

CONSERVATION AND LAND MANAGEMENT ACT 1984.

(No. 126 of 1984.)

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SCHEDULE.

CONSERVATION AND LAND MANAGEMENT.

No. 126 of 1984.

AN ACT to make better provision for the use, protection and management of certain public lands and waters and the flora and fauna thereof, to establish authorities to be responsible therefor, and for incidental or connected purposes.

[Assented to 8 January 1985.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Conservation and Land Management Act 1984*. Short title.

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Interpreta-
tion.

3. In this Act, unless the contrary intention appears—

“appointed member” means a person who is a member of the Commission, the Authority or the Council, other than an *ex officio* member;

“associated body”, in relation to a nature reserve, means a body in which the nature reserve is, by section 7 (4), vested jointly with the Authority or jointly with the Authority and some other person;

“Authority” means the National Parks and Nature Conservation Authority established by section 21;

“Commission” means the Lands and Forest Commission established by section 18;

“Council” means the Forest Production Council established by section 24;

“Department” means the Department of Conservation and Land Management referred to in section 32;

“Director of Forests” means the person holding, or acting in, the office referred to in section 42 (b);

“Director of National Parks” means the person holding, or acting in, the office referred to in section 42 (c);

“Director of Nature Conservation” means the person holding, or acting in, the office referred to in section 42 (a);

“*ex officio* member” means a person who is a member of the Commission, the Authority or the Council pursuant to section 20 (1) (b), 23 (1) (a) or 26 (a);

“Executive Director” means the person holding, or acting in, the office established by section 36 (1);

“fauna” means fauna for the time being within the meaning of that term in the Wildlife Conservation Act 1950;

“firewood” includes parts of trees of all species made up into bundles, billets, or loads, or cut up in the manner it is usual to cut wood for burning, and residue wood generally;

“flora” means flora for the time being within the meaning of that term in the Wildlife Conservation Act 1950;

“forest lease” means a lease granted under section 97;

“forest officer” means an officer of the Department designated as a forest officer under section 45 (1) (b);

“forest produce” includes trees, timber, sawdust, chips, firewood, charcoal, gum, kino, resin, sap, honey, seed, bees-wax, rocks, stone and soil, in or on any Crown land as defined in section 87 but, subject to the foregoing, does not include—

(a) minerals within the meaning of the Mining Act 1978; or

(b) protected flora for the time being within the meaning of that term in the Wildlife Conservation Act 1950;

“Fund” means the Conservation and Land Management Fund referred to in section 65;

“land” includes—

- (a) tidal land;
- (b) tidal waters in any inlet, estuary, lagoon, river, stream or creek; and
- (c) the waters of any inlet, estuary, lake, lagoon or swamp or of any river, stream or creek whether flowing continuously or intermittently;

“local authority” means the council of a municipality constituted under the Local Government Act 1960;

“management plan” means a management plan approved under section 60;

“marine nature reserve” has the meaning assigned to it by sections 6 (5) and 16 (7);

“marine park” has the meaning assigned to it by sections 6 (5) and 16 (7);

“member” means a member of the Commission, the Authority or the Council;

“national park” has the meaning assigned to it by sections 6 (3) and 16 (7);

“nature reserve” has the meaning assigned to it by sections 6 (4) and 16 (7);

“ranger” means an officer of the Department designated as a ranger under section 45 (1) (c);

“State forest” has the meaning assigned to it by sections 6 (1) and 16 (7);

“timber” includes trees when they have fallen or have been felled, and whether sawn, hewn, split or otherwise fashioned;

“timber reserve” has the meaning assigned to it by sections 6 (2) and 16 (7);

“tree” includes shrubs, bushes, seedlings, saplings, and re-shoots of all kinds and of all ages;

“wildlife officer” means an officer of the Department designated as a wildlife officer under section 45 (1) (a);

“wildlife sanctuary” means an area of land which is the subject of an agreement made under section 16 for management by the Department as a nature reserve.

4. (1) Without limiting section 86, 96, or 128 (h), nothing in this Act shall derogate from the operation of the Mining Act 1978, the Petroleum Act 1967, the Petroleum (Submerged Lands) Act 1982, any other Act relating to minerals or petroleum, or any Government agreement within the meaning of the Government Agreements Act 1979.

Relationship
of this Act
to other
Acts.

(2) The reservation of land as a State forest or a timber reserve shall not, except as provided in this Act, affect any permit, lease, or licence from the Crown current and in force at the time of such reservation.

(3) Notwithstanding subsection (2), all pastoral leases of land situated within the boundaries of a State forest shall, at the expiration of 6 months from the reservation, and by force of this section, be surrendered to the Crown; but every lessee shall during such period of 6 months have the option to acquire a forest lease of the land demised by the surrendered lease for the remainder of the term thereof, at the rent thereby reserved.

