

CO301*

Conservation and Land Management Act 1984

Conservation and Land Management Amendment Regulations 2012

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Conservation and Land Management Amendment Regulations 2012*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Conservation Legislation Amendment Act 2011* section 40 comes into operation.

3. Regulations amended

These regulations amend the *Conservation and Land Management Regulations 2002*.

4. Regulation 3 amended

- (1) In regulation 3 delete “Unless” and insert:

- (1) Unless

- (2) Delete regulation 3(b) and (c) and insert:

- (b) subject to section 130(2) of the Act, section 8A land; and

- (c) subject to subregulation (2), section 8C land; and

- (3) At the end of regulation 3 insert:

- (2) If the Governor, by order under section 8C(2)(b), has specified the CEO’s functions in relation to managing any section 8C land, a regulation does not apply to the land unless it prescribes a matter that is consistent with the functions that the CEO has in respect of the land.

5. Regulation 41 amended

In regulation 41:

- (a) in paragraph (b) delete “control area; or” and insert:

control area for a purpose referred to in section 62(2)(a)(i) or (ii) of the Act; or

- (b) after paragraph (b) insert:

- (ca) under section 62(1)(d) of the Act as a temporary control area for a purpose referred to in section 62(2)(a)(iii) of the Act; or

(c) in paragraph (c) delete “area; or” and insert:

area.

(d) delete paragraph (d).

6. Regulation 42 replaced

Delete regulation 42 and insert:

42. Access to limited access areas

A person must not, without lawful authority, enter otherwise than on foot or by vessel any land classified under section 62(1)(c) of the Act as a limited access area.

Penalty: a fine of \$2 000.

7. Part 10 heading inserted

After regulation 113 insert:

Part 10 — Exclusion of operation of section 103A(3)

8. Regulations 114, 115 and 116 replaced

Delete regulations 114, 115 and 116 and insert:

114. Terms used

In this Part —

recreational land means CALM land that is, or is within 500 m of, any of the following —

- (a) a car park, including any area where signs direct vehicles to be parked or that is predominantly used for parking vehicles;
- (b) a sealed road;
- (c) a camping area;
- (d) a visitor area;

townsite has the meaning given in the *Land Administration Act 1997* section 26(1);

urban land means land within the metropolitan region as defined in the *Planning and Development Act 2005* section 4(1), the Peel Region described in Schedule 4 to that Act or the local government district of Bunbury;

visitor area includes any of the following —

- (a) an area of cultivated lawn;
- (b) an area signposted as a picnic area;
- (c) an area signposted as an historical, natural or cultural point of interest;
- (d) an area where any of the following have been provided for visitors —
 - (i) tables and seating;
 - (ii) a lookout or platform;
 - (iii) a toilet facility;
 - (iv) a rubbish bin;
 - (v) interpretive information;
 - (vi) any building, facility or other erected or constructed thing,

but does not include a walk trail or unsealed road.

115. Exclusion of operation of section 103A(3) of the Act: animals

- (1) In this regulation —

poison risk area means an area shown on a poison risk map in which poison baits to control vertebrates may be present;

poison risk map means a map produced by the Department that —

- (a) shows poison risk areas; and
 - (b) is available for inspection by the public during normal office hours at each district office of the Department nearest to a poison risk area.
- (2) The operation of section 103A(3) of the Act is excluded in relation to bringing an animal on to CALM land contrary to regulation 15(a) if —
- (a) the animal is brought on to the land without the written permission of the CEO; and
 - (b) the land is in a poison risk area.
- (3) The operation of section 103A(3) of the Act is excluded in relation to bringing an animal on to CALM land contrary to regulation 15(a) if —
- (a) the animal is brought on to the land without the written permission of the CEO; and
 - (b) the animal is not kept in a vehicle while on the land; and
 - (c) the land is —
 - (i) recreational land or urban land; or

- (ii) in a townsite; or
- (iii) in Tunnel Creek National Park (Reserve No. 26890), Geikie Gorge National Park (Reserve No. 28401), or Marlgu Billabong and Telegraph Hill in Parry Lagoons Nature Reserve (Reserve No. 42155).

116. Exclusion of operation of section 103A(3) of the Act: vehicles

- (1) The operation of section 103A(3) of the Act is excluded in relation to driving or riding a vehicle contrary to regulation 51(1) if the vehicle is driven or ridden without the written permission of the CEO —
 - (a) on recreational land or urban land; or
 - (b) in a townsite; or
 - (c) in Boonanaring Nature Reserve (Reserve No. 41805), Drummond Nature Reserve (Reserve No. 42808) or Moore River Nature Reserve (Reserve No. 41830).
- (2) The operation of section 103A(3) of the Act is excluded in relation to driving or riding a vehicle contrary to regulation 51(3)(a) if the vehicle is so driven or ridden without the written permission of the CEO.

