

WESTERN AUSTRALIA

CONSERVATION AND LAND MANAGEMENT AMENDMENT ACT

No. 20 of 1991

AN ACT to amend the *Conservation and Land Management Act 1984*, and to consequentially amend certain other Acts.

[Assented to 25 June 1991.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Conservation and Land Management Amendment Act 1991*.

Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

Principal Act

3. In this Act the *Conservation and Land Management Act 1984** is referred to as the principal Act.

[*Act No. 126 of 1984; amended by Acts Nos. 86 and 98 of 1985, 113 and 126 of 1987 and 21 and 76 of 1988.]

Section 3 amended and validation

4. (1) Section 3 of the principal Act is amended—

(a) by inserting after the definition of “Commission” the following definitions—

“ “conservation and land management officer” means an officer of the Department designated as a conservation and land management officer under section 45 (1) (d);

“conservation park” has the meaning assigned to it by sections 6 (4) and 16B (3); ”;

(b) by deleting the definition of “forest produce” and substituting the following definition—

“ “forest produce” includes trees, timber, sawdust, chips, firewood, charcoal, gum, kino, resin, sap, honey, seed, bees-wax, rocks, stone and soil but, subject to the foregoing, does not in Division 1 of Part VIII include minerals within the meaning of the Mining Act 1978; ”;

(c) in the definitions of “marine nature reserve” and “marine park” by deleting “6 (5) and 16 (7)” and substituting the following—

“ 6 (6) and 16B (3) ”;

(d) in the definition of “nature reserve” by deleting “6 (4) and 16 (7)” and substituting the following—

“ 6 (5) and 16B (3) ”;

and

(e) by inserting after the definition of “ranger” the following definition—

“ “royalty” includes stumpage; ”.

(2) Section 3 of the principal Act is amended, in the definitions of “national park”, “State forest” and “timber reserve”, by deleting “16 (7)” and substituting the following—

“ 16B (3) ”.

(3) Anything done or omitted under the principal Act before the commencement of subsection (1) (b) that would have been valid if, at the time when it was done or omitted, that subsection had come into operation is declared to be and always to have been valid.

Section 5 amended

5. Section 5 of the principal Act is amended by inserting after paragraph (c) the following paragraph—

“ (ca) conservation parks; ”.

Section 6 repealed and a section substituted

6. Section 6 of the principal Act is repealed and the following section is substituted—

Categories of land defined

- “ 6. (1) State forest comprises all lands that—
- (a) immediately before the commencement of this Act were dedicated as a State forest under section 20 of the *Forests Act 1918*;
 - (b) after such commencement—
 - (i) are reserved under section 8; or
 - (ii) are acquired and set apart under section 15,for the purpose of a State forest; or
 - (c) under any other Act become reserved for the purpose of a State forest.
- (2) Timber reserves comprise all lands that—
- (a) immediately before the commencement of this Act were timber reserves under section 25 of the *Forests Act 1918*;

- (b) after such commencement—
 - (i) are reserved under section 10; or
 - (ii) are acquired and set apart under section 15, for the purpose of a timber reserve; or
- (c) under any other Act become reserved for the purpose of a timber reserve.

(3) National parks, for the purposes of this Act, comprise all lands that—

- (a) by section 7 (3) are vested in the Authority;
- (b) after the commencement of this Act are reserved under Part III of the *Land Act 1933* for the purpose of a national park and vested in the Authority by section 7 (2); or
- (c) under any other Act become reserved for the purpose of a national park and vested in the Authority.

(4) Conservation parks, for the purposes of this Act, comprise all lands that are reserved under Part III of the *Land Act 1933*, or become reserved under any other Act, for the purpose of a conservation park.

(5) Nature reserves, for the purposes of this Act, comprise all lands that—

- (a) by section 7 (4), are vested in the Authority, either solely or jointly with some other person or persons;
- (b) after the commencement of this Act are reserved under Part III of the *Land Act 1933* for the conservation of flora or fauna, or both flora and fauna, and vested in the Authority by section 7 (2); or
- (c) under any other Act become reserved for the conservation of flora or fauna, or both flora and fauna, and vested in the Authority.

(6) Marine nature reserves and marine parks respectively comprise—

- (a) all waters that are reserved under section 13 as a marine nature reserve and a marine park;

- (b) all land reserved under Part III of the *Land Act 1933* for the purpose of a marine nature reserve and a marine park; and
- (c) all land and waters that under any other Act become reserved for the purpose of a marine nature reserve and a marine park. ”.

Section 7 amended

7. Section 7 of the principal Act is amended—

- (a) in subsection (2) by deleting “section 29” and substituting the following—

“ Part III ”;

- (b) by inserting after subsection (2) the following subsection—

“ (2a) A conservation park is by this subsection vested in the Authority. ”;

- (c) by repealing subsection (4) and substituting the following subsection—

“ (4) A nature reserve under section 6 (1) of the *Wildlife Conservation Act 1950* which immediately before the commencement of this Act—

- (a) was vested, within the meaning of the *Land Act 1933*, in the Western Australian Wildlife Authority constituted under the first-mentioned Act either solely or jointly with some other body or bodies; or

- (b) was not vested, within the meaning of the *Land Act 1933*, in any person,

is by this subsection vested in the Authority solely or jointly with that other body or those bodies, as the case may be, but in the case of a jointly vested nature reserve—

- (c) the functions of any associated body in relation to the nature reserve are limited to those conferred on an associated body by this Act; and

(d) if the interest in the reserve of an associated body is divested by order under the *Land Act 1933* without another body being substituted for it by that order, that interest, notwithstanding that Act, by this paragraph becomes vested in the Authority. ”;

and

(d) by repealing subsection (5) and substituting the following subsection—

“ (5) A marine nature reserve or marine park is by this subsection vested in the Authority. ”.