(4) Nothing in this Act shall affect any right conferred by the Land Act 1933 on pastoral lessees to such timber as may be required for domestic purposes, for the construction of buildings, fences, stockyards, or other improvements on the land occupied under the lease.

PART II.—LAND TO WHICH THIS ACT APPLIES.

Division 1.—Categories of land.

Specification
of land
to which
this Act
applies.

5. Where in this Act reference is made to “land to which this Act applies”, the reference is to land, or land and waters, comprising—

- (a) State forest;
- (b) timber reserves;
- (c) national parks;
- (d) nature reserves;
- (e) marine parks;
- (f) marine nature reserves; and
- (g) any other land reserved under the Land Act 1933 and vested by order under that Act in the Commission or the Authority.

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;
- or

(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.

(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; or

(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.

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

(a) by section 7 (3) are vested in the Authority;
or

(b) after the commencement of this Act are reserved under section 29 of the Land Act 1933 for the purpose of a national park and vested in the Authority by section 7 (2).

(4) 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; or

(b) after the commencement of this Act are reserved under section 29 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).

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

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

(b) all land reserved under section 29 of the Land Act 1933 as a part of a marine park or marine nature reserve.

Vesting.

7. (1) A state forest or timber reserve is by this subsection vested in the Commission.

(2) Lands which after the commencement of this Act are reserved under section 29 of the Land Act 1933 for the purpose of a national park or for the conservation of flora or fauna, or both flora and fauna, are by this subsection vested in the Authority unless—

- (a) the reservation is made by order; and
- (b) by that order the national park or nature reserve is vested, within the meaning of that Act, in some other person or persons.

(3) Lands which immediately before the commencement of this Act were national parks under section 17 (1) (b) or 18 of the National Parks Authority Act 1976 are by this subsection vested in the Authority.

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

- (a) 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
- (b) 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.

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

(6) In this section, except where the contrary intention appears, "vested" has the meaning assigned to it by sections 19 (2) and (3), and 22 (2) and (3), as the case may require.

Division 2.—State forest and timber reserves.

8. (1) The Governor may, by order published in the *Gazette*, reserve for the purpose of a State forest any Crown land, including any area which is a timber reserve.

Reservation
of State
forests.

(2) The Minister shall cause a copy of any order made under subsection (1) to be laid before each House of Parliament within 6 sitting days of the House next following the publication of the order in the *Gazette*.

(3) If each House of Parliament passes a resolution, of which notice has been given within the first 14 sitting days of the House after a copy of an order has been laid before the House under this section, that the order be disallowed the order thereupon ceases to have effect.

(4) The disallowance of the order does not affect or invalidate any act done in good faith by the Minister, or any officer performing any functions under this Act relating to the land referred to in the order, before the passing of the resolution.

9. (1) Land shall cease to be State forest only by virtue of an Act or in the manner provided for in subsection (2).

Restriction
on abolition
of State
forest.

(2) The Governor may cause to be laid before each House of Parliament a proposal that land comprising the whole or part of a State forest shall cease to be State forest, 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.

(3) On any such order being made the land shall—

- (a) in the case of land acquired under section 15 and set apart as a State forest, become vested in the Executive Director and section 131 shall apply to it; and
- (b) in any other case, become Crown land within the meaning of the Land Act 1933.

Reservation
of timber
reserves.

10. (1) The Governor may, by order published in the *Gazette*,—

- (a) reserve any Crown land as a timber reserve; and
- (b) on the recommendation of the Minister, declare land comprising the whole or part of a timber reserve to be no longer a timber reserve.

(2) Where an order is made under subsection (1) (b), the land shall become Crown land within the meaning of the Land Act 1933.

Meaning of
"Crown land"
in sections
8 and 10.

11. In sections 8 and 10, "Crown land" means land vested in the Crown and not—

- (a) reserved under section 29 of the Land Act 1933; or
- (b) contracted to be granted in fee simple,

and includes—

- (c) land of which pastoral leases are held under the Land Act 1933, subject to the grazing rights of lessees; and
- (d) land held as mining tenements under the Mining Act 1978, subject to the mining rights of the holders.

12. (1) A map of every—

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

certified under the hand of the Surveyor General, shall be deposited in the Department, and shall be open to public inspection on payment of the prescribed fee.

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

(3) All maps and plans certified under the hand of the Surveyor General to be copies of the original maps or plans or of portions thereof deposited in the Department, shall be 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 shall be evidence for the same purpose and to the same extent as the originals thereof if they had been produced.

(4) Judicial notice shall be taken of the signature of the Surveyor General to any map or plan or certified copy of a map or plan or of a portion thereof.

(5) Where it is impracticable at the time of the reservation of any land referred to in subsection (1) 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 the Surveyor General with the approval of the Executive Director, and deposited under subsection (1) after the reservation.

