 hectares, whichever is the less, of the area of the timber reserve for the purpose of public utility works or roads; or
  - (c) redescribe locations or lots, or adjust the areas of locations or lots, in the timber reserve if the external boundaries of the land remain unchanged; or
  - (d) amalgamate 2 or more timber reserves.
- (4) The Minister must, not less than 30 days before acting under subsection (3) in relation to a timber reserve, advertise the intention to so act —
- (a) in a newspaper circulating throughout the State; or
  - (b) on the Department's website.

**14. Section 13 amended**

Delete section 13(1), (3a) and (4) and insert:

- (1) Subject to section 14, the Governor may, by order published in the *Gazette* —
- (a) reserve any part of Western Australian waters as a marine nature reserve, a marine park or a marine management area; or
  - (b) add any part of Western Australian waters to a marine nature reserve, a marine park or a marine management area.



- (2) The Minister may by order published in the *Gazette* —
  - (a) amalgamate 2 or more marine nature reserves;
  - (b) amalgamate 2 or more marine parks;
  - (c) amalgamate 2 or more marine management areas.
- (3) The Minister must consult the Swan River Trust established by the *Swan and Canning Rivers Management Act 2006* before the Governor acts under subsection (1) in relation to any waters that are in the development control area or the Riverpark within the meaning of that Act.
- (4) Subject to subsection (4a), the Governor may by the order under subsection (1) which constitutes a marine nature reserve, a marine park or a marine management area, or by a subsequent order published in the *Gazette*, classify the reserve, park or management area as of Class A.
- (4AA) Except as provided in this section, section 13AA or by an Act —
  - (a) the purpose of a marine nature reserve, a marine park or a marine management area classified as of Class A cannot be changed; and
  - (b) the boundaries of a marine nature reserve, a marine park or a marine management area classified as of Class A cannot be altered.

**15. Section 13AA inserted**

After section 13 insert:

**13AA. Minister's powers to change Class A marine reserve**

- (1) In this section —

**Class A marine reserve** means a marine nature reserve, a marine park or marine management area, classified under section 13(4) as of Class A.

- (2) The Minister, after consultation with the Commission, may by order published in the *Gazette* —
  - (a) amend a Class A marine reserve for the purpose of correcting one or more re-surveyed or previously unsurveyed boundaries of the marine area; or
  - (b) excise 5% or one hectare, whichever is the less, of the area of a Class A marine reserve for the purpose of public utility works.
- (3) The Minister must, not less than 30 days before acting under subsection (2), advertise the intention to so act —
  - (a) in a newspaper circulating throughout the State; or
  - (b) on the Department's website.

**16. Section 13B amended**

- (1) Before section 13B(1) insert:

- (1A) In this section —

**classification notice** means the relevant notice under section 62(1a);

**recreation area** means any land or waters in a marine park classified under section 62 as a recreation area;

**sanctuary area** means any land or waters in a marine park classified under section 62 as a sanctuary area;

*special purpose area* means any land or waters in a marine park classified under section 62 as a special purpose area.

(2) After section 13B(2) insert:

- (3A) The Minister may in a classification notice classifying land or waters in a marine park as a recreation area declare the recreation area, or any part of the recreation area, to be an area where —
- (a) recreational fishing; or
  - (b) recreational fishing of a type or class specified in the declaration,

would be incompatible with another recreational purpose specified in the classification notice.

- (3B) The Minister may in a classification notice classifying land or waters in a marine park as a special purpose area declare the special purpose area, or any part of the special purpose area, to be an area where one or more of the following, as specified in the declaration, would be incompatible with a conservation purpose specified in the classification notice —
- (a) aquaculture;
  - (b) commercial fishing;
  - (c) commercial fishing of a type or class specified in the declaration;
  - (d) recreational fishing;
  - (e) recreational fishing of a type or class specified in the declaration;
  - (f) pearling activity;
  - (g) exploratory drilling for, or production of, petroleum, geothermal energy resources or

geothermal energy under the *Petroleum and Geothermal Energy Resources Act 1967* or petroleum under the *Petroleum (Submerged Lands) Act 1982*.

- (3) In section 13B(5) delete “carried out in any area of a marine park which is classified under section 62 as —” and insert:

carried out in —

- (4) Delete section 13B(6) and (7) and insert:

- (6A) Subject to section 13D —

- (a) commercial fishing shall not be carried out in —

- (i) a sanctuary area; or
- (ii) a recreation area; or
- (iii) a special purpose area to which, or part of a special purpose area to which, a declaration under subsection (3B)(b) applies;

and

- (b) commercial fishing of a type or class specified in a declaration made under subsection (3B)(c) shall not be carried out in a special purpose area to which, or part of a special purpose area to which, the declaration applies.

- (6) Commercial fishing may be carried out in accordance with an authorisation issued under the *Fish Resources Management Act 1994* in any area, or part of an area, of a marine park other than —

- (a) an area, or part of an area, mentioned in subsection (6A)(a)(i), (ii) or (iii); and
  - (b) if the commercial fishing is of a type or class specified in a declaration made under subsection (3B)(c), a special purpose area, or part of a special purpose area, to which the declaration applies.
- (7A) Subject to section 13D —
- (a) recreational fishing shall not be carried out in —
    - (i) a sanctuary area; or
    - (ii) a recreation area to which, or part of a recreation area to which, a declaration under subsection (3A)(a) applies; or
    - (iii) a special purpose area to which, or a part of a special purpose area to which, a declaration under subsection (3B)(d) applies;and
  - (b) recreational fishing of a type or class specified in a declaration made under subsection (3A)(b) shall not be carried out in a recreation area to which, or part of a recreation area to which, the declaration applies; and
  - (c) recreational fishing of a type or class specified in a declaration made under subsection (3B)(e) shall not be carried out in a special purpose area to which, or part of a special purpose area to which, the declaration applies.
- (7) Recreational fishing may be carried out in accordance with the requirements of the *Fish Resources Management Act 1994* in any area, or part of an area, of a marine park other than —

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- (a) an area, or part of an area, mentioned in subsection (7A)(a)(i), (ii) or (iii); and
- (b) if the recreational fishing is of a type or class specified in a declaration made under subsection (3A)(b), a recreation area, or part of a recreation area, to which the declaration applies; and
- (c) if the recreational fishing is of a type or class specified in a declaration made under subsection (3B)(e), a special purpose area, or part of a special purpose area, to which the declaration applies.