Section 9 amended

8. Section 9 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection—

“ (1a) The purpose, or combination of purposes, notified in respect of a State forest under section 60 (3) (a) or 60A cannot be amended except by virtue of an Act or in the manner provided for in subsection (2). ”;

(b) by repealing subsection (2) and substituting the following subsection—

“ (2) The Governor may cause to be laid before each House of Parliament a proposal that—

(a) land comprising the whole or part of a State forest shall cease to be State forest; or

(b) the purpose, or combination of purposes, notified in respect of a State forest under section 60 (3) (a) or 60A be amended,

and if a resolution is passed by each House that the proposal be carried out, the Governor shall, by order published in the *Gazette*, declare the land to be no longer a State forest, or declare the amendment to be in operation, as the case may require. ”; and

(c) in subsection (3), by deleting “any such order being made” and substituting the following—

“ the making of an order declaring that land is no longer a State forest, ”.

Section 11 amended

9. Section 11 of the principal Act is amended in paragraph (a) by deleting "section 29" and substituting the following—

“ Part III ”.

Section 12 repealed

10. Section 12 of the principal Act is repealed.

Section 13 amended

11. Section 13 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

- “ (2) The reservation of a marine nature reserve shall be for—
- (a) the conservation and restoration of the natural environment;
 - (b) the protection, care, and study of indigenous flora and fauna; and
 - (c) the preservation of any feature of archaeological, historic or scientific interest. ”.

Section 15 amended

12. Section 15 of the principal Act is amended in subsection (1) by inserting after “national park,” the following—

“ conservation park, ”.

Section 16 amended

13. Section 16 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting after “national park” the following—

“ , conservation park ”; and

(ii) by inserting after “marine park” the following—

“ , or for some other public purpose, ”; and

(b) by repealing subsections (5), (6) and (7).

Sections 16A and 16B inserted

14. After section 16 of the principal Act, the following sections are inserted—

Agreements for management of pastoral leases

“ 16A. (1) Section 16 (1) extends, notwithstanding the *Land Act 1933*, to an agreement with the lessee of a pastoral lease under that Act but any such agreement is of no effect unless the Minister to whom the administration of that Act is committed has given approval in writing to the agreement.

(2) Land that is the subject of an agreement referred to in subsection (1) remains available for use by the lessee for grazing purposes in terms of his lease, except to the extent that the agreement otherwise provides.

**Further provisions as to agreements
referred to in sections 16 and 16A**

16B. (1) An agreement referred to in section 16 or 16A shall not be made so as to bind the Executive Director to do anything in relation to any land that is inconsistent with or contrary to a management plan for that land or with the provision of section 56 relevant to land of the category to which that land belongs.

(2) Subsections (1), (2), (2a) and (5) of section 7 do not apply to land to which an agreement referred to in section 16 or 16A relates.

(3) Land that is agreed to be managed as, or as part of, one of the categories of land referred to in section 16 (1) is deemed to be within the definition of that category of land in section 6, except for the purposes of sections 9, 10 (1) (b) and 17 and paragraph (b) of the definition of “Crown land” in section 87 (1). ”.

Section 17 amended

15. Section 17 of the principal Act is amended in subsection (1) by deleting paragraph (b) and substituting the following paragraph—

“ (b) conservation parks; ”.

**Division 6 inserted in Part II
and transitional provision**

16. (1) After section 17 of the principal Act the following heading and section are inserted—

“

*Division 6—Maps***Maps to be deposited in Department**

17A. (1) A map of every—

- (a) timber reserve;
- (b) national park;
- (c) conservation park;
- (d) nature reserve;
- (e) marine nature reserve; and
- (f) marine park,

certified under the hand of an authorized land officer shall be deposited in the Department as defined in the *Land Act 1933*.

(2) A map of every State forest certified under the hand of an authorized land officer shall be deposited in the Department.

(3) A map deposited under subsection (1) or (2) shall be open to public inspection on payment of the prescribed fee.

(4) Any land or waters excised from or added to any of the areas referred to in subsection (1) or (2) shall be indicated on such map and certified under the hand of an authorized land officer.

(5) All maps and plans certified under the hand of an authorized land officer to be copies of the original maps or plans or of portions thereof deposited in the relevant Department, are admissible in evidence in any court or before any person having by law or the consent of parties authority to hear, receive, and examine evidence, and are evidence for the same purpose and to the same extent as the originals would be if they were produced.

(6) Judicial notice shall be taken of the signature of an authorized land officer to any map or plan or certified copy of a map or plan or of a portion thereof.

(7) Where it is impracticable at the time of the reservation of any land or waters referred to in subsection (1) or (2) to define by survey an area excluded therefrom—

- (a) the area may be approximately specified in maps deposited under subsection (1); and
- (b) plans of survey may be prepared, under the direction of an authorized land officer with the approval of the Executive Director, and deposited under subsection (1) or (2), as the case may require, after the reservation.

(8) In this section “authorized land officer” has the meaning assigned to it by the *Land Act 1933*. ”.

(2) Maps deposited in a Department referred to in section 17A of the principal Act inserted by subsection (1) at the commencement of that subsection are deemed to be deposited under section 17A of the principal Act.

Section 22 amended

17. Section 22 of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (a) by inserting after “national parks,” the following—

“ conservation parks, ”

and

(ii) in paragraph (b), by deleting “described in section 56 (1) (c), (d) and (e)” and substituting the following—

“ referred to in section 56 (1) (c), (d), (da) and (e) ”;

and

(b) in subsection (2), by inserting after “national parks,” the following—

“ conservation parks, ”.

Section 23 amended

18. Section 23 of the principal Act is amended in subsection (1) (b)—

(a) by deleting “10” and substituting the following—

“ 11 ”;

(b) in subparagraph (vi) by deleting “and” after the semicolon;

(c) in subparagraph (vii) by deleting the full stop at the end of the subparagraph and substituting the following—

“ ; and ”;

and

(d) by inserting after subparagraph (vii) the following subparagraph—

“ (viii) one shall be representative of Aboriginal interests. ”.

Section 25 amended

19. Section 25 of the principal Act is amended in paragraph (d) by deleting “for” and substituting the following—

“ so far as they relate to timber production from ”.

Section 26 amended and transitional provision

20. (1) Section 26 of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph—

“ (b) 12 persons appointed by the Governor on the nomination of the Minister of whom—

(i) 4 shall be representative of timber industries or industries that are significant users of timber or timber products and one of these shall be from a timber mill employing less than 10 people;

(ii) one shall be representative of primary producers, not coming within subparagraph (i), associated with forests;

(iii) one shall be representative of bodies of persons the objects of which, or the members of which by reason of their profession, are concerned in the management of forests;

- (iv) 3 shall be persons who represent an organization or organizations of employees registered under section 53 of the *Industrial Relations Act 1979* being an organization or organizations that are representative of timber industry employees;
- (v) one shall be a person having special experience in commercial forestry production;
- (vi) one shall be a member of the community, other than a primary producer, representing country interests; and
- (vii) one shall be a member of the Water Resources Council. ”.