Reservation
of marine
nature
reserves and
marine
parks.

Division 3.—Marine reserves.

13. (1) Subject to section 14, the Governor may, by order published in the *Gazette*, reserve any part of Western Australian waters as a marine nature reserve or a marine park.

(2) The reservation of a marine nature reserve shall be for the conservation of—

- (a) aquatic or terrestrial flora and fauna generally and their habitats;
- (b) marine and freshwater flora and fauna generally; or
- (c) any specified marine or freshwater—
 - (i) animal; or
 - (ii) plant life,or class thereof, or a combination of any of those purposes.

(3) The reservation of a marine park shall be for one or more of the purposes described in subsection (2) as well as for the purpose of public recreation.

(4) The Governor may by the order under subsection (1) which constitutes a marine nature reserve or a marine park, or by a subsequent order published in the *Gazette*, classify the reserve or park as of Class A and, in that case, the purpose of the reserve or park shall not be amended or cancelled, nor shall the boundary thereof be altered otherwise than by an addition thereto, except by Act or pursuant to subsection (6).

(5) The Minister shall cause a copy of any order made under subsection (1) to be laid before each House of Parliament within 6 sitting days of the House next following publication of the order in the *Gazette*.

(6) If either House of Parliament passes a resolution, of which notice has been given within the first 14 sitting days of the House after a copy of an order has been laid before the House under subsection (5), that the order be disallowed the order thereupon ceases to have effect.

(7) The disallowance of the order does not affect or invalidate any act done in good faith by the Minister, or any officer performing any functions under this Act relating to the waters referred to in the order, before the passing of the resolution.

(8) In subsection (1) "Western Australian waters" means all waters—

- (a) that are within the limits of the State; or
- (b) that are "coastal waters of the State" as defined in the Off-shore (Application of Laws) Act 1982,

and includes the sea-bed and subsoil beneath and the airspace above such waters.

(9) In the event of any conflict or inconsistency between any other Act and any provision of this Act relating to marine nature reserves and marine parks, that other Act shall prevail.

14. (1) Public notification of a proposal to make an order under section 13 (1) shall be given in accordance with subsection (2), unless the Minister otherwise directs.

Opportunity
for public
submissions.

(2) The proposal shall be publicly notified by the publication—

- (a) in the *Gazette*;
- (b) in 2 issues of a daily newspaper circulating throughout the State,
- (c) in 2 issues of a local newspaper circulating in the area within or contiguous to which the proposed reserve or park is situated; and
- (d) on such signs as the Minister may direct to be placed on or near the boundaries of the proposed reserve or park,

of a notice—

- (e) specifying the boundaries of the waters of the proposed reserve or park and the purpose for which it is proposed to be constituted;

- (f) specifying the places at which—
 - (i) a copy of a map thereof may be inspected; and
 - (ii) copies of the map may be obtained; and
- (g) stating the effect of subsection (4) and specifying the period and the address or addresses referred to in that subsection.

(3) (a) Notification of a proposal to make an order under section 13 (1) shall be given to each local authority whose district is contiguous to the proposed reserve or park.

(b) Notwithstanding subsection (4) each local authority notified pursuant to paragraph (a) shall be given a reasonable time in which to prepare written submissions on the proposal.

(4) Written submissions on the proposal may be made by any person—

- (a) within a period determined by the Minister, which period shall be not less than 2 months after the day on which the notice is published in the *Gazette*; and
- (b) by delivering or posting them, so that they are received within that period at an address designated by the Minister.

(5) Subject to this section, the Minister may submit the proposal, modified as he thinks fit to give effect to submissions made under this section, to the Governor for the making of an order under section 13.

Division 4.—Other procedures.

Power to
purchase or
compulsorily
take land.

15. (1) Where the Governor considers that any land is required for the purpose of, or incidental to, a State forest, timber reserve, national park, nature reserve, marine nature reserve or marine park, he may—

- (a) take the land compulsorily under and subject to the Public Works Act 1902;

- (b) purchase the land or acquire it by way of exchange for Crown land.

(2) Where land is acquired under this section for the purpose of a State forest or timber reserve, the Governor shall, by order published in the *Gazette*, declare the land to be set apart as a State forest or timber reserve, as the case may be.

(3) Subject to subsection (2), nothing in this section shall limit the operation of section 243 of the Transfer of Land Act 1893.

16. (1) The Executive Director may enter into agreements with the owner, lessee or licensee of any land for the management of the land by the Department as a State forest, timber reserve, national park or nature reserve or as part of a marine nature reserve or marine park under this Act.

Agreements
for manage-
ment of
private land.

(2) The Executive Director shall not enter into any agreement under this section with the lessee or licensee of any land unless the owner, and any person occupying the land with the consent of the owner, has given approval in writing to the agreement.