- (5) In section 13B(8) delete “carried out in any area of a marine park which is classified under section 62 as —” and insert:

carried out in —

- (6) In section 13B(9) delete “carried out in any area of a marine park which is classified under section 62 as —” and insert:

carried out in —

- (7) Delete section 13B(10).

**17. Section 14 amended**

- (1) In section 14(1a)(a) delete “Marine Authority” and insert:

Commission

- (2) In section 14(6)(a) delete “Marine Authority” and insert:

Commission

- (3) Delete section 14(8) and insert:
  - (8) Section 60(2a) applies to the approval of an indicative management plan as if the reference in that subsection to the relevant responsible body were a reference to the Minister.
  - (9A) Section 60(2b) applies to the approval of an indicative management plan as if the reference in that subsection to the Commission were a reference to the Minister.

**18. Section 17 amended**

- (1) Delete section 17(2) and insert:
  - (2) Where it is proposed to —
    - (a) cancel or amend the purpose of any land to which this section applies; or
    - (b) alter any boundary of any land to which this section applies otherwise than by an addition to the land or under section 10(3),the Minister must refer the proposal to the Commission and any joint responsible body in which the land is vested or which has the care, control and management of the land.
- (2) In section 17(3) delete “Conservation Commission or Marine Authority, as the case may be, and any associated body” and insert:

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Commission and any joint responsible body

- (3) In section 17(4) delete “Conservation Commission or the Marine Authority or any associated body under subsection (3), but the Conservation Commission or the Marine Authority shall” and insert:

Commission or joint responsible body under subsection (3), but the Commission must

- (4) In section 17(4a) delete “Conservation Commission or the Marine Authority.” and insert:

Commission.

**19. Part III heading replaced**

Delete the heading to Part III and insert:

**Part III — Conservation and Parks Commission**

**20. Part III Division 1 heading replaced**

Delete the heading to Part III Division 1 and insert:

**Division 1 — Conservation and Parks Commission  
established**



**21. Part III Division 1 Subdivision 1 heading deleted**

Delete the heading to Part III Division 1 Subdivision 1.

**22. Section 18 amended**

Delete section 18(1) and insert:

- (1) A body called the Conservation and Parks Commission is established.

**23. Section 19 amended**

- (1) In section 19(1):

(a) delete paragraph (a) and insert:

(a) to have vested in it the following —

(i) State forest, timber reserves and marine reserves;

(ii) unless section 8B(2)(f) applies, national parks, conservation parks and nature reserves, either solely or jointly with an Aboriginal body corporate;

(iii) relevant land referred to in section 5(1)(g);

(ba) to have the joint function provided for by section 7(4);

- (b) in paragraph (b) delete “whether solely or jointly with another person;” and insert:

either solely or jointly with another person or body;

(c) delete paragraph (c) and insert:

- (c) to advise the Minister on the development of policies —
- (i) for the preservation of the natural environment of the State and the provision of facilities for the enjoyment of that environment by the community; and
  - (ii) for promoting the appreciation of flora and fauna and the natural environment; and
  - (iii) to achieve or promote the objectives referred to in section 56(1)(a) to (e) and (2);

(d) after paragraph (e) insert:

- (fa) to advise the Minister in relation to proposals for reservations for the purposes of section 14;

(e) in paragraphs (f), (g) and (k) after “land” insert:

and waters

- (2) In section 19(3) delete “conservation parks and nature reserves is only for the purposes of subsection (1)(c), (d), (e), (f), (g), (h), (i), (k) and (l)” and insert:

conservation parks, nature reserves and marine reserves is only for the purposes of subsection (1)(c), (d), (e), (fa), (f), (g), (h), (i), (k) and (l)

- (3) In section 19(6)(a) delete “directly affected by the advice is” and insert:

or waters directly affected by the advice are

- (4) Delete section 19(9) and insert:

(9) The Commission must not advise the Minister on any matter which relates to marine archaeology unless before the advice is tendered it has informed The Western Australian Museum of the general nature of its proposed advice and given it a reasonable opportunity to make submissions.

**24. Section 20 amended**

- (1) Delete section 20(2), (3), (4) and (5).  
(2) Delete section 20(7)(b).

**25. Part III Division 1 Subdivision 2 heading deleted**

Delete the heading to Part III Division 1 Subdivision 2.

**26. Part III Division 2 heading inserted**

Before section 21 insert:

**Division 2 — Membership and meetings of Commission**

**27. Section 21 amended**

- (1) In section 21(1) delete “9” and insert:

7

- (2) Delete section 21(3) and (4) and insert:
- (3) Subject to subsection (4) and section 22, the members are to be persons who, in the opinion of the Minister, have knowledge and experience or a particular function or vocational interest which is relevant to the functions of the Commission.
- (4) One member is to be a person who, in the opinion of the Minister, has knowledge of and experience in Aboriginal cultural and Aboriginal heritage matters relevant to the functions of the Commission.

**28. Section 22 amended**

In section 22(1):

- (a) delete “Conservation Commission if” and insert:

Commission if

- (b) delete paragraph (a) and insert:

(a) is the CEO or an officer of the Department; or

**29. Section 23 replaced**

Delete section 23 and insert:

**23. Other persons entitled to attend meetings of Commission**

- (1) In this section —

**agency** has the meaning given in the *Public Sector Management Act 1994* section 3(1);

**chief executive officer** includes a chief employee within the meaning of the *Public Sector Management Act 1994*;

**Director** means a senior executive officer (within the meaning of the *Public Sector Management Act 1994*) designated by the CEO to be a Director for the purposes of this section.

