

NATIVE FLORA PROTECTION.

26^o Geo. V., No. XXXVII.

No. 37 of 1935.¹

[As amended by Act

No. 32 of 1938, assented to 31st January, 1939,

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to provide for the protection of the Native Flora of Western Australia.

[Assented to 7th January, 1936.]

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

1. This Act may be cited as the *Native Flora Protection Act, 1935–1938*, and shall come into operation on a date to be fixed by proclamation and not more than six months from the passing of this Act.

Short title.
Amended by
No. 32 of 1938,
s. 8.

2. The Native Flora Protection Act, 1912, is hereby repealed.

Repeal.

3. Nothing in this Act shall affect or be construed to derogate from the operation of the Forests Act, 1918–1931.²

Operation of
Forests Act,
1918–1931.²

¹ Came into operation on 3rd April, 1936, see G.G. 3/4/36.

² Now Forests Act 1918–1964.

Interpretation.

4. In this Act, subject to the context—

“ Crown lands ” means and includes all lands of the Crown vested in His Majesty, except land which is for the time being reserved for or dedicated to any public purpose, or granted or lawfully contracted to be granted in fee simple, or with the right of purchase under the Land Act, 1933, or any Act thereby repealed.

“ Minister ” means the Minister of the Crown for the time being and from time to time charged with the administration of the Forests Act, 1918-1931.¹

“ Native plant ” means any tree, shrub, fern, creeper, vine, palm or plant indigenous to Western Australia and not growing under cultivation.

“ Protected wild flower ” or “ Protected native plant ” means any wild flower or native plant which has been notified pursuant to this Act by the Governor to be a wild flower or native plant protected under this Act.

“ Pick, ” in relation to a protected wild flower or a protected native plant, means to gather, pluck, cut, pull up, destroy, take, dig up, remove, or injure the flower or plant or any part thereof.

“ Private land ” includes land leased from the Crown or which is in the course of alienation from the Crown under any Act.

“ Protected period ” means the period during which a wild flower or native plant is protected under this Act.

“ State forest ” means State forest within the meaning of the Forests Act, 1918-1931,¹ and also includes timber reserve within the meaning of such Act.

“ Wild flower ” means the flower of any native plant.

5. (1) The Governor may notify by proclamation published in the *Gazette* that any wild flower or native plant specified in the proclamation is protected under this Act in any part or parts of Western Australia

Wild flowers and native plants may be protected.
Amended by No. 32 of 1938, s. 2.

¹ Now Forests Act, 1918-1954.

specified in the proclamation or that on any specified Crown lands or in any State forest or specified portion thereof or on any specified land reserved for a public purpose under the Land Act, 1933, or any other Act or on any road, all wildflowers or native plants are protected under this Act.

(2) Such protection may be for a limited or unlimited period, as is specified in the proclamation.

(3) The Governor may revoke or amend any such proclamation at any time by a like proclamation published in the *Gazette*.

6. Any person who, on any road or in any locality, area, or part of the State specified in a proclamation under section five, wilfully picks, during the protected period mentioned in the proclamation, any protected wild flower or protected native plant to which the proclamation relates, commits an offence; provided that this section shall not apply where such wild flower or native plant is picked on any private land with the written consent of the owner, lessee or licensee thereof.

Penalty for picking protected flower or plant.
Amended by No. 32 of 1938, s. 3.

Provided further that notwithstanding anything contained in this Act this section shall apply where such wild flower or native plant is picked on any land comprised in a pastoral lease granted under the Land Act, 1933, or any Act thereby repealed or in a forest lease granted pursuant to section forty of the Forests Act, 1918-1931,¹ and such land shall be deemed not to be private land for the purpose of this section.

7. (1) Any person who sells or offers or exposes for sale any protected wild flower or protected native plant during the protected period shall be guilty of an offence.

Selling of protected flower, etc., forbidden.

(2) It shall be a sufficient defence in any prosecution under this section to prove that the wild flower or native plant was picked in a place not included in any proclamation aforesaid.

Defence.

¹ Now Forests Act, 1918-1964.

Plant not to be mutilated or destroyed. Schedule.
Amended by No. 32 of 1938, s. 4.

8. (1) Any person who—
- (a) on any Crown lands or State Forest ; or
 - (b) on any lands reserved for a public purpose under the Land Act, 1933, or any other Acts or belonging to or vested in any statutory body or on any road ; or
 - (c) on any private land of which he is not the owner, lessee or licensee and the owner, lessee or licensee of which has not given him permission in writing in that behalf

destroys or mutilates so as to eventually destroy any native plant mentioned in the Schedule, commits an offence.

Defence.

(2) In any prosecution under this section it shall be a sufficient defence to prove that the matter charged as an offence was the result of accident.

Alteration of Schedule.

9. The Governor may at any time by proclamation add the name of any native plant to the Schedule to this Act, or remove the name of any native plant therefrom, and such proclamation shall take effect as fully as though the additions or removals therein referred to had been expressed in this Act as originally enacted.

