

Western Australia

## **Zoological Gardens Act 1972**

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As at 09 Dec 1994

Version 00-e0-02

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Western Australia

# Zoological Gardens Act 1972

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## Zoological Gardens Act 1972

**An Act to constitute a Board to manage and control the Zoological and Acclimatisation Gardens at South Perth, to repeal the *Zoological Gardens Act 1898-1955*, and for incidental and other purposes.**

*[Assented to 25 May 1972]*

Be it enacted —

**1. Short title**

This Act may be cited as the *Zoological Gardens Act 1972*.

**2. Commencement**

This Act shall come into operation on a date to be fixed by proclamation.<sup>1</sup>

**3. Repeals**

The Acts specified in the First Schedule to this Act are hereby repealed.

**4. Definitions**

In this Act, unless the contrary intention appears —

“**Board**” means the Zoological Gardens Board established under this Act;

“**Committee**” means the Acclimatisation Committee established under the Acts repealed by this Act;

**“gardens”** means the lands described in the Second Schedule to this Act, used as gardens for zoological and acclimatisation purposes and for public resort and recreation or used in relation thereto;

**“member”** means a member of the Board;

**“trustees”** means the trustees appointed under the Acts repealed by this Act and in office immediately preceding the coming into operation of this Act.

**5. Establishment of Zoological Gardens Board**

- (1) For the purposes of controlling and managing the gardens, there shall be a Board to be called the Zoological Gardens Board.
- (2) The Board —
  - (a) is a body corporate, with perpetual succession and shall have a common seal;
  - (b) may, in its corporate name, acquire, hold, lease and otherwise dispose of real and personal property and may sue and be sued in that name;
  - (c) may, with the prior approval of the Governor, borrow money for the purposes of this Act upon the security of the lands, buildings and other property, from time to time, vested in it;
  - (d) has, subject to the Minister, the general administration of this Act and for that purpose may do and permit to be done all things that are necessary and convenient to be done by it for the purpose of giving effect to this Act.
- (3) All courts, judges and persons acting judicially shall take notice of the common seal of the Board affixed to a document and shall presume that it was duly affixed.
- (4) Subject to the provisions of this Act relating to a quorum, the exercise or performance of the powers and functions of the Board shall not be affected by reason only of there being a vacancy in the office of a member of the Board.

*[Section 5 amended by No. 73 of 1994 s.4.]*

**6. Constitution of Zoological Gardens Board**

- (1) The Board shall consist of seven members appointed by the Governor of whom one shall at the time of his appointment as member, be designated by the Governor to be the President of the Board and another shall be so appointed Vice President of the Board.
- (2) A member may be appointed to hold office for any term not exceeding three years and is eligible for reappointment.
- (3) The Governor may, for any reason he considers sufficient, remove any member from his office as member.
- (4) Each member shall be paid such remuneration, travelling and other allowances, as the Governor from time to time determines with respect to him.

**7. Meetings of the Board**

- (1) The Board shall hold such meetings as are necessary for the performance of its functions.
- (2) The President of the Board shall preside at all meetings of the Board at which he is present.
- (3) Where the President of the Board is absent from a meeting of the Board, the Vice President of the Board shall preside at that meeting.
- (4) At a meeting of the Board —
  - (a) the majority of the members for the time being form a quorum;
  - (b) a question arising at the meeting shall be determined by a majority of the valid votes of the members present.
- (5) Subject to this Act, the Board may regulate its procedure in such manner as it thinks fit.

**8. Functions and powers of the Board**

- (1) The Board shall manage, maintain and control the gardens.
- (2) For the purposes of managing, maintaining and controlling the gardens the Board, subject to this Act, may do all things necessary to be done for or in connection with the performance of the functions imposed on it by this Act.

**9. Dissolution of Acclimatisation Committee and transfer of assets etc. to the Board**

- (1) On the date of the coming into operation of this Act —
  - (a) the Acclimatisation Committee is dissolved and ceases to exist and the appointment of the trustees cancelled;
  - (b) all real and personal property and every right, title and interest therein that immediately before that date was vested in that Committee or the trustees, shall by force of this section without any conveyance, transfer or assignment be transferred to and vested in the Board for the purposes of this Act, subject to any debts, trusts and liabilities affecting them;
  - (c) all rights accruing or accrued to the Committee or the trustees in respect of any property vested in the Board by virtue of this section —
    - (i) are vested in the Board; and
    - (ii) may be enforced against the Board;
  - (d) all contracts, agreements and undertakings made by the Committee or the trustees and all securities lawfully given to or by the Committee or the trustees and in force immediately before that date have effect as contracts, agreements and undertakings by and with the Board and securities given to or by the Board and may be enforced by and against the Board accordingly;



- (e) all debts due and money payable by the Committee or the trustees and all claims, liquidated or unliquidated, recoverable against the Committee or the trustees shall be debts due and moneys payable by, and claims recoverable against, the Board;
  - (f) all legal and other proceedings that might before that date have been continued or commenced by or against the Committee or the trustees may be continued or commenced by or against the Board under its corporate name;
  - (g) each person who immediately before that date was employed by the Committee shall upon that date become an employee of the Board and for the purposes of annual leave, sick leave or long service leave the period of service with the Committee shall be regarded as service with the Board.
- (2) The land described in the Second Schedule to this Act shall be vested in the Board and shall at all times be maintained and used as gardens for zoological and acclimatisation purposes and for public resort and recreation and purposes in relation thereto and that portion of such land as is comprised and described in Certificate of Title Volume 249 Folium 165 shall be declared to have been lawfully acquired by the Board on the 31st day of December, 1969.
- (3) All acts, matters and things purporting to have been done by the Committee in the name of the Zoological Gardens Board purported to have been constituted under the *Parks and Reserves Act 1895*, before the date of the coming into operation of this Act shall, if they could lawfully have been done by the Board after that date, be deemed to have been lawfully done by the Board.