- (2) Reasonable notice of a meeting of the Commission is to be given to the following people —
  - (a) the CEO;
  - (b) if in the view of the chairman any matter proposed to be put before the meeting concerns the functions of a Director — the Director;
  - (c) if in the view of the chairman another agency is concerned with a matter to be considered at the meeting — the chief executive officer of the agency.
- (3) For the purposes of subsection (2)(b), the CEO is to notify the chairman as to the functions of the Directors and any changes to those functions.
- (4) Subject to subsection (5) —
  - (a) the CEO, or the CEO's representative, is entitled to attend any meeting and to take part in the consideration and discussion of any matter before a meeting, but cannot vote on any matter; and
  - (b) a Director who receives notice under subsection (2)(b), or that Director's representative, is entitled to attend the meeting to which the notice applies and to take part in the consideration and discussion of any matter

before the meeting that concerns the functions of the Director, but cannot vote on any matter; and

- (c) a chief executive officer of another agency who receives notice under subsection (2)(c), or that chief executive officer's representative, is entitled to attend the meeting to which the notice applies and to take part in the consideration and discussion of any matter before the meeting that concerns the agency, but cannot vote on any matter.
- (5) The Commission may decide to exclude the persons referred to in subsection (4) (but not some of them only) from a meeting while it is considering —
- (a) a matter that relates to the functions or actions of the CEO or the Department; or
  - (b) a matter that relates to the functions or actions of any agency in relation to management plans for lands and waters vested in or under the care, control and management of the Commission or in the Commission jointly with another person.

**30. Part III Division 1 Subdivision 3 heading deleted**

Delete the heading to Part III Division 1 Subdivision 3.

**31. Part III Division 3 heading inserted**

Before section 24 insert:

**Division 3 — Relationship with Minister**

**32. Section 25 amended**

In section 25(4) delete the definition of *staff* and insert:

*staff* means the staff provided by the CEO under section 33(1)(ba).

**33. Part III Division 1 Subdivision 4 heading deleted**

Delete the heading to Part III Division 1 Subdivision 4.

**34. Part III Division 4 heading inserted**

Before section 26 insert:

**Division 4 — General provisions**

**35. Section 26 replaced**

Delete section 26 and insert:

**26. Commission may engage consultants**

- (1) The Commission may, with the approval of the Minister, engage persons under contracts for services to provide any professional, technical or other assistance that the Commission considers necessary for the performance of its functions under this Act.
- (2) An approval of the Minister under subsection (1) may be specific or may be given in general terms.

**36. Section 26AA amended**

Delete section 26AA(2) and insert:

- (2) A delegation under subsection (1) may be made to —

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- (a) a member of the Commission; or
- (b) a member of the staff of the Department provided under section 33(1)(ba).

**37. Section 26AC amended**

In section 26AC(1) delete “*Conservation and Land Management Amendment Act 2000*” and insert:

*Conservation and Land Management Amendment Act 2015*  
section 37

**38. Part III Divisions 3A and 3B deleted**

Delete Part III Divisions 3A and 3B.

**39. Part III Division 4 heading deleted**

Delete the heading to Part III Division 4.

**40. Sections 27 and 28 deleted**

Delete sections 27 and 28.

**41. Section 29 replaced**

Delete section 29 and insert:

**29. Constitution and proceedings of Commission**

Schedule 1 sets out provisions with respect to the constitution and proceedings of the Commission.

**42. Section 33 amended**

- (1) In section 33(1):
  - (a) after paragraph (a) insert:



- (aa) without limiting paragraph (a), to take any measures that the CEO considers necessary or expedient, including planned burning, on —
    - (i) land to which this Act applies; and
    - (ii) subject to the relevant section 8A agreement, section 8A land; and
    - (iii) subject to the relevant order made under section 8C, section 8C land,  
for the purpose of preventing, managing or controlling fire on that land;
  - (ab) to coordinate the management of land in regional parks;
- (b) delete paragraphs (b) and (ba) and insert:
- (b) to provide the Commission with such assistance as it may reasonably require to perform its functions;
  - (ba) without limiting paragraph (b), to provide the Commission with any staff and facilities of the Department that it may reasonably require to perform its functions;
- (2) Delete section 33(5) and insert:
- (5) Nothing in subsection (1) is to be read as limiting the functions of the Commission under section 19.
- (3) In section 33(6) delete “to conferring” and insert:
- of conferring

**s. 43**

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**43. Section 53 amended**

- (1) In section 53 delete the definition of *controlling body*.
- (2) In section 53 in the definition of *responsible body* delete paragraphs (a) and (b) and insert:
  - (a) if the land is vested in or under the care, control and management of the Commission or the Executive Body solely, the Commission or Executive Body, as the case requires;
  - (b) if the land is vested in or under the care, control and management of the Commission or the Executive Body jointly with a joint responsible body, the Commission or Executive Body, as the case requires, and the joint responsible body acting jointly;

**44. Section 54 amended**

In section 54(4) delete “controlling body in which the land would be vested under section 7 if the land were of that category.” and insert:

Commission.

**45. Section 56A amended**

- (1) In section 56A(3) delete “jointly, the plan” and insert:

jointly, unless section 56B applies, the plan

- (2) Delete section 56A(5) and insert:
- (5) If land is vested in or under the care, control and management of the Commission jointly with a joint responsible body, this section does not prevent the joint responsible body from being a party to a section 56A agreement for the land.
- (3) In section 56A(7):
- (a) delete “unless —” and insert:
- unless section 56B applies or —
- (b) delete paragraph (a) and insert:
- (a) the Commission has given written approval to the agreement; and

**46. Section 56B inserted**

After section 56A insert:

**56B. Section 56A agreement may be continued for new management plan**

- (1) If —
- (a) on the expiry of a management plan for land, a new management plan is made in respect of the same land; and
- (b) the new management plan requires the CEO to manage the land jointly with the same persons who managed the land jointly with the CEO under the expired management plan; and

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- (c) approval is given in accordance with subsection (2),

the section 56A agreement that was attached to the expired management plan is to be attached to the new management plan and has effect as if it were a section 56A agreement signed in accordance with section 56A(3).