(2) A person holding office under section 26 (b) of the principal Act immediately before the commencement of this section ceases to hold that office on such commencement, but is eligible for reappointment.

Section 33 amended

21. Section 33 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting after paragraph (d) the following paragraphs—

“ (da) to promote and facilitate public recreation, in accordance with this Act, on land to which this Act applies;

(db) to be responsible for the permanent preservation of the plant collections of the Western Australian Herbarium and to care for and extend those collections;

(dc) to promote the conservation of water, as to both quantity and quality, on land referred to in paragraph (a); ”;

(ii) in paragraph (e) by deleting subparagraphs (i) and (ii) and substituting the following subparagraphs—

“ (i) the management of land to which this Act applies;

(ii) the conservation and protection of flora and fauna; and

(iii) the taxonomy of flora and introduced plants, ”;

and

(iii) in paragraph (f) by inserting after “other person” the following—

“ , whether in the State or elsewhere ”;

(b) in subsection (3), by deleting paragraph (b) and substituting the following paragraph—

“ (b) where there is for the time being no such plan—

(i) in the case of nature reserves and marine nature reserves, in such a manner that only necessary operations, within the meaning in section 33A (1) are undertaken;

(ii) in the case of national parks, conservation parks and marine parks, in such a manner that only compatible operations, within the meaning in section 33A (2), are undertaken; or

(iii) in any other case, in accordance with the provisions of section 56 applicable to the land. ”.

and

(c) by deleting subsection (4).

Section 33A inserted

22. After section 33 of the principal Act the following section is inserted—

Definition of “necessary operations” etc.

“ 33A. (1) In section 33 (3) (b) “necessary operations” means those that are necessary for the preservation or protection of persons, property, land, flora or fauna, or for the preparation of a management plan.

(2) In section 33 (3) (b) “compatible operations” means—

- (a) necessary operations as defined in subsection (1); and
- (b) operations approved by the Minister as being in his opinion compatible with the purposes for which the park is managed under this Act.

(3) Before any proposed operation is approved by the Minister under subsection (2) (b)—

- (a) the proposal shall be publicly notified by the Executive Director in the manner specified in section 57 (2) (a), (b) and (c); and
- (b) an opportunity shall be given for written submissions on the proposal to be made in accordance with section 58, as if the proposal were a proposed management plan.

(4) Subject to this section, the Minister may, under subsection (2) (b), approve the proposal with or without modifications and may attach conditions to his approval.

(5) The Minister may at any time revoke, or amend the terms or conditions of, an approval under subsection (2) (b). ”.

Section 35 repealed and a section substituted

23. Section 35 of the principal Act is repealed and the following section is substituted—

Department may be remunerated

- “ 35. Any arrangement made by the Executive Director for the provision of advice, performance of work or supply of services or facilities by the Department may, with the approval of the Minister, provide for an agreed amount by way of payment to the Executive Director for the advice, work or services or the use of the facilities. ”.

Section 45 repealed and a section substituted, and saving provision

24. (1) Section 45 of the principal Act is repealed and the following section is substituted—

Enforcement officers

“ 45. (1) The Executive Director may, by instrument which is at any time revocable by him, designate any person employed in the Department to be—

- (a) a wildlife officer;
- (b) a forest officer;
- (c) a ranger;
- (d) a conservation and land management officer,

for the whole of the State.

(2) Persons employed by the Crown or an agency of the Crown in right of this State or of another State or of a Territory are eligible for designation as wildlife officers under subsection (1) (a) as if they were employed in the Department.

(3) Wildlife officers, forest officers, rangers and conservation and land management officers have the functions conferred on them respectively by or under this Act.

(4) In addition, wildlife officers, have the functions conferred on them by the *Wildlife Conservation Act 1950*.

(5) In this section and in sections 46, 48 (1) (b) and 49 the State includes the coastal waters of the State referred to in section 13 (8) (b). ”.

(2) Subsection (1) does not affect any designation subsisting at the commencement of that subsection so far as it could be made under the principal Act after such commencement.

Section 46 repealed and a section substituted, and saving provision

25. (1) Section 46 of the principal Act is repealed and the following section is substituted—

Honorary enforcement officers

“ 46. (1) The Executive Director may, by instrument which is at any time revocable by him, appoint any person to be—

- (a) an honorary wildlife officer;
- (b) an honorary forest officer;
- (c) an honorary ranger;
- (d) an honorary conservation and land management officer,

for the whole or a specified part of the State.

(2) A person may at any time hold more than one of the offices referred to in subsection (1).

(3) A person appointed under subsection (1) (a), (b), (c) or (d) has, in respect of the State, or the part of the State for which he is appointed, such of the functions conferred by or under this Act or the *Wildlife Conservation Act 1950* on the corresponding officer referred to in section 45 (1), as are specified in the instrument of his appointment. ”.

(2) Subsection (1) does not affect any appointment subsisting at the commencement of that subsection so far as it could be made under the principal Act after such commencement.

Section 48 amended

26. Section 48 of the principal Act is amended in subsection (1) in paragraph (b) by deleting “whether” and substituting the following—

“ in the case of a person appointed under section 46, whether ”.

Section 55 amended

27. Section 55 of the principal Act is amended by inserting after subsection (1) the following subsection—

“ (1a) A management plan for an indigenous State forest or timber reserve shall specify the purpose, or combination of purposes, for which it is reserved being one or more of the following purposes—

- (a) conservation;
- (b) recreation;
- (c) timber production on a sustained yield basis;
- (d) water catchment protection; or
- (e) other purpose being a purpose prescribed by the regulations. ”.