117. Exclusion of operation of section 103A(3) of the Act: vessel

The operation of section 103A(3) of the Act is excluded in relation to navigating a vessel contrary to regulation 61(a) or 64(1)(c) or (2)(c) if the vessel is so navigated without the written permission of the CEO.

118. Exclusion of operation of section 103A(3) of the Act: fire

- (1) The operation of section 103A(3) of the Act is excluded in relation to lighting or kindling a fire contrary to section 104(1) of the Act or regulation 39(2) if the fire is lit or kindled without the written permission of the CEO on or in any of the following —
 - (a) recreational land;
 - (b) a townsite;
 - (c) Moore River Nature Reserve (Reserve No. 41830);
 - (d) urban land.

- (2) In subregulation (1)(d) —
urban land does not include land in —
- (a) Avon Valley National Park (Reserve No. 30192);
 - (b) Dwellingup State Forest (State Forest 14);
 - (c) Lane Poole Reserve (Reserve No. 39827);
 - (d) Jarrahdale State Forest (State Forest 22);
 - (e) Moore River State Forest (State Forest 65);
 - (f) Walyunga National Park (Reserve No. 2065).
- (3) The operation of section 103A(3) of the Act is excluded in relation to lighting or kindling a fire contrary to section 104(1) of the Act or regulation 39(2) on land, defined in section 102(1) of the Act as “land to which this Part applies”, other than land referred to in subregulation (1), unless it is lit or kindled —
- (a) for the purpose of cooking food; or
 - (b) for the purpose of a camp fire; or
 - (c) for the purpose of a ceremonial activity, such as a smoking ceremony, during which activity the fire is confined to an area of less than 1 m²; or
 - (d) for an Aboriginal customary purpose, other than a purpose referred to in paragraph (a), (b) or (c), with the written permission of the CEO.
- (4) The operation of section 103A(3) of the Act is excluded in relation to lighting or kindling a fire contrary to regulation 39(1)(b) if the fire is lit or kindled without the written permission of the CEO.

119. Exclusion of operation of section 103A(3) of the Act: camping

- (1) The operation of section 103A(3) of the Act is excluded in relation to a person camping temporarily on CALM land contrary to regulation 66(1) if the person camps on the land —
- (a) without the written permission of the CEO; and
 - (b) for more than 28 consecutive days, unless it is necessary to camp on the land for a longer period (not exceeding 84 consecutive days) for ceremonial purposes.
- (2) The operation of section 103A(3) of the Act is excluded in relation to a person camping temporarily on CALM land contrary to regulation 66(1) if the person camps on the land without the written permission of the CEO and the land is —
- (a) recreational land; or

- (b) in one of the following —
 - (i) a townsite;
 - (ii) Boonanaring Nature Reserve (Reserve No. 41805);
 - (iii) Drummond Nature Reserve (Reserve No. 42808);
 - (iv) Moore River Nature Reserve (Reserve No. 41830);
 - (v) Tunnel Creek National Park;or
 - (c) urban land.
- (3) In subregulation (2)(c) —
- urban land** does not include land in —
- (a) Avon Valley National Park (Reserve No. 30192);
 - (b) Dwellingup State Forest (State Forest 14);
 - (c) Lane Poole Reserve (Reserve No. 39827);
 - (d) Jarrahdale State Forest (State Forest 22);
 - (e) Moore River State Forest (State Forest 65);
 - (f) Walyunga National Park (Reserve No. 2065).

120. Exclusion of operation of section 103A(3) of the Act: entering land

- (1) The operation of section 103A(3) of the Act is excluded in relation to entering land contrary to regulation 41(a), (b) and (c), 42 or 43 if the entry is made without the written permission of the CEO.
- (2) The operation of section 103A(3) of the Act is excluded in relation to entering land contrary to regulation 46(1) or 48 if the entry is made without the written permission of the CEO.

121. Exclusion of operation of section 103A(3) of the Act: protected thing

- (1) In this regulation —

fish has the meaning given in the *Fish Resources Management Act 1994* section 4(1);

relevant CALM land means CALM land that is, or is within 1 km of, any of the following —

 - (a) a car park, including any area where signs direct vehicles to be parked or that is predominantly used for parking vehicles;
 - (b) a sealed road;
 - (c) a camping area;
 - (d) a visitor area.