(3) The Executive Director shall not enter into any agreement under this section until notice of the proposed agreement is given to each local authority within whose district the land is situated, and each local authority so notified is given a reasonable time to prepare written submissions on the proposal.

(4) Written submissions prepared by a local authority on the proposal shall be delivered or posted to an address designated by the Executive Director.

(5) An agreement shall not be made under this section so as to bind the Executive Director to do anything in relation to any land which 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.

(6) Subsections (1), (2) and (5) of section 7 do not apply to land to which an agreement under this section relates.

(7) Where land is agreed under subsection (1) to be managed as, or as part of, one of the categories of land referred to in that subsection, such land shall, except for the purposes of sections 9, 10 (1) (b), 17 and 87 (1) (b), be deemed to be within the definition of that category of land in section 6.

Division 5.—Cancellation etc. of purpose.

Cancellation
and
amendment
of purpose.

17. (1) Nothing in this section applies to—
- (a) State forest;
 - (b) timber reserves;
 - (c) national parks referred to in section 6 (3) (b); or
 - (d) land classified under the Land Act 1933 or section 13 (4) as of Class A,

but otherwise this section applies to all land to which this Act applies.

- (2) Where it is proposed to—
- (a) cancel or amend the purpose of any land to which this section applies; or
 - (b) alter any boundary of any such land otherwise than by an addition thereto,

the Minister shall refer the proposal to the body in which the land is vested and any associated body.

(3) The Commission or Authority, as the case may be, and any associated body shall consider any proposal so referred to it and shall notify the Minister whether it—

- (a) approves the proposal;
- (b) declines to approve it;
- (c) approves it in a modified form; or
- (d) approves it subject to any condition.

(4) The Minister is not bound by the decision of the Commission or Authority or any associated body under subsection (3), but the Commission or Authority shall record in its annual report under section 31 any case where its decision is not acted on by the Minister in any respect and set out the reasons for its decision.

(5) Except in the case of the waters of a marine park or marine nature reserve, the Minister, with the concurrence of the Minister to whom the administration of the Land Act 1933 is committed, may, subject to this section, recommend to the Governor that an order be made to give effect to the proposal, and thereupon the proposed cancellation, amendment or alteration shall be carried into effect under section 37 of the Land Act 1933 and in conformity with section 31 (2) of that Act.

(6) In the case of the waters of a marine park or marine nature reserve, the Minister may, subject to this section, recommend to the Governor that an order be made to give effect to the proposal, and thereupon the Governor shall by order published in the *Gazette* give effect to the proposed cancellation, amendment or alteration.

(7) Where the purpose for which land is reserved or held is cancelled, the land shall become Crown land within the meaning of the Land Act 1933 and section 7 shall cease to apply to it.

(8) In this section except subsection (7), "land" includes the waters comprised in a marine park or a marine nature reserve.

PART III.—CONTROLLING BODIES ESTABLISHED.

Division 1.—Lands and Forest Commission.

18. There is established by this section a Commission by the name of the Lands and Forest Commission.

Lands and
Forest
Commis-
sion estab-
lished.

Functions of
Commission.

19. (1) The functions of the Commission are—

- (a) to have vested in it State forest and timber reserves and relevant land referred to in section 5 (g);
- (b) to develop policies to achieve or promote the objectives described in section 56 (1) (a), (b) and (e);
- (c) to consider, in accordance with section 17, any cancellation, change of purpose or boundary alteration in respect of land vested in it;
- (d) to submit proposed management plans to the Minister as provided in Part V in respect of land vested in it;
- (e) to monitor the carrying out of management plans by the Department in respect of land vested in the Commission;
- (f) to inquire into and to advise the Minister on any matter on which the advice of the Commission is sought by the Minister;
- (g) to provide advice, upon request, on matters relating to land vested in it to any body or person, if the provision of advice is in the public interest and it is practicable for the Commission to provide it;
- (h) with the approval of the Minister, to cause study or research to be undertaken for the purposes of paragraph (b).

(2) It is declared that the vesting in the Commission of State forest and timber reserves is only for the purposes of paragraphs (b), (c), (d), (e) and (h) of subsection (1) and does not otherwise limit the functions of the Department under section 33.

(3) Notwithstanding the Land Act 1933, land to which section 5 (g) applies and which is vested in the Commission is only vested within the meaning in subsection (2).

20. (1) The Commission shall comprise—

Membership
of Commis-
sion.

- (a) 2 persons appointed by the Governor, on the nomination of the Minister; and
- (b) the Executive Director.

(2) One of the members appointed under subsection (1) (a) shall, on the nomination of the Minister, be appointed by the Governor as chairman and the other as deputy chairman.

(3) The Minister shall not nominate a person for appointment under subsection (1) (a) unless, in his opinion, the nominee has a knowledge of, and experience in, matters relevant to the management of land for conservation, recreation and forest production.