Section 56 amended

28. Section 56 of the principal Act is amended—

(a) in subsection (1)—

(i) by repealing paragraph (a) and substituting the following paragraph—

“ (a) in the case of indigenous State forests or timber reserves, to achieve the purpose, or combination of purposes, provided for in the proposed management plan under section 55 (1a); ”;

(ii) in paragraph (c) by inserting after “national parks” the following—

“ and conservation parks ”;

and

(iii) in paragraph (d) by inserting after “and fauna” the following—

“ , and to preserve any feature of archaeological, historic or scientific interest ”;

and

(b) by repealing subsection (2).

Section 57 amended

29. Section 57 of the principal Act is amended by repealing subsection (1) and substituting the following subsection—

“ (1) Public notification that a proposed management plan has been prepared shall be given in accordance with subsection (2). ”.

Section 60 amended

30. Section 60 of the principal Act is amended by repealing subsection (3) and substituting the following subsection—

“ (3) Notice that a management plan has been approved by the Minister shall be published in the *Gazette*, together with—

(a) in the case of a State forest, a notification of the purpose or combination of purposes specified in the plan for that State forest; and

(b) a note showing—

(i) whether any modifications were made by the Minister under subsection (2); and

(ii) where a copy of the plan may be inspected or obtained. ”.

Section 60A inserted

31. After section 60 of the principal Act, the following section is inserted—

Transitional provision

“ 60A. The Minister shall as soon as is practicable after the commencement of section 31 of the *Conservation and Land Management Amendment Act 1991* publish in the *Gazette* a notification of the purpose, or combination of purposes, specified in a management plan for a State forest approved under section 60 (2) before such commencement. ”.

Division 2 of Part V repealed and a Division substituted

32. Part V of the principal Act is amended by repealing Division 2 and substituting the following Division—

“

*Division 2—Classification of land***Land may be classified**

62. (1) Subject to this section, the Minister may, on the recommendation of a controlling body and, where applicable, any associated body, by notice published in the *Gazette*, classify the whole or any part of land or waters that is vested in that controlling body as—

- (a) a wilderness area;
- (b) a prohibited area;
- (c) a limited access area;
- (d) a temporary control area;
- (e) a recreation area for a purpose or purposes specified in the notice; or
- (f) such other class of area as the Minister, on the recommendation of the relevant controlling body, thinks necessary to give effect to the objects of this Act,

and may in like manner amend or cancel a notice previously so published.

(2) A classification of land or waters as a temporary control area under subsection (1) (d) shall only be made for the purposes of public safety or the protection of flora or fauna, or both flora and fauna, and a notice of classification—

- (a) shall not have effect for a period exceeding 90 days; but
- (b) may be made more than once for the same purpose and for the same area.

(3) A classification, or amendment of classification, of any land or waters shall not be made under this section—

- (a) unless it is in conformity with the provision of section 56 which is relevant to, or any management plan for, that land or those waters; and
- (b) in the case of land to which section 16 applies, unless the owner, and any person occupying the land with the consent of the owner, has given approval in writing to the classification or the amended classification.

(4) In this section “controlling body” means the Commission or the Authority. ”.

Section 68 amended

33. Section 68 of the principal Act is amended by repealing subsection (3) and substituting the following subsection—

- “ (3) The Executive Director may apply money in the Trust Account provided for by subsection (1) for the purpose of scientific research relating to flora and fauna. ”.

Section 69 amended

34. Section 69 of the principal Act is amended—

- (a) by inserting after the section designation “69.” the subsection designation “(1)”; and
- (b) by inserting the following subsection—

- “ (2) Without limiting subsection (1), there shall under that subsection be established in the Fund a trust account to which shall be credited the net proceeds received by the Executive Director in respect of forest produce taken or removed under section 99A, and from which moneys shall be applied only for the purposes of land to which Division 2 of Part VIII applies. ”.

Section 81 amended

35. Section 81 of the principal Act is amended in the definition of "vehicle" by deleting paragraph (a) and substituting the following paragraph—

- " (a) every conveyance and every object capable of being propelled or drawn on wheels or tracks by any means, but not including a train; "

Section 98 amended

36. Section 98 of the principal Act is amended in paragraph (a) by deleting subparagraph (ii) and substituting the following subparagraph—

- " (ii) any land classified under Division 2 of Part V as a wilderness area; and "

Section 99 amended

37. Section 99 of the principal Act is amended by repealing subsection (2).

Section 99A inserted

38. After section 99 of the principal Act the following section is inserted—

Restrictions on operations in national parks etc.

- " 99A. (1) The Executive Director may—
- (a) grant a licence to any person to take or remove exotic trees, honey, bees-wax or pollen;
 - (b) grant a licence under and in accordance with regulations made under section 130 for a person to take forest produce for scientific purposes; or
 - (c) where in the opinion of the Executive Director essential works are required to be carried out, grant a licence to any person to take or remove forest produce as part of those works,

from land to which this Division applies.

(2) In subsection (1) (c) "essential works" are works that in the opinion of the Executive Director are required—

(a) to establish or re-establish public access to land in accordance with a management plan relating to that land; or

(b) to provide a fire-break.

(3) The Executive Director may exercise the power in subsection (1) (c) in respect of any land only if and to the extent that he is of the opinion that the purposes referred to in section 56 applicable to the land will be better served by the taking or removal of forest produce from the land than by not taking or removing the same.

(4) Forest produce shall not be taken in connection with essential works carried out under subsection (1) (c) in circumstances where it is intended to sell the forest produce taken unless, not less than 14 days before the produce is taken, the Executive Director has given notice of the proposed taking—

(a) in 2 issues of a newspaper circulating in the area in which the land is situated; and

(b) by placing a sign at or near the land from which the forest produce is to be taken.

(5) Regulations made under section 130 may authorize the use of firewood, in accordance with those regulations, by persons who are in a national park or conservation park for the purpose of recreation.

(6) Subject to this section—

(a) the Executive Director shall not authorize any person;

and

(b) regulations shall not be made under section 130 so as to authorize any person,

to take or remove forest produce or other flora from land to which this Division applies. ”.

Section 100 repealed and a section substituted

39. Section 100 of the principal Act is repealed and the following section is substituted—

Leases of land

“ 100. (1) The Executive Director may grant a lease of any land to which this Division applies for a term not exceeding 21 years on such terms and conditions as he thinks fit.

(2) A lease granted under subsection (1) may include an option or options to renew that lease for a further term or terms not exceeding, in the aggregate, 21 years.