- (2) Subject to subregulation (3), the operation of section 103A(3) of the Act is excluded in relation to —
 - (a) taking fauna that is fish contrary to section 101C of the Act; and
 - (b) taking flora or fauna other than fish contrary to section 101C of the Act if the flora or fauna is taken in a marine nature reserve or any land or water in a marine park classified as a sanctuary area.
- (3) Subregulation (2)(a) does not apply in relation to fish taken in accordance with the *Fish Resources Management Act 1994*.
- (4) The operation of section 103A(3) of the Act is excluded in relation to removing firewood contrary to section 103(1) of the Act if the firewood is removed without the written permission of the CEO.
- (5) The operation of section 103A(3) of the Act is excluded in relation to taking fauna contrary to regulation 8(1) if the fauna is taken —
 - (a) without the written permission of the CEO; and
 - (b) on relevant CALM land, urban land or in a townsite.
- (6) The operation of section 103A(3) of the Act is excluded in relation to taking flora contrary to regulation 8(1) if the flora is taken —
 - (a) without the written permission of the CEO; and
 - (b) on recreational land, urban land or in a townsite.
- (7) The operation of section 103A(3) of the Act is excluded in relation to taking a non-indigenous animal contrary to regulation 18 if the animal is taken —
 - (a) without the written permission of the CEO; and
 - (b) on relevant CALM land, urban land or in a townsite.

122. Permission of CEO

- (1) When giving written permission for the purpose of regulations 115 to 121, the CEO is to specify in the permission —
 - (a) the person or persons or group, body or association of persons to whom the permission applies; and
 - (b) the conditions, if any, subject to which the permission is given.

- (2) The permission has effect —
 - (a) for the period of effect specified in the permission, unless sooner revoked by the CEO under regulation 123(2); or
 - (b) if no period of effect is specified in the permission, until it is revoked by the CEO under regulation 123(2).
- (3) The permission has no effect —
 - (a) in respect of any person to whom the permission applies who does not observe or perform a condition; and
 - (b) during any period in which the condition is not observed or performed by that person.

123. Variation and revocation of permission

- (1) If written permission for the purpose of regulations 115 to 121 (the *permission*) is given subject to conditions, those conditions may be added to, cancelled, suspended or otherwise varied by written notice given by the CEO to the person or persons or group, body or association of persons to whom the permission applies (the *permission holder*).
- (2) The CEO may at any time revoke the permission by written notice given to the permission holder.
- (3) If the CEO proposes to revoke the permission under subregulation (2), the CEO is to give the permission holder written notice of the proposal and the CEO's reasons for the proposal.
- (4) The notice is to state that the permission holder may make written representations to the CEO concerning the proposal within 21 days after the notice is given.
- (5) The CEO is not to give effect to the proposal without considering any representations received within that period.

9. Schedule 2 amended

At the end of Schedule 2 insert:

Division 3 — Offences under *Forest Management Regulations 1993*

Item No.	Column 1 Regulation creating offence	Column 2 Nature of offence	Column 3 Penalty \$
1.	108	Entry, use, movement of potential carrier without authorisation or contrary to condition	200

2. It is alleged that at hours on the day of 20....., on
(time) (date) (month) (year) (Name/No of Park/
Reserve/ForestBlock)

..... (..... District), you committed the offence(s) indicated hereunder:
(insert name of District)

Legislation (circle selection)	Section/ Regulation	Description of Offence	Penalty \$
CALM Act			
CALM Regs			
Forest Management Regs			

.....
Signature of Issuing officer

.....
Print Name of Issuing officer

Note. At the discretion of the Department of Environment and Conservation this infringement notice may be withdrawn and other action taken.

WHAT YOU MUST DO

- You may pay the full sum of the modified penalty for the offence specified on this notice within 21 days of the giving of this notice.
- Payment may be made by either posting your copy of this infringement notice along with a cheque, money order or postal note for the sum of the modified penalty shown above to the Chief Executive Officer, Department of Environment and Conservation, Locked Bag 104, Bentley Delivery Centre WA 6983, or presenting this notice at any office of the Department of Environment and Conservation and paying the modified penalty indicated on the notice. Part payment of the amount of the penalty will not be accepted.
- Alternatively, you may elect to have this matter dealt with before a Court of Summary Jurisdiction by completing the Court Election on the reverse side of the notice and forwarding it to —

The Chief Wildlife Officer
Nature Protection Branch
Department of Conservation and Environment
Locked Bag 104
Bentley Delivery Centre WA 6983

If this modified penalty is not paid within 21 days of the date of this notice, court proceedings may be taken against you.

Failure to pursue one of the above options within the time specified may incur additional administrative charges and action may be taken to suspend your Motor Drivers Licence until the modified penalty and any additional charges incurred have been paid in full.

[reverse of notice]

I elect to have this matter heard by a Court.

Please issue a summons to me.

(Please use block letters)

Surname/Family Name _____

Given Names _____

Address _____

_____ Postcode _____

Signature _____

Date ____ / ____ / ____

By Command of the Governor,

N. HAGLEY, Clerk of the Executive Council.