- (2) A section 56A agreement must not be attached to a new management plan under subsection (1) unless each of the following has given written approval to the agreement being so attached —
  - (a) the Commission;
  - (b) any joint responsible body in which the land is vested, or that has the care, control and management of the land, jointly with the Commission.

**47. Section 60 amended**

In section 60(2b) delete “Marine Authority” and insert:

Commission

**48. Section 62 amended**

- (1) In section 62(1aaa)(g) delete “Conservation Commission; or” and insert:

Commission or the Executive Body; or

- (2) In section 62(1a) delete “Marine Authority” and insert:

Commission

- (3) In section 62(1ba) delete “subsection (1aa), the” and insert:

subsection (1aa), (1a) or (1b), the

- (4) Delete section 62(1c) and (1d).

**49. Section 64 replaced**

Delete section 64 and insert:

**64. Certain moneys credited to Department**

The account established for the purposes of the operations of the Department is to be credited with —

- (a) moneys from time to time derived under this Act by the CEO from dealing with or the management of any land which is vested in or under the care, control and management of the Commission, whether solely or jointly with a joint responsible body; and
- (b) subject to any direction of the Treasurer, moneys received by the CEO by way of —
  - (i) payments under the *Forest Products Act 2000* section 42(2)(d); and
  - (ii) recovery of the costs referred to in section 59(1)(c) and (d) of that Act.

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**50. Section 97 amended**

- (1) In section 97(1) delete “21” and insert:

99

- (2) Delete section 97(2).

**51. Section 99 amended**

In section 99(1):

- (a) delete paragraph (aa) and insert:

(aa) in the case of land vested in or under the care, control and management of the Commission, after consultation with the Commission and, where applicable, a joint responsible body; and

- (b) delete paragraph (ab).

**52. Section 100 amended**

- (1) In section 100(1) delete “21” and insert:

99

- (2) Delete section 100(2).

**53. Section 101 amended**

In section 101(1a) delete “Conservation Commission or the Marine Authority, as the case requires, and” and insert:

Commission, and

**54. Section 104 amended**

In section 104(2) delete “\$250” and insert:

\$1 000

**55. Part IX Division 4A heading inserted**

After section 114 insert:

**Division 4A — Infringement notices**

**56. Section 114AA inserted**

Before section 114A insert:

**114AA. Terms used**

(1) In this Division —

*alleged offender* means a person suspected of having committed a prescribed offence against this Act or the regulations;

*owner*, in relation to a vessel, has the meaning given in the *Western Australian Marine Act 1982* section 3(1);

*vessel offence* means an alleged offence against this Act in connection with a vessel.

(2) Words and expressions defined in the *Criminal Procedure Act 2004* section 11 have the same meaning in this Division unless the contrary intention appears.

**57. Section 114A amended**

- (1) In section 114A(1) delete “give to that person an infringement notice in the prescribed form.” and insert:

issue an infringement notice for the alleged offence.

- (2) Delete section 114A(2) and insert:

- (2) The infringement notice must —
- (a) be in the prescribed form; and
  - (b) be addressed to the alleged offender by name, unless section 114B(1) or 114D(1) applies; and
  - (c) describe the offence with reasonable clarity; and
  - (d) identify the written law and the provision of it that creates the offence; and
  - (e) identify with reasonable clarity —
    - (i) the date when the offence was committed or, if the date is not known, the period in which the offence was committed; and
    - (ii) where the offence was committed; and
  - (f) state the modified penalty for the offence; and
  - (g) be dated with the date it is issued; and
  - (h) inform the alleged offender —
    - (i) that within 28 days after the date of the notice the alleged offender may elect to be prosecuted for the alleged offence; and
    - (ii) how to make such an election; and



- (iii) that if the alleged offender does not want to be prosecuted for the alleged offence, the modified penalty for the offence may be paid to the CEO within 28 days after the date of the notice; and
  - (iv) how and where the modified penalty may be paid;
- and
- (i) if the *Fines, Penalties and Infringement Notices Enforcement Act 1994* Part 3 applies to the notice, inform the alleged offender of the action that may be taken under that Act if the alleged offender does not act in accordance with the notice.
- (3A) The infringement notice must be served under subsection (4) within 45 days after the day on which the alleged offence is believed to have been committed.
- (3) Delete section 114A(4) and insert:
- (4) Unless section 114B(1)(b)(i) or 114D(1)(b)(i) applies, an infringement notice must be served on an alleged offender —
    - (a) if the offender is an individual, in accordance with the *Criminal Procedure Act 2004* Schedule 2 clause 2 or 3; or
    - (b) if the offender is a corporation, in accordance with the *Criminal Procedure Act 2004* Schedule 2 clause 3 or 4; or
    - (c) if the offender's address is ascertained at the time of or immediately after the alleged offence was committed, by posting it to the offender at that address.

- (4) In section 114A(5) delete “A person” and insert:

An alleged offender

- (5) In section 114A(6) delete “at any time within a period of 28 days after it was given”.

