

CO302

Biodiversity Conservation Act 2016

**Biodiversity Conservation (Exemptions)  
Order 2018**

Made by the Minister under section 271(2) of the Act.

**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 —

**dingo** means an animal that belongs to the native species *Canis familiaris dingo*.

- (2) The activity of taking a dingo is exempt from section 149(1) of the Act.
- (3) The activity of possessing a dingo is exempt from section 152(1) of the Act.
- (4) The activity of disturbing a dingo is exempt from section 153(1) of the Act.
- (5) The activity of using a prohibited device or prohibited method in the taking or disturbance of a dingo is exempt from section 156(1) of the Act.
- (6) An occupier of land is exempt from section 156(2) and (3) of the Act in circumstances where the relevant taking or disturbance is the taking or disturbance of a dingo.

- (7) The activity of dealing in a dingo is exempt from section 157(1) of the Act.
- (8) The activity of processing a dingo is exempt from section 158(2) of the Act.
- (9) The activity of importing a dingo is exempt from section 159 of the Act.
- (10) The activity of exporting a dingo is exempt from section 160 of the Act.

**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.

S. DAWSON, Minister for Environment.

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