(3) A lease granted under this section shall be laid before each House of Parliament within 14 sitting days of its execution by all parties to the grant or renewal. ”.

Section 101A amended

40. Section 101A of the principal Act is amended by deleting the definition of “take” and substituting the following definition—

“ “take” includes—

(a) to injure, destroy or otherwise interfere with, or cause or permit the doing of any of those things;

(b) to hunt any fauna even though no fauna is actually taken;

and

(c) an attempt to take. ”.

Section 101B amended

41. Section 101B of the principal Act is amended—

(a) in subsection (1) by deleting “subsection (2)” and substituting the following—

“ subsections (2) and (2a) ”;

and

(b) by repealing subsection (2) and substituting the following subsections—

“ (2) A person may take fish in a marine park in accordance with the *Fisheries Act 1905*. ”.

(2a) A person may, notwithstanding any other Act, take any flora or fauna (including fish) in a marine nature reserve or marine park for scientific purposes in accordance with a licence granted by the Executive Director under regulations made under section 130. ”.

**In Part IX, Divisions 1 and 2 repealed and
Divisions 1, 2 and 2a substituted**

42. Part IX of the principal Act is amended by repealing Divisions 1 and 2 and substituting the following Divisions—

“ *Division 1—Preliminary*

Definitions

102. In this Part unless the contrary intention appears—

“authorized officer” means a wildlife officer, forest officer, ranger, conservation and land management officer and a person appointed to an honorary office under section 46;

and

“land to which this Part applies” means—

- (a) land to which this Act applies;
- (b) land placed under the management of the Department under section 33 (2); and
- (c) land to which section 131 applies.

Division 2—Offences

Unlawful taking of forest produce

103. (1) A person shall not, without lawful authority, fell, cut, injure, destroy, obtain, or remove any forest produce in, on, or from any land to which this section applies.

Penalty: \$10 000 and imprisonment for one year.

(2) Any person found within any land to which this section applies, or on any road in the vicinity thereof, and having in his possession any forest produce, who on being required to do so by an authorized officer refuses or fails to give an account to the satisfaction of such officer of the manner in which he became possessed of such forest produce, commits an offence, and is liable to a fine of \$200.

(3) Where a person is convicted of an offence against this section the forest produce in respect of which the offence was committed is the property of the Crown and may be disposed of as the Executive Director may direct.

(4) This section applies to—

- (a) land to which this Part applies; and
- (b) Crown land within the meaning in section 11.

Unlawfully lighting fires

104. (1) A person shall not without lawful authority—

- (a) light or kindle, or assist another person in lighting or kindling, any fire within the boundaries or within 20 metres of any boundary of land to which this Part applies; or
- (b) leave, without taking due precaution against its spreading or causing injury, a fire lighted or kindled as mentioned in paragraph (a),

if in either case any forest produce is burnt or injured, or is in danger of being burnt or injured.

Penalty: \$10 000 and imprisonment for one year.

(2) A reward not exceeding \$250 may be paid by the Executive Director to any person, not being a person employed in the Department, who shall give such information as may lead to a conviction under this section.

Setting fire to bush or grass without notice to forest officer

105. (1) A person shall not set fire in the open air to any tree, wood, bush or grass on any land that is contiguous to a State forest or timber reserve, without giving notice of his

intention to a forest officer, so as to allow a forest officer to be present at the firing.

Penalty: \$4 000 and imprisonment for 6 months.

(2) Subsection (1) does not apply to a fire for the purpose of camping or cooking that is allowed by section 25 (1) (a) of the *Bush Fires Act 1954*.

Unlawful occupation of land

106. A person shall not, except under a permit, licence, or lease under this Act, or a grant, lease, licence, or other authority from the Crown—

- (a) depasture any cattle on land to which this Part applies;
- (b) hunt, shoot, or destroy or set snares for the purpose of capturing any indigenous fauna on land to which this Part applies;
- (c) occupy, clear, or break up for cultivation, or any other purpose, land to which this Part applies.

Penalty: \$4 000 and imprisonment for 6 months.

Miscellaneous offences

107. A person shall not—

- (a) counterfeit or without due authority issue any licence, permit, or order for the cutting, removal, or sale of forest produce;
- (b) unlawfully alter, obliterate, deface, pull up, remove, or destroy any boundary mark, or any stamp, mark, sign, licence, permit or order used or issued by the Executive Director or any authorized officer;
- (c) unlawfully cut, break, throw down or in any way destroy or damage any building, fence, or gate, in or enclosing any land to which this Part applies;
- (d) unlawfully cut through or break down or otherwise destroy the bank, dam, or wall of any part of any natural or artificial reservoir or pond of water within or partly within and adjoining any land to which this Part applies;

- (e) exercise compulsion upon any authorized officer by violence or threats;
- (f) corrupt or attempt to corrupt by promises, offers, gifts or presents any authorized officer for the purpose of obtaining a favourable report, recommendation, certificate, valuation, or royalty assessment whether in respect of any place, employment, sale, auction, permit, licence, lease, authority, or any other benefit whatsoever, or for the purpose of obtaining abstention on the part of any authorized officer from any act which forms part of his duties;
- (g) being an authorized officer accept any bribe or receive any gift or present in connection with the performance of the functions of his office;
- (h) fail or refuse to comply with any lawful direction of an authorized officer;
- (i) without the written authority of an authorized officer remove from any land to which this Part applies any forest produce without previously paying the proper royalty or fee due thereon;
- (j) knowingly furnish an authorized officer with a false or incorrect statement of any forest produce felled, cut, split, sawn, or removed by him or by an agent or employee of his on which royalties, fees, or charges are payable to the Crown;
- (k) receive any forest produce knowing it to have been unlawfully obtained;
- (l) knowingly make, or cause to be made, in any book, return, declaration or statement required by the regulations to be kept or made, any entry or writing which is false in any material particular.

Penalty: \$10 000 and imprisonment for one year.

Unlawful use of marks, brands etc.

108. A person shall not—

- (a) counterfeit upon or unlawfully affix to any forest produce a mark used by forest officers to indicate that such produce is the property of the Crown, or

that it may be lawfully cut or removed, or that it has been inspected and passed as suitable for export;

- (b) without due authority make or cause to be made, or use or cause to be used, or have in his possession, a brand or stamp which resembles or purports to be a brand or stamp such as is usually used by forest officers.