*Division 2.—National Parks and Nature
Conservation Authority.*

21. There is established by this section an Authority by the name of the National Parks and Nature Conservation Authority.

National
Parks and
Nature
Conservation
Authority.

22. (1) The functions of the Authority are—

Functions of
Authority.

- (a) to have vested in it national parks, nature reserves, marine nature reserves, marine parks and relevant land referred to in section 5 (g) and to have the joint function provided for by section 7 (4);
- (b) to develop policies—
 - (i) for the preservation of the natural environment of the State and the provision of facilities for enjoyment of that environment by the community;
 - (ii) for promoting the appreciation of flora and fauna and the natural environment; and
 - (iii) to achieve or promote the objectives described in section 56 (1) (c), (d) and (e);

- (c) to consider, in accordance with section 17, any cancellation, change of purpose or boundary alteration in respect of land vested, whether solely or jointly with an associated body, in the Authority;
- (d) to submit proposed management plans to the Minister as provided in Part V in respect of land vested, whether solely or jointly with an associated body, in the Authority;
- (e) to monitor the carrying out of management plans by the Department in respect of land vested, whether solely or jointly with an associated body, in the Authority;
- (f) to advise the Minister on the development of policies for the conservation and management of the flora and fauna of the State, whether on public land or private land;
- (g) to inquire into and, subject to subsection (4), to advise the Minister on any matter on which the advice of the Authority is sought by the Minister;
- (h) to provide advice, upon request, on matters relating to land vested, whether solely or jointly with an associated body, in the Authority to any body or person, if the provision of advice is in the public interest and it is practicable for the Authority to provide it; and
- (i) with the approval of the Minister, to cause study or research to be undertaken for the purposes of paragraph (b).

(2) It is declared that the vesting in the Authority of national parks, nature reserves, marine nature reserves and marine parks is only for the purposes of paragraphs (b), (c), (d), (e), (h) and (i) of subsection (1) and does not otherwise limit the functions of the Department under section 33.

(3) Notwithstanding the Land Act 1933, land to which section 5 (g) applies and which is vested in the Authority, including the land referred to in section 155, is only vested within the meaning in subsection (2).

(4) The Authority shall not advise the Minister on any matter to which this subsection applies unless before the advice is tendered it has informed the council of each municipality under the Local Government Act 1960, in whose district land directly affected by the advice is situate, of the general nature of its proposed advice and afforded it a reasonable opportunity to make submissions thereon.

(5) Subsection (4) applies to the following matters—

(a) any proposal to establish a new national park or nature reserve or to enter into an agreement under section 16 for the management of land as a national park or nature reserve; and

(b) any matter to which the Minister, by written direction to the Authority, applies that subsection.

(6) In this section “land” includes waters comprised in a marine nature reserve or a marine park.

23. (1) The Authority shall comprise—

Membership
of Authority.

(a) 4 *ex officio* members being—

(i) the Executive Director;

(ii) the Director of Nature Conservation;

(iii) the Director of National Parks;
and

(iv) the Director of Forests; and

(b) 10 persons appointed by the Governor on the nomination of the Minister of whom—

- (i) 2 shall be representative of voluntary organizations having a special interest in conservation, being organizations that are affiliated with the Conservation Council of Western Australia Inc.;
- (ii) 2 shall be representative of voluntary organizations having a special interest in the use of land, flora and fauna for recreation purposes;
- (iii) one shall be representative of tertiary educational institutions in the State and shall be a person with special knowledge of, and experience in, a discipline relevant to nature conservation;
- (iv) one shall be representative of bodies of persons the members of which, by reason of their profession, are concerned with nature conservation;
- (v) 2 shall be representative of local government and shall be at the time of nomination elected members of a local authority;
- (vi) one shall be representative of fishing interests; and
- (vii) one shall be a person employed in the Department, not being an *ex officio* member, whose duties relate principally to the management of land vested in the Authority.

(2) One of the members appointed under subsection (1) (b) shall, on the nomination of the Minister, be appointed by the Governor as chairman and another as deputy chairman.

Division 3.—Forest Production Council.

24. There is established by this section a Council by the name of the Forest Production Council.

25. The functions of the Council are to advise the Minister—

Functions of
Council.

- (a) generally on matters pertaining to production from State forest and timber reserves;
- (b) on the improvement of—
 - (i) such production in ways consistent with the maintenance of other forest values; and
 - (ii) the use, processing and marketing of forest produce;
- (c) on the need for, and form of, research to achieve or promote the objectives described in section 56 (1) (a) and (b);
- (d) on the contents of proposed management plans for State forest and timber reserves.

26. The Council shall comprise—

Membership
of Council.