- (6) In section 114A(8) delete “the person” and insert:

the alleged offender

Note: The heading to amended section 114A is to read:

**Issuing infringement notices**

**58. Sections 114B to 114E inserted**

At the end of Part IX Division 3 insert:

**114B. Infringement notices for vehicle offences**

- (1) If an alleged offence is a vehicle offence and the identity of the alleged offender is not known and cannot immediately be ascertained, an infringement notice for the alleged offence —
- (a) despite section 114A(2)(b), may be addressed to the responsible person for the vehicle without naming that person or the alleged offender; and
  - (b) may be served on the responsible person —
    - (i) despite section 114A(4), by attaching it securely to the vehicle; or

- (ii) in accordance with section 114A(4)(a) or (b).
- (2) An infringement notice that is served under subsection (1) must contain or be accompanied by a statement explaining the operation of section 114C.
- (3) If an infringement notice is served on a responsible person under subsection (1) and there are several responsible persons, the notice is to be taken to have been served on —
  - (a) if only one responsible person responds to the notice — that responsible person; or
  - (b) in any other case — not more than one responsible person chosen by the CEO.
- (4) A person, other than a person in charge of the vehicle or a responsible person for the vehicle, must not interfere with an infringement notice that is left on a vehicle.

Penalty: a fine of \$1 000.

**114C. Onus of responsible person for vehicle offence**

- (1) If under section 114B(1) an infringement notice is served on a responsible person, the responsible person is to be presumed to have been the driver or person in charge of the vehicle at the time of the vehicle offence alleged in the notice unless, within 28 days after the date of the infringement notice —
  - (a) the modified penalty specified in the notice is paid; or
  - (b) the responsible person informs the CEO that the responsible person was not the driver or person in charge of the vehicle at the time of the alleged offence and supplies the CEO —

- (i) with the name and address of the driver or person in charge of the vehicle at that time; or
  - (ii) with information showing that at that time the vehicle had been stolen or unlawfully taken or was being unlawfully used.
- (2) If a responsible person complies with subsection (1)(b) the infringement notice may be withdrawn under section 114A(6).
- (3) If a responsible person complies with subsection (1)(b) and the CEO decides not to withdraw the infringement notice under section 114A(6), the CEO must advise the person of the decision.
- (4) The presumption in subsection (1) operates even if the responsible person is not an individual.
- (5) The presumption in subsection (1) operates, in the absence of evidence to the contrary, for the purpose of enforcing the infringement notice and for the purpose of any prosecution of the responsible person for the alleged offence.
- (6) The presumption in subsection (1) does not affect the liability of the person who actually committed the offence but —
  - (a) the responsible person and the actual offender cannot both be issued an infringement notice or sentenced for the same offence; and
  - (b) if one of them pays a modified penalty or is sentenced for the offence, the modified penalty paid by the other must be refunded; and
  - (c) if one of them is sentenced for the offence, a sentence must not be imposed on the other for the offence.

**114D. Infringement notices for vessel offences**

- (1) If an alleged offence is a vessel offence and the identity of the alleged offender is not known and cannot immediately be ascertained, an infringement notice for the alleged offence —
  - (a) despite section 114A(2)(b), may be addressed to the owner of the vessel without naming that person or the alleged offender; and
  - (b) may be served on the owner —
    - (i) despite section 114A(4), by attaching it securely to the vessel; or
    - (ii) in accordance with section 114A(4)(a) or (b).
- (2) An infringement notice that is served under subsection (1) must contain or be accompanied by a statement explaining the operation of section 114E.
- (3) If an infringement notice is served on an owner of a vessel under subsection (1) and there are several owners of the vessel, the notice is to be taken to have been served on —
  - (a) if only one owner responds to the notice — that owner; or
  - (b) in any other case — not more than one owner chosen by the CEO.
- (4) A person, other than the owner or person in charge of the vessel, must not interfere with an infringement notice that is left on a vessel.

Penalty: a fine of \$1 000.

**114E. Onus of responsible person for vessel offence**

- (1) If under section 114D(1) an infringement notice is served on an owner of a vessel, the owner is to be

presumed to have been the person in charge of the vessel at the time of the vessel offence alleged in the notice unless, within 28 days after the date of the infringement notice —

- (a) the modified penalty specified in the notice is paid; or
  - (b) the owner informs the CEO that the owner was not the person in charge of the vessel at the time of the alleged offence and supplies the CEO —
    - (i) with the name and address of the person in charge of the vessel at that time; or
    - (ii) with information showing that at that time the vessel had been stolen or unlawfully taken or was being unlawfully used.
- (2) If an owner complies with subsection (1)(b) the infringement notice may be withdrawn under section 114A(6).
- (3) If an owner complies with subsection (1)(b) and the CEO decides not to withdraw the infringement notice under section 114A(6), the CEO must advise the person of the decision.
- (4) The presumption in subsection (1) operates even if the owner is not an individual.
- (5) The presumption in subsection (1) operates, in the absence of evidence to the contrary, for the purpose of enforcing the infringement notice and for the purpose of any prosecution of the owner for the alleged offence.

- (6) The presumption in subsection (1) does not affect the liability of the person who actually committed the offence but —
- (a) the owner and the actual offender cannot both be issued an infringement notice or sentenced for the same offence; and
  - (b) if one of them pays a modified penalty or is sentenced for the offence, the modified penalty paid by the other must be refunded; and
  - (c) if one of them is sentenced for the offence, a sentence must not be imposed on the other for the offence.