Penalty: \$10 000 and imprisonment for one year.

*Division 2a—Removal of unauthorized buildings etc.,
and trespassing cattle*

Presence, removal or disposal of buildings, etc.

108A. (1) If any building, hut, tramline, fence, dam, weir, or standing crop is found within land to which this Part applies, and—

- (a) the owner thereof does not on demand produce any lease, licence, permit, or authority therefor; or
- (b) after reasonable inquiries the owner is not known or cannot be found,

then on the hearing of the complaint of an authorized officer any court of petty sessions may fix a time within which the building, hut, tramline, fence, dam, weir, or crop shall be removed.

(2) If such removal is not effected within the time so fixed, the building, hut, tramline, fence, dam, weir, or crop becomes the property of the Crown and may be disposed of as the Executive Director may direct.

(3) In any case where after reasonable inquiries an owner is not known or has not been found, it is sufficient service of the notice of removal if a copy is posted on some conspicuous part of the land on which the building, hut, tramline, fence, dam, weir, or crop is found.

Cattle may be impounded

108B. Land to which this Part applies shall be deemed "land" within the meaning of that word as applied in Part XX of the *Local Government Act 1960*, relating to trespass,

and for the purposes of those provisions the Executive Director shall be deemed to be the owner of such land, and authorized officers to be his agents.

Unbranded cattle

108C. (1) The Executive Director may deal with unbranded cattle appearing to be over the age of 12 months found depasturing within the pastoral region on any land to which this Part applies as if they were the absolute property of the Crown and the exercise of such rights of property by the Crown shall not be called into question.

(2) The Executive Director shall not deal with any cattle under subsection (1) without giving such opportunity as he considers reasonable in the circumstances to a relevant person to take possession of any cattle that person believes have strayed from adjoining lands onto land to which this Part applies.

(3) In subsection (1) "pastoral region" means land other than land in—

- (a) the South-West division of the State as described in section 28 of the *Land Act 1933*; and
- (b) the municipal districts of the Shires of Esperance and Ravensthorpe.

Section 112 amended

43. Section 112 of the principal Act is amended by deleting "described in section 6" and substituting the following—

" to which this Part applies or to which section 103 applies ".

Section 114A inserted

44. After section 114 of the principal Act, the following section is inserted—

Infringement notices

" 114A. (1) A forest officer, wildlife officer, ranger or conservation and land management officer who has reasonable grounds to believe that a person has committed a

prescribed offence against this Act or the regulations may give to that person an infringement notice in the prescribed form.

(2) The infringement notice shall inform the person that if he does not wish to have a complaint of the alleged offence heard and determined by a court he may, within a period of 21 days after the giving of the notice, pay to the Executive Director the amount of money specified in the notice as being the modified penalty for that offence.

(3) In an infringement notice for an alleged offence the amount of money specified as being the modified penalty for the offence shall be the amount that is, when the offence is committed, for the time being prescribed to apply to the offence if it is dealt with under this section.

(4) An infringement notice may be given to an alleged offender by handing it to him personally at or about the time the alleged offence is believed to have been committed or by posting it to him at his last known address within 14 days after the occurrence giving rise to the allegation of an offence.

(5) A person to whom an infringement notice is given may decline to be dealt with under this section and if the modified penalty is not paid within the period specified in the notice or within such further period as may, whether before or after the expiry of the specified period, be allowed by the Executive Director is deemed to have declined to be so dealt with.

(6) The Executive Director may, whether or not the modified penalty has been paid, withdraw an infringement notice at any time within a period of 28 days after it was given by posting to the alleged offender at his last known address a notice of withdrawal in the prescribed form.

(7) Any amount paid under an infringement notice that has been withdrawn shall be refunded.

(8) Where the modified penalty has been paid in accordance with an infringement notice within the period specified therein or within such further period as is allowed and the infringement notice has not been withdrawn under

subsection (6), punishment for the alleged offence by a court is barred in the same way as it would be if the person had been convicted by a court of, and punished for, that offence.

(9) Payment of a modified penalty pursuant to an infringement notice shall not be regarded as an admission for the purposes of any proceedings, whether civil or criminal, arising out of the occurrence by reason of which the infringement notice was issued. ”.

Section 115 amended

45. Section 115 of the principal Act is amended by deleting “a wildlife officer, forest officer or ranger” and substituting the following—

“ an authorized officer ”.

Section 119 amended

46. Section 119 of the principal Act is amended by deleting “other than a State forest, or timber reserve” and substituting the following—

“ , not being a State forest, timber reserve or premises to which section 119A applies ”.

Section 119A inserted

47. After section 119 of the principal Act, the following section is inserted—

Entry to sawmills

“ 119A. A forest officer authorized by the Executive Director may enter any sawmill registered under the *Timber Industry Regulation Act 1926* and make such inspection and enquiry as he thinks necessary to ascertain whether or not this Act and the regulations have been or are being complied with. ”.

Sections 121, 122 and 123 repealed

48. Sections 121, 122 and 123 of the principal Act are repealed.

**Section 124 and heading repealed and
a heading and section substituted**

49. Section 124 of the principal Act and the heading "*Rangers*" immediately preceding that section are repealed and the following heading and section are substituted—

“

*Rangers and conservation and land
management officers***Powers of rangers and conservation
and land management officers**

124. (1) A ranger or conservation and land management officer who finds a person committing a relevant offence on or in any land or waters or who on reasonable grounds suspects that such an offence has been committed or is about to be committed, may without warrant—

- (a) stop, detain and search any vehicle, vessel or conveyance;
- (b) remove any vehicle, vessel, animal or other thing from the land or waters;
- (c) require the person to give to him the person's name and address;
- (d) require the person to leave the land or waters,

and, in addition, a ranger may enter and search any hut, tent, caravan or other erection which is not a permanent residence.

(2) A ranger may detain the person until he can be delivered to a police officer if, when required to do so, he does not give to the ranger or officer his name and address, or gives to him a false name and address.

(3) Instead of so detaining the person the ranger may take him into custody himself, to be dealt with according to law, pursuant to section 50 of the *Police Act 1892*, as if he had not given his name and address, or had given a false name and address to a police officer.