- (a) 2 *ex officio* members being—
 - (i) the Executive Director, who shall be the chairman of the Council; and
 - (ii) the Director of Forests, who shall be the deputy chairman of the Council; and
- (b) 12 persons appointed by the Governor on the nomination of the Minister of whom—
 - (i) one shall be a person who is a member of the Water Resources Council established by the Western Australian Water Resources Council Act 1982;
 - (ii) 7 shall be representative of timber industries or industries which are significant users of timber or timber products;

- (iii) one shall be representative of primary producers, not coming within subparagraph (ii), associated with forests;
- (iv) 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;
- (v) one shall be representative of country interests and be a person with special skill or experience relevant to the functions of the Council; and
- (vi) one shall be a person having special experience in commercial forestry production.

*Division 4.—Provisions applicable to the Commission,
the Authority and the Council.*

Definition.

27. In this Division and in the Schedule “controlling body” means the Commission, the Authority or the Council.

Relationship
to Public
Service.

28. Appointment of a person as a member of a controlling body does not—

- (a) render the Public Service Act 1978 or any Act applying to persons as officers of the Public Service of the State, applicable to that person; or
- (b) affect or prejudice the application to him of those provisions if they applied to him at the time of his appointment.

Constitution
and
proceedings.

29. The provisions of the Schedule shall have effect with respect to the constitution and proceedings of a controlling body.

Remunera-
tion and
allowances
of members.

30. An appointed member of a controlling body shall be paid such remuneration and travelling and other allowances as the Minister from time to time determines, on the recommendation of the Public Service Board.

31. (1) Each controlling body shall, not later than 30 November in each year, prepare and furnish to the Minister a report on its proceedings for the year ending on the preceding 30 June.

Annual
report.

(2) The Minister shall cause the report of each controlling body to be laid before each House of Parliament as soon as practicable after its receipt by him.

PART IV.—DEPARTMENT OF CONSERVATION AND
LAND MANAGEMENT.

Division 1.—Establishment of Department.

32. For the purposes of this Act, there shall be established under the Public Service Act 1978 as a department of the Public Service of the State a department to be known as the Department of Conservation and Land Management.

Department
of Conserva-
tion and
Land
Manage-
ment.

33. (1) The functions of the Department are, subject to the direction and control of the Minister—

Functions
of Depart-
ment.

(a) to manage land—

(i) to which this Act applies; or

(ii) which becomes subject to the management of the Department under subsection (2),

and the associated forest produce, fauna and flora;

(b) to provide the Commission, the Authority and the Council with such assistance as they may reasonably require to perform their functions;

(c) to promote and encourage the development of the forest production requirements of the State, and to undertake any project or operation for that purpose;

- (d) to be responsible for the conservation and protection of flora and fauna throughout the State, and in particular to be the instrument by which the administration of the Wildlife Conservation Act 1950 is carried out by the Executive Director pursuant to section 7 of that Act;
- (e) to carry out or cause to be carried out such study or research of or into—
 - (i) the management of land to which this Act applies; and
 - (ii) the conservation and protection of flora and fauna,as the Minister may approve;
- (f) to provide advice to, or undertake work for or jointly with, and to supply services or facilities to, any department, public or private body or other person if the Minister is of the opinion that the provision of that advice or the undertaking of that work is in the public interest;
- (g) upon request by the Minister to whom the administration of the Land Act 1933 is committed, to advise him on the reservation, alienation, and disposal of Crown land in rural areas under that Act.

(2) Upon the recommendation of the Minister and the Minister referred to in subsection (1) (g), the Governor may place under the management of the Department any Crown land within the meaning of the Land Act 1933 or land reserved, but not vested in any person, under that Act or any other Act.

(3) The management of land referred to in subsection (1) (a) (i) and the associated forest produce, flora and fauna shall be carried out—

- (a) where there is a management plan for the land, in accordance with that plan; or

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

- (i) in the case of national parks and nature reserves, in such a manner that only necessary operations are undertaken; or
- (ii) in any other case, in accordance with the provisions of section 56 applicable to the land.

(4) In subsection (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.

(5) Nothing in subsection (1) shall be read as limiting the functions of the Commission and the Authority under sections 19 and 22 respectively.

34. Subject to this Act and the Public Service Act 1978, the Executive Director has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of the functions of the Department.

*Powers of
Executive
Director.*

35. Any arrangement made by the Executive Director for the 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 work or services or the use of the facilities.

*Department
may be
remunerated.*

Division 2.—Executive Director.

36. (1) A person shall be appointed by the Governor to be Executive Director of the Department.

*Executive
Director.*

(2) No person shall be appointed as Executive Director unless he has a degree or diploma in a discipline relevant to one or more of the categories of land to which this Act applies.

(3) The Executive Director is the permanent head of the Department.

(4) Subject to this Act, the Executive Director—

- (a) is directly responsible to the Minister for the administration of this Act; and
- (b) subject to the Public Service Act 1978, has control of all other officers and employees of the Department.