Flowers not to be sold showing evidence of destruction of plant bearing same.

10. Any person who sells or exposes for sale or has in his possession for the purpose of sale any wild flower which shows evidence that the native plant bearing the same has been destroyed or so mutilated in the process of obtaining such wild flower as to lead to its ultimate destruction commits an offence.

Licenses to pick for scientific purposes, etc

11. The Minister may, in the prescribed form, and subject to any limitations as to locality and to any other conditions he thinks proper, or as are prescribed, issue licenses authorising the holders thereof to pick such protected wild flowers or protected native plants, or to destroy or mutilate such of the native plants mentioned in the Schedule as are specified in such licenses, for scientific purposes, or for any other purpose which is approved by the Minister.

11a. The Minister may appoint honorary inspectors to assist in carrying out in the manner prescribed the provisions of this Act.

Honorary inspectors.
Added by No. 32 of 1938, s. 5.

12. It shall be lawful for any constable or other officer of the police force in Western Australia, or any honorary inspector appointed under this Act, or any inspector or other officer appointed under the Forests Act, 1918-1931,¹ to examine any wild flower or native plant in the possession of any person and for that purpose to stop and inspect any vehicle and to enter into or upon any place whatsoever or any vessel and to open and inspect any package or receptacle and if such flower or plant appears to have been obtained contrary to the provisions of this Act, to detain same, and demand the name and address of the person in possession of such flower or plant, and to take such action as is necessary to enforce the provisions of this Act.

Honorary inspectors.
Amended by No. 32 of 1938, s. 6.

(2) Where any person is found on any private land on which he is reasonably suspected of having committed an offence against this Act, the owner, lessee or licensee of such land may require such person to give his name and address and to deliver up any wild flower or native plant in his possession.

(3) Any person who when required to do so under the provisions of this section refuses to give his name and address, or gives a false name and address, or refuses to deliver up such wild flower or native plant or who delays or obstructs any police or forest officer or honorary inspector acting under this section shall be guilty of an offence.

13. The Commissioner of Railways may refuse to carry or allow to be conveyed on any Government railway any wild flower showing evidence of having been obtained in contravention of this Act, or any protected native plant or protected wild flower, and may detain all such flowers or plants, and on detaining the same shall cause them to be forwarded to the Minister, together with the name and address of the person conveying or seeking to have such flowers or plants so carried or conveyed.

Consignment of flowers, etc.

¹ Now Forests Act, 1918-1954.

Penalties.

14. Any person convicted of an offence against this Act shall be liable for a first offence to a penalty of not more than ten pounds and for a second offence to a penalty of not more than twenty pounds, and for a third or subsequent offence, to a penalty of not more than thirty pounds.

Persons who may take proceedings. Added by No. 32 of 1938, s. 7.

14a. (1) All proceedings in respect of any offence or alleged offence against this Act may be taken by and in the name of the Conservator of Forests or by and in the name of any person authorised in that behalf by the Conservator of Forests or by and in the name of any police officer or any honorary inspector appointed under this Act.

(2) The averment on the process that the person taking the proceedings holds the office or position by which he is therein described or that he has the authority of the Conservator of Forests to take the proceedings or that he is an honorary inspector under this Act shall be prima facie proof of that fact.

Regulations.

15. The Governor may make regulations for or with respect to prescribing all matters or things authorised or required to be prescribed or necessary or convenient to be prescribed for carrying this Act into effect.

THE SCHEDULE.

Black kangaroo paw (*Macropidia fuliginosa*).
 Red bugle (*Blancoa canescens*).
 Kangaroo paws (*Anigozanthos spp.*).
 All orchids (*Orchidaceae*).
 Christmas tree (*Nuytsia floribunda*).
 Pitcher plant (*Cephalotus follicularis*).
 Chapman River orange climber (*Marianthus ringens*).
 Rainbow plant (*Byblis gigantea*).
 Hovea (*Hovea spp.*).
 Sturt pea (*Chianthus speciosus*).
 Kennedya (*Kennedya spp.*).

- Boronia (*Boronia spp.*).
Crowea (*Crowea spp.*).
Native rose (*Diplolaena spp.*).
Hibiscus (*Hibiscus spp.*).
Hibiscus (*Cienfugosia spp.*).
Qualup bell (*Pimelea physodes*).
Waxplants (*Chamaelaucium spp.*).
Mountain Bells (*Darwinia spp.*).
Crimson featherflower or Morrison (*Verticordia grandis*).
Southern Cross (*Xanthosia rotundifolia*).
Flannel—or Blanket—plants or lambs' tails (*Lachnostachys spp.*).
Flannel—or Blanket—plants or lambs' tails (*Physopsis spp.*).
Flannel—or Blanket—plants or lambs' tails (*Newcastlia spp.*).
Flannel—or Blanket—plants or lambs' tails (*Hemiphora Elderi*).
Native foxglove or wild pentstemon (*Pityrodia spp.*).
Leschenaultia (*Leschenaultia spp.*).