(4) A person shall not remain on or in any land or waters after being required to leave the same by a ranger or conservation and land management officer under subsection (1) (d).

Penalty: \$1 000.

(5) A ranger or conservation and land management officer shall not exercise any power specified in paragraph (a) or (b) of subsection (1) and a ranger shall not exercise the power to enter and search conferred by that subsection unless he has first taken all reasonable steps to communicate to the person who owns or is in charge of the vehicle, animal, vessel, conveyance, hut, tent, caravan or other thing concerned (if the identity of that person can reasonably be ascertained) his intention to exercise the power and his reasons for believing that he is authorized to exercise the power.

(6) Nothing in this section derogates from the powers of a ranger who is a police officer.

(7) In this section “relevant offence” means—

- (a) in relation to a ranger, any offence against this Act or regulations made under section 130 relating to national parks;
- (b) in relation to a conservation and land management officer, any offence against this Act or any regulations made under this Act. ”.

Section 125 amended

50. Section 125 of the principal Act is amended by deleting “section 130 relating to nature reserves, marine nature reserves and marine parks” and substituting the following—

“ Part X ”.

Part IXA inserted

51. After section 125 of the principal Act the following Part is inserted—

“ PART IXA—NATURE CONSERVATION TRUST OF
WESTERN AUSTRALIA

Nature Conservation Trust established

125A. (1) There is established a body corporate to be called the Nature Conservation Trust of Western Australia (in this Part called “the Trust”).

(2) The Trust—

- (a) has perpetual succession and a common seal; and
- (b) is capable of suing and being sued and doing and suffering such acts and things as bodies corporate may lawfully do and suffer.

(3) The Trust is an agent of the Crown in right of the State.

Membership etc. of the Trust

125B. (1) The Trust shall have 6 members of whom—

- (a) 5 are to be appointed by the Minister; and
- (b) one is to be a member of the Authority from time to time nominated by the Authority.

(2) The Minister shall appoint a member of the Trust to be chairperson and another to be deputy chairperson of the Trust.

(3) A member of the Trust shall be paid from moneys appropriated by Parliament such remuneration and travelling and other allowances as are determined in his case by the Minister on the recommendation of the Public Service Commissioner.

(4) A member of the Trust is not personally liable for any act done or omitted to be done in good faith by the Trust or by him in the performance of any function under this Part.

(5) A member of the Trust holds office for such term not exceeding 3 years as is specified in the instrument of the member's appointment, but may from time to time be re-appointed.

(6) Except as provided in this section—

- (a) the constitution and proceedings of the Trust;
- (b) the terms and conditions of appointment of members of the Trust; and
- (c) the grounds on which a member may be removed from office,

are as prescribed by regulations and subject to this Part and any such regulations the Trust may regulate its own procedure.

Functions of the Trust

125C. (1) The functions of the Trust are—

- (a) to seek and encourage the making of donations and testamentary gifts to the Trust for the purposes described in paragraphs (b), (c) and (d);
- (b) to acquire land that it considers suitable for reservation under the *Land Act 1933* as or as part of—
 - (i) a national park;
 - (ii) a conservation park;
 - (iii) a reserve of Class A for the conservation of flora or fauna or both flora and fauna;or
 - (iv) a marine nature reserve or marine park;

- (c) to transfer land acquired to Her Majesty to enable it to be reserved under the *Land Act 1933* for a purpose referred to in paragraph (b) and vested in the Authority;
- (d) to preserve and protect by whatever lawful means appear expedient, and raise public awareness of, indigenous flora and fauna, particularly endangered species of indigenous flora and fauna; and
- (e) to control and manage the Trust Fund to achieve the objects of this section.

(2) The Trust may do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

Effect of transfer

125D. (1) Land that is transferred to Her Majesty as mentioned in section 125C (1) is by virtue of that transfer—

- (a) re-vested in Her Majesty as of her former estate;
- (b) removed from the operation of the *Transfer of Land Act 1893*;
- and
- (c) constituted Crown land within the meaning of that expression in the *Land Act 1933*,

but the land must be reserved under the *Land Act 1933* for the purpose for which it is so transferred.

(2) If the transfer of any land to Her Majesty results in the discharge of an estate or interest that is registered or recorded in the register book as an encumbrance on the land the person who was entitled to the benefit of that encumbrance immediately before the transfer may claim compensation for the value of that encumbrance.

(3) Any claim for compensation under subsection (2) shall be made and be dealt with under the *Public Works Act 1902* as if the estate or interest in the land in respect of which compensation is claimed had been resumed under that Act by notice published in the *Government Gazette* under section 17 (1) of that Act.

(4) A claim referred to in subsection (3) shall be made on the Minister to whom the administration of the *Public Works Act 1902* is for the time being committed, but any compensation shall be paid out of the Trust Fund.

Part of the land may be disposed of

125E. If in order to acquire land that is suitable for reservation as mentioned in subsection (1) of section 125C it is necessary for the Trust to acquire that land together with other land that is not suitable, the Trust, notwithstanding that subsection—

- (a) may subdivide the land;
- (b) may sell the land that is not suitable; and
- (c) shall pay the proceeds of sale to the Trust Fund.

Trust Fund

125F. (1) Moneys received by the Trust for the purposes of this Part shall be paid to the credit of an account at the Treasury to be called the Nature Conservation Trust Fund (in this Part referred to as the Trust Fund) and may only be applied for the purposes of, and in accordance with, this Part.

(2) All expenditure incurred by the Trust for the purpose of performing its functions shall be paid from the Trust Fund.

(3) Moneys standing to the credit of the Trust Fund are subject to the directions of the Trust and may be transferred to the Trust for the purposes of carrying this Part into effect or otherwise applied for the purposes of the Trust.

(4) Moneys standing to the credit of the Trust Fund may, until required by the Trust for the purposes of this Part, be temporarily invested as the Treasurer directs in any securities in which money standing to the credit of the Public Bank Account, as constituted under the *Financial Administration and Audit Act 1985*, may lawfully be invested and the Treasurer shall cause all interest derived from the investment to be paid to the credit of the Trust Fund.

Ministerial directions

125G. (1) The Minister may give directions in writing to the Trust with respect to the performance of its functions, either generally or in relation to a particular matter, and the Trust shall give effect to any such direction.