Saving.

37. If a person appointed to be Executive Director was, immediately before his appointment, an officer within the meaning of the Public Service Act 1978—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service as Executive Director shall be taken into account as if it were service in the Public Service of the State; and
- (c) the appointment shall be without prejudice to the provisions of all other Acts applying to that person as such an officer, and does not prejudice his rights as such under any of those Acts.

**Executive
Director to be
body
corporate.**

38. (1) The Executive Director is body corporate with perpetual succession and a common seal and is capable of—

- (a) acquiring, holding and disposing of real and personal property;
- (b) suing and being sued; and
- (c) doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

(2) The corporate name of the Executive Director is the "Executive Director of the Department of Conservation and Land Management".

(3) Where a document is produced bearing a seal purporting to be the common seal of the Executive Director or bearing a signature purporting to be the signature of the Executive Director, or bearing both, it shall be presumed that the seal is the common seal, or the signature is the signature, of the Executive Director until the contrary is shown.

39. (1) The Executive Director shall receive such salary as may be fixed from time to time by the Governor.

Salary of
Executive
Director.

(2) Such salary is hereby charged upon the Consolidated Revenue Fund which, to the extent required, is hereby permanently appropriated.

40. The Executive Director shall hold office for a term of 7 years from the date of his appointment and thereafter is eligible for re-appointment for such term, not exceeding 7 years, as the Governor specifies at the time of his re-appointment.

Term of
office of
Executive
Director.

41. (1) The Executive Director may be suspended from his office by the Governor—

Suspension
and removal
of Executive
Director.

(a) for incompetence or misbehaviour impairing the performance of his duties;

(b) if he has applied to take, or has taken, advantage of any law relating to bankruptcy, or has compounded, or entered into any arrangement, with his creditors;

or

(c) if he becomes incapable of properly performing his duties.

(2) The Minister shall cause to be forthwith laid before each House of Parliament a full statement of the grounds of suspension within 4 sitting days of that House after the day on which the suspension takes effect.

(3) The Executive Director, when suspended under this section, shall not be restored to office unless each House of Parliament, within 20 sitting days of that House from the time when such statement has been laid before it, declares by resolution that he ought to be restored to office.

(4) If each House of Parliament within such time so declares, the Executive Director shall be restored by the Governor accordingly, but otherwise he may be removed from office.

(5) The Executive Director shall not be removed from office except under this section.

Division 3.—Other officers and staff.

Other senior
offices.

42. Persons shall be appointed in the Department, under and subject to the Public Service Act 1978, to the following offices—

- (a) a Director of Nature Conservation;
- (b) a Director of Forests; and
- (c) a Director of National Parks.

Appointment
of staff
generally.

43. (1) There shall be appointed under and subject to the Public Service Act 1978 such other officers as may be necessary to provide administrative, professional, scientific, technical, and other services to the Department.

(2) The Executive Director may engage persons as wages or field staff otherwise than under the Public Service Act 1978, and persons so engaged shall, subject to any relevant industrial award or agreement, be employed on such terms and conditions as the Minister determines, on the recommendation of the Public Service Board.

44. The Minister may—

Contracts
and arrange-
ments for
services.

(a) engage any person under a contract for services to provide any of the services referred to in section 43 (1);

(b) enter into arrangements with—

(i) a Minister of the Crown of any State or Territory, a Minister of State of the Commonwealth, a department, instrumentality, or agency of the Commonwealth or of any State or Territory;

(ii) a university or other educational institution; or

(iii) any other body or person,

with respect to the conduct of any study or research referred to in section 33 (1) (e) or the carrying out of any work that may be necessary or desirable for the purposes of this Act.

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

Wildlife
officers,
forest
officers and
rangers.

(a) a wildlife officer;

(b) a forest officer;

(c) a ranger,

for the whole or a specified part of the State.

(2) Wildlife officers, forest officers and rangers shall, in respect of the State or the specified part, have the functions conferred on them respectively by this Act.

(3) In addition, wildlife officers shall, in respect of the State or the specified part, have the functions conferred on them by the Wildlife Conservation Act 1950.

(4) In this section and in sections 46, 47, 48 (1) (b) and 49 the State includes the coastal waters of the State referred to in section 13 (8) (b).

Honorary
wildlife
officers etc.

46. (1) The Minister may, by instrument which is revocable by him at any time, appoint a person to be an—

- (a) honorary wildlife officer;
- (b) honorary forest officer; or
- (c) honorary ranger,

for the whole or a specified part of the State and as such to perform in the State or that part of the State such of the functions conferred by this Act or the Wildlife Conservation Act 1950 on a wildlife officer, forest officer or ranger as may be specified in the instrument.

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

Application
of Public
Service Act
1978.