**59. Section 121 inserted**

After section 120 insert:

**121. Entry powers in relation to occupied land**

- (1) In this section —
- authorised purpose*** means any of the following —
- (a) inspection purposes;
  - (b) the conduct of measures, including planned burning, for the purpose of preventing, managing or controlling fire;
  - (c) the management of land in accordance with a management plan;
  - (d) the carrying out of any other function of an enforcement officer in relation to the land;
- enforcement officer*** means —
- (a) a wildlife officer; or
  - (b) a forest officer; or

- (c) a ranger; or
- (d) a conservation and land management officer;

**inspection purposes** means the purposes of —

- (a) investigating whether this Act is being or has been complied with; and
- (b) investigating whether the obligations of the holder of a permit, licence, agreement or forest lease, under this Act are being or have been complied with; and
- (c) obtaining evidence as to those matters;

**occupied land** means any land to which this Act applies, section 8A land or section 8C land, being land that is used or occupied —

- (a) under a permit, licence, agreement or forest lease, under this Act; or
  - (b) under a mining tenement as defined in the *Mining Act 1978* section 8(1); or
  - (c) under a petroleum authorisation as defined in section 13E(1) or a licence granted as referred to in section 13E(4) or renewed as referred to in section 13E(3)(b).
- (2) An enforcement officer may, for an authorised purpose, at any time enter occupied land.
  - (3) Before an enforcement officer enters land under this section, the officer must if practicable give reasonable notice to the owner and occupier of the land of the intention to do so.
  - (4) An enforcement officer exercising a power of entry may do so with such vehicles, machinery and equipment as the person considers to be necessary or expedient —
    - (a) for the purpose of the entry; and



- (b) for any purpose for which the entry is made.
- (5) An enforcement officer may not, under this section, enter a residence or other premises unless the occupier of the premises has consented to the entry.
- (6) Nothing in this section —
  - (a) limits the powers conferred on the following —
    - (i) forest officers under section 120;
    - (ii) rangers and conservation and land management officers under section 124;
    - (iii) wildlife officers under section 125;
    - (iv) enforcement officers under section 45(3a) and the *Bush Fires Act 1954*;
  - or
  - (b) limits the powers of an enforcement officer who is a police officer.

**60. Section 126 amended**

After section 126(2) insert:

- (3) Regulations made under this section or section 130 may prohibit or regulate commercial operations on land to which they apply.

**61. Section 130 amended**

In section 130(3) delete “and 16B(3).” and insert:

and 8B(2).

**62. Section 131 amended**

- (1) In section 131(1) delete “CEO” and insert:

Executive Body

- (2) In section 131(2) delete “section 9(3).” and insert:

section 10A(7)(a).

Note: The heading to amended section 131 is to read:

**Vesting of land formerly registered in name of Conservator of Forests**

**63. Section 131A amended**

In section 131A(1) delete “or 26C(1)”.

**64. Section 132 replaced**

Delete section 132 and insert:

**132. Protection from personal liability**

- (1) A person does not incur civil liability for anything done by the person in good faith in, or in connection with, the performance or purported performance of functions under this Act or the *Wildlife Conservation Act 1950*.
- (2) The State is also relieved of any civil liability for anything done or omitted to be done in good faith in, or in connection with, the performance or purported performance of a function under this Act or the *Wildlife Conservation Act 1950* in relation to preventing, managing or controlling fire on land to which this Act applies, section 8A land or section 8C land.

- (3) Without limiting subsection (1), a person who is —
- (a) a party to an agreement made under section 8A;  
or
  - (b) a member of a joint management body established in accordance with section 8A; or
  - (c) a party to a section 56A agreement for land; or
  - (d) a member of a joint management body for the land established in accordance with section 56A,

has, in relation to the management of the agreed area or other land for the purposes of this Act, the same protection from liability under subsection (1) as if the management were a function under this Act performed by that person.

- (4) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act or the *Wildlife Conservation Act 1950* may have been capable of being done whether or not those Acts had been enacted.
- (5) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

**65. Part XII heading replaced**

Delete the heading to Part XII and insert:

**Part XII — *Conservation and Land Management Act 1984*, repeal, savings, transitional and validation**

**66. Part XIII inserted**

After section 156 insert:

**Part XIII — *Conservation and Land Management Amendment Act 2015* saving and transitional provisions**

**157. Terms used**

In this Part —

*amended Act* means this Act as amended by the *Conservation and Land Management Amendment Act 2015*;

*commencement day* means the day on which the *Conservation and Land Management Amendment Act 2015* section 38 comes into operation;

*Conservation Commission* has the meaning given in section 3 of the former Act;

*former Act* means this Act as in force before the commencement day;

*Marine Authority* has the meaning given in section 3 of the former Act.

**158. Certain liabilities and assets to be vested in the Executive Body**

Subject to, and without limiting, sections 7, 131 and 155, on the coming into operation of the *Conservation and Land Management Amendment Act 2015* section 66 —

- (a) any right, obligation or liability vested in or imposed on the CEO under section 150(a) and of effect immediately before the coming into operation of the *Conservation and Land*

*Management Amendment Act 2015* section 66 is vested in or imposed on the Executive Body; and

- (b) all real and personal property vested in the CEO under section 150(b) and held by the CEO immediately before the coming into operation of the *Conservation and Land Management Amendment Act 2015* section 66 is vested in the Executive Body.

**159. Land and waters vested in the Conservation Commission or Marine Authority**

- (1) The care, control and management of any land or waters that, immediately before the commencement day, were placed under the *Land Administration Act 1997* Part 4 with the Conservation Commission or the Marine Authority (the *prior placement*), whether solely or jointly with another person, are, on the commencement day and by this subsection placed under that Part with the Commission solely, or jointly with the Commission and that other person, as the case requires.
- (2) Any land or waters that immediately before the commencement day were vested in the Conservation Commission or the Marine Authority under a provision of this Act (the *prior vesting*), whether solely or jointly with another person, are, on the commencement day and by this subsection vested under that provision in the Commission solely, or jointly in the Commission and that other person, as the case requires.
- (3) A placement or vesting under this section is subject to any interests or conditions that applied to the prior placement or prior vesting.

**160. Completion of things commenced**

Anything commenced to be done by the Conservation Commission or the Marine Authority before the commencement day may be continued by the Commission so far as the doing of that thing is within the functions of the Commission.

**161. Continuing effect of things done**

Anything done or omitted to be done before the commencement day by, to or in respect of the Conservation Commission or the Marine Authority, to the extent that it —

- (a) has any force or significance; and
- (b) is a thing that could be done or omitted to be done by, to or in respect of the Commission under the amended Act,

is to be taken to have been done or omitted by, to or in respect of the Commission.