(2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Trust under section 66 of the *Financial Administration and Audit Act 1985*.

Minister to have access to information

125H. (1) For parliamentary purposes or for the proper conduct of the Minister's public business, the Minister is entitled to have information in the possession of the Trust and to have and retain copies of documents.

(2) For the purpose of subsection (1) the Minister may—

- (a) request the Trust to furnish information to the Minister;
- (b) request the Trust to give the Minister access to information;
- (c) for the purposes of paragraph (b) make use of staff assisting the Trust to obtain the information and furnish it to the Minister.

(3) The Trust shall comply with a request under subsection (2) and make available to the Minister, for the purposes of paragraph (c) of that subsection, the facilities of, and the staff assisting, the Trust.

(4) In this section—

“document” includes any data that is recorded or stored mechanically, photographically, or electronically and any tape, disc or other device or medium on which it is recorded or stored;

“information” means documents or other information relating to the functions of the Trust being information, as so defined, specified, or of a description specified, by the Minister;

“parliamentary purposes” means the purpose of—

- (a) answering a question asked in a House of Parliament; or
- (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament.

Staff and support

125I. The Executive Director shall provide the Trust with the services of such officers and with such facilities and support as the Trust may reasonably require to perform its functions.

Execution of documents by Trust

125J. (1) A document is duly executed by the Trust if—

- (a) the common seal of the Trust is affixed to it in accordance with subsections (2) and (3);

or

- (b) it is signed on behalf of the Trust by the member or members or officer or officers of the Trust authorized by the Trust to do so.

(2) The common seal of the Trust shall not be affixed to any document except by resolution of the Trust.

(3) The common seal of the Trust shall be affixed to a document in the presence of not less than 2 members.

(4) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.

(5) When a document is produced bearing a seal purporting to be the common seal of the Trust, it shall be presumed that seal is the common seal of the Trust until the contrary is shown.

(6) All courts and persons acting judicially shall take notice of the common seal of the Trust.

Applications of Financial Administration and Audit Act 1985

125K. Subject to this Part, 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 Trust and its operations.

Review

125L. (1) The Minister shall carry out a review of the operations and the effectiveness of the Trust as soon as is practicable after the expiry of 5 years from its establishment and in the course of that review the Minister shall consider and have regard to—

- (a) the desirability of the continuation of the functions of the Trust; and
- (b) such other matters as appear to the Minister to be relevant to the operations and effectiveness of the Trust.

(2) The Minister shall prepare a report based on the review carried out under subsection (1) and shall, as soon as practicable, cause that report to be laid before each House of Parliament. ”.

Section 126 amended

52. Section 126 of the principal Act is amended—

- (a) by inserting after the section designation “126.” the subsection designation “(1)”; and
- (b) by inserting the following subsection—

“ (2) Regulations made under this section or section 127, 128 or 130 may provide for a penalty not exceeding \$2 000 for offences against such regulations. ”.

Section 127 amended

53. Section 127 of the principal Act is amended by repealing paragraph (b).

Section 128 amended

54. Section 128 of the principal Act is amended in subsection (1)—

(a) in paragraph (d)—

(i) by deleting subparagraph (v); and

(ii) in subparagraph (vi) by deleting “a road within or abutting a State forest or timber reserve” and substituting the following—

“ any road ”; and

(b) by inserting after paragraph (g) the following paragraph—

“ (ga) the registration of, and information relating to, persons who are engaged—

(i) in the harvesting of timber in State forests or timber reserves (including the doing of any thing normally required to be done to timber before removal therefrom); or

(ii) in the transport of harvested timber,
or who are proposed to be so engaged, and the
creation of offences for the purpose of ensuring
that any such system of registration is
effective; ”.

Section 130 amended

55. Section 130 of the principal Act is amended in subsection (1) by inserting after “national parks,” the following—

“ conservation parks, ”.

Section 144 repealed

56. Section 144 of the principal Act is repealed.

Consequential amendments to other Acts

57. The Acts referred to in the first column of the Schedule are amended in the manner set out in the second column.

SCHEDULE

(Section 57)

Short title of Act	Amendment
1. <i>Constitution Acts Amendment Act 1899</i>	In Schedule V, in Part 3, the following item is inserted in the appropriate alphabetical position— “ The Nature Conservation Trust of Western Australia established under Part IXA of the <i>Conservation and Land Management Act 1984</i> . ”.
2. <i>Financial Administration and Audit Act 1985</i>	In Schedule 1, the following item is inserted in the appropriate alphabetical position— “ Nature Conservation Trust of Western Australia ”.
3. <i>Land Act 1933</i>	(1) In section 31A— (a) after the section designation “31A.” the subsection designation “(1)” is inserted; and

Short title of Act	Amendment
	<p>(b) the following subsection is inserted—</p> <p>“ (2) Land that is reserved under section 29 for the purpose of a conservation park shall, by force of this section, remain a conservation park until, by an Act in which the land is specified, it is otherwise enacted. ”.</p> <p>(2) In section 37B—</p> <p>(a) in subsection (1) in paragraph (a), after “(2),” the following is inserted—</p> <p>“ (2a), ”; and</p> <p>(b) in subsection (2) by inserting after “national park,” the following—</p> <p>“ conservation park, ”.</p>
4. <i>Mining Act 1978</i>	<p>In section 24 (1) (b) “6 (4)” is deleted and the following is substituted—</p> <p>“ 6 (5) ”.</p>
5. <i>Misuse of Drugs Act 1981</i>	<p>In section 3 (1), in the definition of “botanist”, the words “in the Department of Agriculture” are deleted.</p>
6. <i>Parliamentary Commissioner Act 1971</i>	<p>In the Schedule, after the item relating to the Coal Miners’ Welfare Board of Western Australia, the following item is inserted—</p> <p>“ Nature Conservation Trust of Western Australia established under Part IXA of the <i>Conservation and Land Management Act 1984</i>. ”.</p>
7. <i>Wildlife Conservation Act 1950</i>	<p>In section 6 (1), in the definition of “nature reserve”, by deleting “6 (4) and 16 (5)” and substituting the following—</p> <p>“ 6 (5) and 16B (3) ”.</p>