## 10. Construction of law and documents

A reference in —

- (a) any Act, regulation, by-law or other law of the State; and

(b) any statutory instrument or other document,

in force immediately before the coming into operation of this Act, to the Committee or the trustees shall unless the context requires otherwise, be read and construed as a reference to the Board.

**11. Admission to public to gardens**

- (1) Subject to subsection (2) of this section, members of the public shall be admitted to the gardens each day between such hours and upon such payment for admission, and otherwise as may be prescribed.
- (2) The Board may prohibit members of the public from entering any part or parts of the gardens and by notice published in a newspaper circulating generally throughout Perth, temporarily close the gardens to such members whenever the Board thinks fit to do so.

**12. Application of borrowed money**

All moneys borrowed by the Board under section 5 of this Act and all nett profits however arising coming to the hands of the Board in the course of its managing, maintaining and controlling the gardens shall be applied in the improvement of the gardens for zoological, acclimatisation or recreation purposes, in the erection, maintenance and repair of buildings, in the planting of trees and shrubs and in the permanent improvement of the gardens.

**13. Application of *Financial Administration and Audit Act 1985***

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Board and its operations.

*[Section 13 inserted by No. 98 of 1985 Schedule 1.]*

**14. By-laws**

- (1) The Board may, with the approval of the Governor, make such by-laws as are necessary or expedient for prescribing for, providing for, regulating and prohibiting all matters concerning or connected with the gardens and the management, maintenance and control thereof and for the purpose of carrying the provisions of this Act into effect including, but without limiting the generality of the foregoing provisions of this section, by-laws with respect to —
- (a) the appointment and guidance of keepers and other employees employed in the gardens;
  - (b) prescribing the time at which the gardens or any part thereof shall be opened and closed;
  - (c) the conduct of persons frequenting the gardens;
  - (d) regulating and prohibiting traffic and the use of vehicles including standing and parking in the gardens or any part thereof;
  - (e) enabling police constables and officers of the Board to remove any person from the gardens who is guilty of a breach of any of the by-laws;
  - (f) regulating or prohibiting the selling or exposing for sale of goods, wares or merchandise in the gardens;
  - (g) prohibiting damage or injury to and destruction of animals, trees, shrubs, plants or flowers or any other property in the gardens; and
  - (h) prescribing and regulating the payment of fees to be charged members of the public for admission to the gardens and prescribing the method of the collection of such fees and imposing on any prescribed class of persons the duty of collecting the fees on behalf of the Board and generally prescribing all matters that may be necessary or expedient to be prescribed for the purpose of assuring that the fees are collected and paid to the Board.

**s. 14**

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- (1a) Notwithstanding anything in subsection (1) (a), to the extent that there is in the case of a person who is appointed under that subsection to be a keeper or other employee and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978* an inconsistency between this Act and that Act that Act shall prevail.
- (2) The by-laws may prescribe penalties not exceeding one hundred dollars for any breach of the by-laws.
- (3) The by-laws made by the Committee under the Acts repealed by this Act in force immediately before the date of the coming into operation of this Act shall, until by-laws are made under this Act, be deemed to be by-laws made by the Board and shall continue in force and apply accordingly with such modifications as circumstances require.

*[Section 14 amended by No. 113 of 1987 Schedule 2.]*

**First Schedule**

[S.3.]

*Zoological Gardens Act 1898. 62 Vict. No. 32.*

*Zoological Gardens Act Amendment Act 1916.*

*Zoological Gardens Act Amendment Act 1919.*

*Zoological Gardens Act Amendment Act 1955.*

**Second Schedule**

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**Second Schedule**

Class "A" Reserve No. 22503 comprising Perth Suburban Lots 108, 121, 122, 326-330 (inclusive) Area 17.3256 hectares.

Class "A" Reserve No. 8581 comprising Perth Suburban Lot 438  
Area 5 476 square metres.

Perth Suburban Lot 427 containing 1 012 square metres or thereabouts being the land comprised and described in Certificate of Title Volume 249 Folium 165.

*[Second Schedule inserted by No. 36 of 1978 s.2.]*

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**Notes**

- <sup>1.</sup> This is a compilation of the *Zoological Gardens Act 1972* and includes all amendments effected by the other Acts referred to in the following Table.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Zoological Gardens Act 1972</i>	12 of 1972	25 May 1972	10 Nov 1972 (see <i>Gazette</i> 10 Nov 1972 p.4319)
	36 of 1978	21 Aug 1978	21 Aug 1978
	98 of 1985	4 Dec 1985	1 Jul 1986 (see <i>Gazette</i> 30 Jun 1986 p.2255)
	113 of 1987	31 Dec 1987	16 Mar 1988 (see <i>Gazette</i> 16 Mar 1988 p.813)
<i>Statutes (Repeals and Minor Amendments) Act 1994, section 4</i>	73 of 1994	9 Dec 1994	9 Dec 1994