**162. Reports and notifications**

- (1) Any of the following reports of the Marine Authority has effect as if it were a report of the Commission —
  - (a) a report under section 14(1a)(a) in respect of a proposal of which public notification is not given before the commencement day;
  - (b) a report under section 14(6)(a) in respect of submissions on a proposal that is not submitted to the Governor before the commencement day.
- (2) A decision of the Marine Authority notified under section 17(3) on a proposal on which the Minister does not make a recommendation before the commencement day has effect as if it were a decision of the Commission.

**163. Management plans**

- (1) A management plan prepared by the Conservation Commission or the Marine Authority, whether solely or jointly with an associated body, under Part V of the former Act has effect as if it had been prepared by the Commission, or the Commission jointly with the relevant joint responsible body, under Part V of the amended Act.
- (2) Any steps taken by the Conservation Commission or the Marine Authority, whether solely or jointly with an associated body, under Part V of the former Act in relation to a proposed management plan that has not been approved by the Minister before the commencement day have effect as if they were steps taken by the Commission, or the Commission jointly with the relevant joint responsible body, for the purposes of Part V of the amended Act.

**164. Section 57A exemptions**

Any exemption given to the Conservation Commission or the Marine Authority under section 57A of the former Act, and of effect immediately before the commencement day, has effect as if it were an exemption given to the Commission.

**165. Members of Conservation Commission, Authority and Marine Committee**

A person who holds office as a member of the Conservation Commission, the Marine Authority or the Marine Committee immediately before the commencement day, ceases to hold that office on the commencement day but, subject to this Act, is eligible to be appointed as a member of the Commission.

**166. Registration of documents**

(1) In this section —

*relevant official* means —

- (a) the Registrar of Titles; or
- (b) the Registrar of Deeds and Titles; or
- (c) any other person authorised by a written law to record and give effect to the registration of documents relating to property transactions,

according to which, if any, of them has responsibility for a register relating to the relevant property;

*relevant property* means property of a kind affected by this Part, whether it is an estate or interest in land or other property.

(2) The relevant officials are to take notice of this Part and are to record and register in the appropriate manner the documents necessary to show the effect of this Part.

**167. Transfer of documents**

As soon as practicable after the commencement day all records and data of the Conservation Commission, the Marine Authority and the Marine Committee are to be delivered to the Commission.

**168. Transitional regulations**

(1) In this section —

*transitional matter* means a matter that needs to be dealt with for the purpose of effecting the transition from the former Act to the amended Act.

(2) If there is no sufficient provision in the *Conservation and Land Management Amendment Act 2015* for dealing with a transitional matter, the Governor may make regulations prescribing all matters that are



required, or are necessary or convenient, for dealing with that transitional matter.

- (3) Regulations made under subsection (2) may have effect before the day on which they are published in the *Gazette*.
- (4) To the extent that a regulation made under subsection (2) may have effect before the day of its publication in the *Gazette*, it does not —
  - (a) affect in a manner prejudicial to any person (other than the State, the CEO or the Commission), the rights of that person existing before the day of its publication; or
  - (b) impose liabilities on any person (other than the State, the CEO or the Commission) in respect of anything done or omitted to be done before the day of its publication.

**169. Saving**

The operation of any provision of this Part is not to be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of property, rights or liabilities or the disclosure of information; or
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any property, right or liability; or
- (d) as causing any contract or other instrument to be void or otherwise unenforceable; or

- (e) as releasing or allowing the release of any surety.

**170. Interpretation Act 1984 not affected**

Nothing in this Part is to be construed so as to limit the operation of the *Interpretation Act 1984*.

**67. Schedule heading replaced**

Delete the heading to the Schedule and insert:

**Schedule 1 — Provisions as to constitution and proceedings of the Commission**

**68. Schedule amended**

- (1) In the Schedule clause 4:
  - (a) delete subclause (1) and insert:
    - (1) The first meeting of the Commission must be convened by the chairman of the Commission.
    - (2A) Subsequent meetings of the Commission, unless convened under subclause (2), are to be held at times and places determined by the Commission.
  - (b) in subclause (3) delete “of that body”.
- (2) In the Schedule clause 5A:
  - (a) delete subclause (1a);
  - (b) in subclause (2) delete “or (1a)”;

(c) delete subclause (3) and insert:

- (3) Subject to the directions of the Commission, a committee may determine its own procedures.

**69. Various references to “Conservation Commission” amended**

In the provisions listed in the Table delete “Conservation Commission” (each occurrence) and insert:

Commission

**Table**

s. 6(3)(a)	s. 7(2), (2a), (3) and (4)
s. 8A(7) and (8)(d)	s. 8B(2)(f)
s. 18(2)	s. 19(1), (3), (4), (5), (6), (7)(b), (8) and (10)(a)
s. 20(1), (6) and (7)	s. 21(1), (2) and (5)
s. 24(1) and (2)	s. 25(1)(a), (2)(a) and (b), (3) and (4) def. of <i>information</i>
s. 26AA(1)	s. 26AB(1), (2), (3), (4), (5), (7) and (8)
s. 26AC(1)	s. 33(1)(cb)(iii)
s. 49(a)	s. 53 def. of <i>responsible body</i> par. (c)
s. 59A(2)	s. 62(1aaa)(f), (1ba) and (1bb)

**s. 70**

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s. 87A(1)(b)	s. 97A(2)
s. 99A(1) and (6)	s. 101(1e)(b)
Sch. cl. 5A(1)	

Notes:

1. The heading to amended section 7 is to read:

**Lands vested in Commission**

2. The heading to amended section 18 is to read:

**Commission established**

**70. Various references to “controlling body” amended**

In the provisions listed in the Table:

- (a) delete “a controlling body” and insert:

the Commission

- (b) delete “each controlling body” and insert:

the Commission

- (c) delete “the controlling body” and insert:

the Commission

- (d) delete “A controlling body” and insert:

The Commission

**Table**

s. 30	s. 31(1) and (2)
s. 54(1)(a)	s. 56A(2) and (7)(b)
s. 56(1)(e)	Sch. cl. 3(1)
Sch. cl. 4(2), (3), (4) and (5)	Sch. cl. 5(1) and (2)
Sch. cl. 6	Sch. cl. 7
Sch. cl. 8	

Note: The heading to the amended Schedule clause 8 is to read:

**Commission to determine own procedure**

**71. Various references to “associated body” amended**

In the provisions listed in the Table:

(a) delete “any associated body” and insert:

any joint responsible body

(b) delete “an associated body” and insert:

a joint responsible body

(c) delete “the associated body” and insert:

the joint responsible body

**s. 71**

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**Table**

s. 7(4)(c) and (d)	s. 19(1)(e), (f), (g) and (k)
s. 33(1)(cb)(iii)	s. 54(1)(a)
s. 56A(7)(b)	s. 99A(1) and (6)
s. 101(1e)(b)	

### Part 3 — Other Acts amended

**72. *Constitution Acts Amendment Act 1899* amended**

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 delete the item relating to the Conservation Commission of Western Australia and insert:

The Conservation and Parks Commission established under  
the *Conservation and Land Management Act 1984*.

**73. *Fish Resources Management Act 1994* amended**

- (1) This section amends the *Fish Resources Management Act 1994*.
- (2) Delete section 136A(1) and (2) and insert:

- (1) An authorisation must not be issued or renewed if it would authorise a person to engage in —
  - (a) commercial fishing in an area of a marine nature reserve; or
  - (b) commercial fishing in an area, or part of an area, of a marine park from which commercial fishing is excluded under the *Conservation and Land Management Act 1984* section 13B(6A)(a); or
  - (c) commercial fishing of a type or class specified in a declaration under the *Conservation and Land Management Act 1984* section 13B(3B)(c) in an area, or part of an area, of a marine park from which commercial fishing of that type or class is excluded under the *Conservation and Land Management Act 1984* section 13B(6A)(b).

**s. 73**

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- (2) An authorisation must not be issued or renewed if it would authorise a person to engage in —
- (a) recreational fishing in an area of a marine nature reserve; or
  - (b) recreational fishing in an area, or part of an area, of a marine park from which recreational fishing is excluded under the *Conservation and Land Management Act 1984* section 13B(7A)(a); or
  - (c) recreational fishing of a type or class specified in a declaration under the *Conservation and Land Management Act 1984* section 13B(3A)(b) or 13B(3B)(e) in an area, or part of an area, of a marine park from which recreational fishing of that type or class is excluded under the *Conservation and Land Management Act 1984* section 13B(7A)(b).
- (3) In section 136A(4):
- (a) after “an authorisation” insert:  
  
to engage in commercial fishing generally, or commercial fishing of a type or class,
  - (b) in paragraph (b) delete “commercial fishing” and insert:  
  
the commercial fishing
- (4) After section 136A(4) insert:
- (5) If an authorisation to engage in recreational fishing generally, or recreational fishing of a type or class,



relates to a particular area (the *authorised area*) and a part of the authorised area becomes —

- (a) an area of a marine nature reserve; or
- (b) an area of a marine park from which the recreational fishing is excluded under the *Conservation and Land Management Act 1984* section 13B,

nothing in this section prevents the authorisation from being renewed in respect of the remainder of the authorised area.

- (6) If —
  - (a) an authorisation relates to more than one type or class of commercial fishing or recreational fishing in a particular area, or part of a particular area, of a marine park; and
  - (b) a declaration is made under the *Conservation and Land Management Act 1984* section 13B(3A)(b) or (3B)(c) or (e) in relation to any of those types or classes of commercial fishing or recreational fishing in that area or part; and
  - (c) the area or part is not an area or part from which the remainder of the types or classes of commercial fishing or recreational fishing are excluded under the *Conservation and Land Management Act 1984* section 13B,

nothing in this section prevents the authorisation from being renewed in respect of the types or classes of commercial fishing or recreational fishing that are not so excluded in that area or part.

**s. 74**

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**74. *Fishing and Related Industries Compensation (Marine Reserves) Act 1997* amended**

- (1) This section amends the *Fishing and Related Industries Compensation (Marine Reserves) Act 1997*.
- (2) In section 4(d) delete “would be” and insert:

would, either wholly, or in the case of commercial fishing, by reference to a class or type of commercial fishing, be

- (3) After section 5(2)(a) insert:
  - (ba) the authorisation relates to commercial fishing of more than one type or class and will not be able to be renewed in respect of each of those types or classes;

**75. *Forest Products Act 2000* amended**

- (1) This section amends the *Forest Products Act 2000*.
- (2) In section 3 delete the definition of ***Conservation Commission***.
- (3) In section 3 insert in alphabetical order:

***Conservation and Parks Commission*** means the Conservation and Parks Commission established under the *Conservation and Land Management Act 1984*;

- (4) Delete section 6(3)(b) and insert:
  - (b) a member of the Conservation and Parks Commission or a member of the staff of the CALM Act Department provided under the CALM Act section 33(1)(ba);

**76. *Land Administration Act 1997* amended**

- (1) This section amends the *Land Administration Act 1997*.
- (2) Delete section 46(10)(b)(ii).

**77. *Mining Act 1978* amended**

- (1) This section amends the *Mining Act 1978*.
- (2) In section 40B(1)(b) delete “Conservation Commission.” and insert:

Conservation and Parks Commission established under the  
*Conservation and Land Management Act 1984*.

**78. *Swan and Canning Rivers Management Act 2006* amended**

- (1) This section amends the *Swan and Canning Rivers Management Act 2006*.
- (2) In Schedule 5:
  - (a) in item 3 delete “Conservation Commission” and insert:  
  
Conservation and Parks Commission
  - (b) delete item 4.

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