

WESTERN AUSTRALIA

**CONSERVATION AND LAND
MANAGEMENT AMENDMENT
ACT 1993**

No. 49 of 1993

AN ACT to amend the *Conservation and Land Management Act 1984* and for related purposes.

[Assented to 20 December 1993.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Conservation and Land Management Amendment Act 1993*.

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Conservation and Land Management Act 1984** is referred to as the principal Act.

[* *Reprinted as at 16 January 1992.
For subsequent amendments see 1992 Index to
Legislation of Western Australia, Table 1, p. 42 and
Act No. 6 of 1993.*]

**PART 2 — AMENDMENTS AS TO TIMBER
SHAREFARMING AGREEMENTS**

Section 3 amended

4. Section 3 of the principal Act is amended in the definition of “forest produce” by inserting after “trees,” the following —

“ parts of trees, ”.

Section 34A amended

5. Section 34A (2) of the principal Act is amended by inserting after “in subsection (1)” the following —

“ unless the power is exercised under section 34B ”.

Section 34B amended

6. (1) In this section “**section 34B**” means section 34B of the principal Act.

(2) Section 34B (1) is amended by inserting after “into” the following —

“ , or enter into ”.

(3) Section 34B (2) (a) is deleted and the following paragraph is substituted —

“

(a) by which the right to establish, maintain and harvest, or the right to maintain and harvest, or the right to harvest, a crop of trees on land is acquired —

(i) by the Executive Director;

- (ii) by another person through the Executive Director acting as an agent; or
- (iii) by the Executive Director and by another person through the Executive Director acting as an agent;

”.

(4) Section 34B (2) (b) (ii) is amended by inserting after “and” the following —

“ , where appropriate, ”.

(5) After section 34B (2) the following subsections are inserted —

“

(2a) A timber sharefarming agreement may also contain other matters in addition to those referred to in subsection (2).

(2b) The references in subsection (2) (a) to the harvesting of a crop of trees include reference to the harvesting of forest produce from the crop, and the references in subsection (2) (b) to the crop include reference to forest produce from the crop.

”.

(6) Section 34B (4) is repealed and the following subsections are substituted —

“

(4) The right acquired as referred to in subsection (2) (a) is a profit à prendre and an interest in the land to which the right relates and, except as otherwise provided or permitted under this Act, has all the attributes of a profit à prendre including, but not limited to, assignability.

(4a) Subsection (4) has effect despite any rule of law or equity to the contrary and has effect even if the right acquired as referred to in subsection (2) (a) is accompanied by an obligation to exercise that right.

(4b) If the right acquired as referred to in subsection (2) (a) is assigned or otherwise disposed of —

- (a) the Executive Director or other person assigning or disposing of the right is no longer required to carry out obligations under the timber sharefarming agreement;
- (b) the timber sharefarming agreement continues to be a timber sharefarming agreement for the purposes of this section even if the person to whom the right passes is not the Executive Director and does not acquire the right through the Executive Director acting as an agent.

(4c) Without limiting subsection (4), a timber sharefarming agreement may be registered as a profit à prendre under the *Transfer of Land Act 1893*.

”.

(7) After section 34B (7) the following subsection is inserted —

“

(7a) The Executive Director may —

- (a) exercise rights under or in relation to a timber sharefarming agreement;
- (b) sell or otherwise dispose of forest produce obtained under a timber sharefarming agreement.

”.

PART 3 — AMENDMENTS AS TO USE OF FLORA

Section 33 amended

7. (1) Section 33 (1) of the principal Act is amended —

(a) by inserting after paragraph (c) the following paragraph —

“

(ca) to promote and encourage the use of flora for therapeutic, scientific or horticultural purposes for the good of people in this State or elsewhere, and to undertake any project or operation relating to the use of flora for such a purpose;

”;

(b) by deleting “and” after paragraph (e) (ii); and

(c) by deleting the comma after paragraph (e) (iii) and substituting the following —

“

; and

(iv) any other matter related to a function of the Department,

”.

(2) After section 33 (5) of the principal Act the following subsections are inserted —

“

(6) To promote and encourage the use of flora for therapeutic, scientific or horticultural purposes mentioned in subsection (1) (ca) the Minister and the Executive Director may enter into an agreement with

another person under which the Minister and the Executive Director agree to exercise the powers under the *Wildlife Conservation Act 1950* and this Act to grant, issue or refuse licences or permits to take or remove forest produce or other flora in a manner that has the effect of conferring on the other person an exclusive or preferential right to take or remove forest produce or other flora referred to in the agreement from land (other than private land) referred to in the agreement.

(7) The exercise of powers in accordance with an agreement under subsection (6) is valid and effective.

(8) In subsection (1) (ca) and subsection (6) “**use**” includes use or development on a commercial basis, and in subsection (6) “**private land**” has the same meaning as it has in the *Wildlife Conservation Act 1950*.

”.

Section 34A amended

8. Section 34A of the principal Act is amended —

(a) in subsection (1), by inserting after “plantations” the following —

“

or for or in connection with a project or operation undertaken for a purpose mentioned in section 33 (1) (ca)

”;

and

(b) in subsection (3), by inserting after “scheme” the following —

“ , project or operation ”.

Section 99A amended

9. Section 99A (1) (b) of the principal Act is amended by deleting “scientific purposes” and substituting the following —

“

use for therapeutic, scientific or horticultural purposes
(including use to which section 33 (1) (ca) applies)

”

PART 4 — VALIDATION

Validity of past acts

10. Anything done under the principal Act before the commencement of this Act is declared to be and to have always been as valid and effective as it would have been if, at the time when it was done, this Act had come into operation.