



Western Australia

Biodiversity Conservation Act 2016

**Biodiversity Conservation (Exemptions)
Order 2018**

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Contents

1.	Citation	1
2.	Commencement	1
3.	Existing authorities to modify occurrence of threatened ecological community	1
4.	Activities involving dingoes	2
5.	Activities involving flora cultivars	3
6.	Dealing in flora	3
	Notes	
	Compilation table	5
	Defined terms	

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

cl. 4

- (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) 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) A person who possesses a dingo is exempt from section 152(1) of the Act in relation to that possession.
- (4) A person who disturbs a dingo is exempt from section 153(1) of the Act in relation to that disturbance if the person disturbs the dingo in accordance with a biosecurity requirement.

[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 —
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;

cl. 6

- (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.



Notes

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

Compilation table

Citation	Gazettal	Commencement
<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))
<i>Biodiversity Conservation (Exemptions) Amendment Order 2019</i>	5 Nov 2019 p. 3878-9	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))

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
biosecurity requirement	4(1)
dingo	4(1)
existing authority	3(1)
flora.....	6(1)
flora cultivar.....	5(1)