

FAUNA CONSERVATION.

No. 99 of 1969.

AN ACT to amend the *Fauna Conservation Act, 1950-1967.*

[Assented to 25th November, 1969.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Fauna Conservation Act Amendment Act, 1969.*

Reprinted
approved for
reprint 5th
July, 1968.

(2) In this Act the *Fauna Conservation Act, 1950-1967*, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the *Fauna Conservation Act, 1950-1969.*

2. This Act shall come into operation on a date to be fixed by proclamation. Commence-
ment.

3. Section 6 of the principal Act is amended— Amendment
to s. 6.
(Interpre-
tation.)

(a) by adding after the section number "6." the subsection designation "(1)";

(b) by adding after the word "introduced" in line five of the definition of "fauna" the following passage "and such species of domestic animal living in a wild state and such species of indigenous, invertebrate fauna as is, by virtue of subsection (2) of this section, fauna for the purposes of this Act"; and

(c) by adding the following subsections—

(2) The Minister may, by notice published in the *Government Gazette* declare—

(a) any species of domestic animal living in a wild state; or

(b) any species of indigenous invertebrate fauna,

specified in the notice which is in any part or parts of the State so specified, to be fauna for the purposes of this Act; and upon the publication of the notice in the *Government Gazette* the species so declared, shall be fauna for the purposes of this Act;

(3) The Minister may by notice published in the *Government Gazette*, declare that any such species of domestic animal or indigenous invertebrate fauna as is declared to be fauna for the purposes of this Act pursuant to subsection (2) of this section shall, on and after the day specified in the notice, cease to be fauna for those purposes; and on and after that day the species so declared shall cease to be fauna accordingly. .

Amendment
to s. 12.
(Research.)

4. Section 12 of the principal Act is amended—
- (a) by adding after the section number “12.” the subsection designation “(1)”; and
 - (b) by adding the following subsection—

(2) The Authority shall carry out or cause to be carried out such research relating to the conservation and protection of fauna as the Minister may direct. .

Amendment
to s. 12D.
(Power of
Authority
to prepare
management
scheme.)

5. Section 12D of the principal Act is amended—
- (a) by adding after the word “Act” in line five of subsection (1) the words “or any area of land of which the Authority is the owner”; and
 - (b) by repealing and re-enacting subsection (2) as follows—

(2) The objects of the scheme shall be the maintenance, study, care and restoration of the natural environment, the protection and care of fauna, the propagation thereof, the promotion of the study of fauna to which the scheme relates and such other objects relating to the conservation and protection of fauna as the Authority recommends and the Minister approves. .

Amendment
to s. 12E.
(Power of
Authority
to grant
permit to
enter
sanctuary.)

6. Subsection (2) of section 12E of the principal Act is amended by substituting for the word “firstly” in line two the word “secondly”.

Amendment
to s. 14.
(Protection
of fauna.)

7. Section 14 of the principal Act is amended—
- (a) by substituting for the words “Governor declares by Proclamation” in lines one and two of subsection (1) the words “Minister declares by notice published in the *Government Gazette*”;

- (b) by substituting for the word "Governor" in line one of paragraph (a) of subsection (2) the word "Minister";
- (c) by substituting for the word "Proclamation" in line eight of paragraph (a) of subsection (2) the words "notice published in the *Government Gazette*";
- (d) by substituting for the word "Governor" in line one of paragraph (b) of subsection (2) the word "Minister";
- (e) by substituting for the word "Proclamation" in line two of paragraph (b) of subsection (2) the words "notice published in the *Government Gazette*";
- (f) by substituting for the word "Proclamation" in line three of paragraph (b) of subsection (2) the word "notice"; and
- (g) by substituting for the word "Proclamation" in line one of paragraph (c) of subsection (2) the words "a notice".

8. Section 15 of the principal Act is amended by adding after subsection (1) the following subsections—

Amendment
to s. 15.
(Licenses.)

(1a) Without limiting the general power conferred on the Minister by subsection (1) of this section and notwithstanding the provisions of section fourteen of this Act, the Minister, on being satisfied that injury or damage to any land or to any stock or crops or to any chattel has arisen or is likely to arise through the presence on any land of possums, and whether or not the land is a sanctuary, may, by license in the prescribed form, authorise the occupier of the land, or any person in the employ of, or acting with the written authority of the occupier or the authority in whom the land is vested, to kill the possums, subject to such conditions and during such period as may be specified in the license.

(1b) Without limiting the general power of the Minister to impose any conditions in a license issued under subsection (1a) of this section, each such license shall be subject to a condition that the skin of each possum killed by authority of the license shall be, as soon as practicable after it is so killed, forwarded to the Chief Warden of Fauna—

- (a) who is authorised on behalf of the Authority to sell the skin; and
- (b) who shall pay the nett proceeds arising from the sale to the Fund. .

