Western Australia

Biodiversity Conservation Act 2016

Biodiversity Conservation (Exemptions) Order 2018

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Biodiversity Conservation Act 2016

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.

[Section 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.



Notes

1 This is a compilation of the *Biodiversity Conservation (Exemptions) Order 2018*. The following table contains information about that order.

Compilation table

| **Citation** | **Gazettal** | **Commencement** |
| --- | --- | --- |
| *Biodiversity Conservation (Exemptions) Order 2018* | 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)) |

Defined terms

*[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]*

**Defined term Provision(s)**

biosecurity requirement 4(1)

dingo 4(1)

existing authority 3(1)

flora 6(1)

flora cultivar 5(1)