

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

Compare between:

[06 Nov 2019, 00-b0-00] and [16 Oct 2021, 00-c0-00]

## Biodiversity Conservation (Exemptions) Order 2018

#### 1. Citation

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

#### 2. Commencement

This order comes into operation as follows —

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

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

(1) In this clause —

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

- (a) issued, granted, conferred or given under a written law or a State agreement; and
- (b) in force immediately before the day on which section 48 of the Act comes into operation; and
- (c) in force on the day on which the activity mentioned in subclause (2) is carried out.
- (2) An activity that modifies an occurrence of a threatened ecological community is exempt from section 48(1) of the Act in circumstances where
  - (a) the activity is authorised by an existing authority; and

- (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.

[SectionClause 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;

- (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.

#### 7. Bush fire mitigation and suppression activities

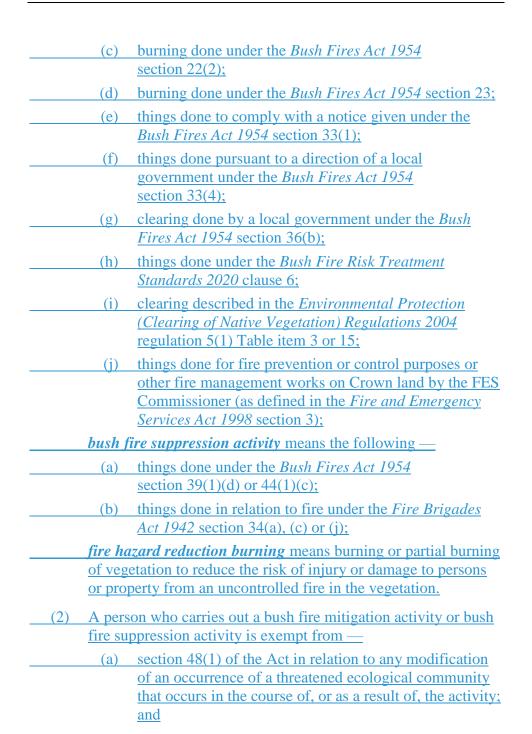
(1) In this clause —

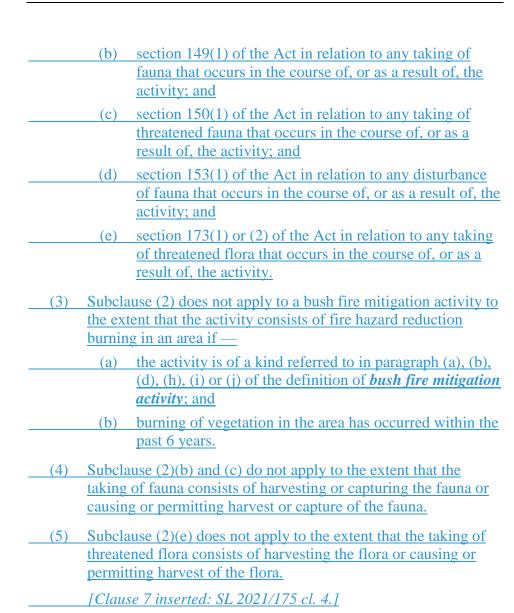
**burning**, of vegetation in an area, means —

- (a) fire hazard reduction burning in the area; or
- (b) burning or partial burning of vegetation in the area by an uncontrolled fire that reduces the risk of injury or damage to persons or property from a subsequent uncontrolled fire in the vegetation;

bush fire mitigation activity means the following —

- (a) burning permitted under the *Bush Fires Act 1954* section 17(5);
  - (b) burning done in accordance with a permit obtained under the *Bush Fires Act 1954* section 18;





### **Notes**

This is a compilation of the *Biodiversity Conservation (Exemptions)*Order 2018. The following and includes amendments made by other written laws. For provisions that have come into operation see the compilation table contains information about that order.

### **Compilation table**

Citation	Gazettal Publi shed	Commencement
Biodiversity Conservation (Exemptions) Order2018	21 Dec 2018 p. 4847-50	cl. 1 and 2: 21 Dec 2018 (see cl. 2(a)); Order other than cl. 1 and 2: 22 Dec 2018 (see cl. 2(b))
Biodiversity Conservation (Exemptions) Amendment Order-2019	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))
<u>Biodiversity Conservation</u> (Exemptions) Amendment Order 2021	SL 2021/175 15 Oct 2021	cl. 1 and 2: 15 Oct 2021 (see cl. 2(a)); Order other than cl. 1 and 2: 16 Oct 2021 (see cl. 2(b))