Amendment to s. 17. (Certain dealings in fauna prohibited unless by authority of a license.)

9. Paragraph (c) of subsection (2) of section 17 of the principal Act is amended by adding after the word "place" in line five the words "or any other place outside the State".

Amendment to s. 17C. (Establishment of Fauna Conservation Trust Fund.)

10. Subsection (3) of section 17C of the principal Act is amended—

- (a) by deleting the word "and" occurring between paragraphs (c) and (d); and
- (b) by adding after the word "Fund", being the last word in paragraph (d), the following passage—

“; and

(e) the nett proceeds of the sale of—

- (i) possum skins, paid into the Fund by the Chief Warden of Fauna pursuant to section fifteen of this Act; and
- (ii) any other skins or carcasses of fauna taken by or on behalf of the Authority from a sanctuary or any land of which the Authority is the owner, pursuant to a scheme approved by the Minister under section twelve D of this Act, which are sold by the Authority pursuant to the power conferred on it by subsection (3b) of section ten of this Act. .

11. Section 18 of the principal Act is amended—

Amendment
to s. 18.
(Royalty on
skins.)

- (a) by substituting for paragraph (a) of subsection (1) the following paragraphs—

(a) Subject to the provisions of paragraph (b) of this subsection, the skins of indigenous 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.

(aa) 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. ;

- (b) by adding after the word “skins” in line four of paragraph (b) the words “or carcasses” ;
- (c) by adding after the word “skin” in lines three and four of subsection (2) the words “or the carcass of the fauna or both” ;
- (d) by adding after the word “skins” in lines one and three of subsection (3) the words “or carcasses” ;
- (e) by adding after the word “skin” in line four of subsection (4) the words “or carcass” ;
- (f) by adding after the word “Skins” in line one of subsection (5) the words “or carcasses” ;
- (g) by adding after the word “skin” in lines two and four of subsection (6) the words “or carcass” ; and
- (h) by adding after the word “skin” where firstly and secondly occurring in line six of subsection (7) the words “or carcass” .

Amendment
to s. 19.
(Wardens.)

12. Paragraph (f) of section 19 of the principal Act is amended by substituting for the word "Committee" in line two the word "Authority" .

Amendment
to s. 20.
(Authority
of Wardens.)

13. Section 20 of the principal Act is amended—

(a) by adding after the word "law" being the last word in paragraph (a) of subsection (2) the passage "but if the warden is of opinion that it is impracticable to so deliver the fauna because of the number thereof, the lack of food or water for the fauna, the distance to be travelled to so deliver the fauna or any like cause, the warden may turn at large the fauna"; and

(b) by adding after subsection (2) subsections as follow—

(2a) Where a warden pursuant to paragraph (b) of subsection (2) of this section—

(a) has searched a vehicle; and has found therein and seized fauna which, on reasonable grounds, he believes to be involved in the commission of an offence against this Act or the regulations,

and there is then no sufficient means of transport available to the warden for the purpose of delivering the fauna into the custody of a member of the Police Force or person appointed by the Minister, as required by that paragraph, the warden may direct the person apparently in charge thereof to drive the vehicle, together with the fauna, to the nearest police station as the warden for the purpose directs.

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

Penalty: Two hundred dollars. .

14. Subsection (1) of section 24 of the principal Act is amended by substituting for the word, "Committee" in line two, the word, "Authority".

Amendment
to s. 24.
(Protection
of officers.)

15. Subsection (1) of section 25 of the principal Act is amended by adding after the word "Act", being the last word in paragraph (g), a passage as follows—

Amendment
to s. 25.
(Certain
offences.)

" ;

- (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".

16. Subsection (3) of section 27 of the principal Act is amended by adding after the word "aircraft" being the last word in the subsection the passage " , unless the court of petty sessions convicting the offender is satisfied that the vehicle or vessel has been abandoned".

Amendment
to s. 27.
(Forfeiture.)

17. Section 28 of the principal Act is amended—

Amendment
to s. 28.
(Regula-
tions.)

- (a) by adding after paragraph (ak) the following paragraphs—

(al) prohibiting or restricting the doing, without the prior approval of a warden, of any thing in a sanctuary that interferes with the natural environment of any fauna therein;

(am) prohibiting or restricting the introduction or use in a sanctuary of any dangerous, poisonous or noxious substance;

(an) prescribing all or any matters or things considered necessary or desirable by the Governor to give effect to the provisions of section eighteen

of this Act, 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 indigenous 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.
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