47. The engagement or appointment of a person under section 44 or 46 does not—

- (a) render the Public Service Act 1978 or any Act applying to persons as officers of the Public Service of the State, applicable to that person; or
- (b) affect or prejudice the application to him of those provisions if they applied to him at the time of his engagement or appointment.

Certificate
as to
authority
of wildlife
officer, etc.
to act.

48. (1) The Executive Director shall furnish to a person designated or appointed under section 45 or 46 a certificate under his hand stating—

- (a) that he has been designated or appointed under that section;

(b) whether he may exercise his functions in the whole or a part of the State and, if the latter, the part of the State in which he may do so; and

(c) the general nature of his duties,

and the certificate shall, on demand, be produced by the holder to any person who is affected by the performance by the holder of any of his functions under this Act or the Wildlife Conservation Act 1950.

(2) In any proceedings production of a certificate purporting to be issued under this section shall be sufficient evidence of the matters appearing therein without proof of those matters or of the signature of the Executive Director.

(3) Where a person ceases to be designated or appointed under section 45 or 46, he shall forthwith surrender the certificate to the Executive Director or other person authorized to receive it.

Penalty applicable to subsection (3): \$500.

49. A person shall *ex officio* be a wildlife officer and a ranger for the whole of the State if, and so long as, he holds, or acts in, any of the following offices—

Ex officio
wildlife
officers, etc.

- (a) a member of the Commission or the Authority;
- (b) a police officer;
- (c) the Director of Fisheries under the Fisheries Act 1905; and
- (d) an inspector under that Act.

Division 4.—General.

50. A person employed in the Department shall not hold or be interested in any permit, licence, or lease under this Act, nor as principal or agent trade in, or be interested in, any contract or agreement for the working or removal of any forest produce.

Officers not
to trade in
timber, etc.

Auctioneers'
licences not
required.

51. A person employed in the Department may, in the performance of his functions, hold an auction of forest produce, and may conduct a public auction for the purposes of section 92 (3) without a licence under the Auction Sales Act 1973.

Annual
report.

52. (1) The Executive Director shall not later than 30 November in each year prepare a report of the operations of the Department for the year ending on the preceding 30 June.

(2) The report, together with copies of the financial statements under section 77 as audited by the Auditor General, and his report thereon, shall be laid by the Minister before each House of Parliament as soon as practicable after receipt of the report of the Auditor General.

PART V.—MANAGEMENT OF LAND.

Division 1.—Management plans.

Definition.

53. In this Division—

“controlling body” means the Commission or the Authority; and

“land” includes the waters comprised in a marine nature reserve or a marine park.

Management
plans to be
prepared.

54. (1) A controlling body shall be responsible—

(a) for the preparation of proposed management plans; and

(b) the review of expiring plans and preparation of further management plans,

for all land which is vested in it whether solely or jointly with an associated body.

(2) This Part applies to the preparation of a plan under subsection (1) (b) in the same way as it applies to the preparation of an initial management plan.

(3) Proposed management plans for any land shall be prepared—

- (a) by the controlling body for that land through the agency of the Department; and
- (b) within such period after the commencement of this Act as is reasonably practicable having regard to the resources of the Department available for the purpose.

55. (1) A management plan for any land shall contain—

Objectives of
management
plans.

- (a) a statement of the policies or guidelines proposed to be followed; and
- (b) a summary of the operations proposed to be undertaken,

in respect of that land during a specified period, which shall not exceed 10 years.

(2) A management plan shall state the date on which it will expire, unless it is sooner revoked, but notwithstanding anything in this section or in the plan, a plan which would otherwise expire shall, unless it is revoked, remain in force until a new plan is approved.

(3) A management plan shall not disclose any information or matter communicated in confidence for the purposes of this Act or which would or might reasonably be expected to cause damage to the interests of the person from whom the information was received.

56. (1) A controlling body shall, in the preparation of proposed management plans for any land, have the objective of achieving or promoting the purpose for which the land is vested in it, and in particular management plans shall be designed—

Contents of
management
plans.

- (a) in the case of indigenous State forest or timber reserves, to ensure the multiple use and sustained yield of that resource for the satisfaction of long-term social and economic needs;

- (b) in the case of State forest or timber reserves planted with exotic species, to achieve the optimum yield in production consistent with the satisfaction of long-term social and economic needs;
- (c) in the case of national parks and marine parks, to fulfil so much of the demand for recreation by members of the public as is consistent with the proper maintenance and restoration of the natural environment, the protection of indigenous flora and fauna and the preservation of any feature of archaeological, historic or scientific interest;
- (d) in the case of nature reserves and marine nature reserves, to maintain and restore the natural environment, and to protect, care for, and promote the study of, indigenous flora and fauna; and
- (e) in the case of other land referred to in section 5 (g), to achieve the purpose for which the land was vested in the controlling body.

(2) In subsection (1) (a) “multiple use” means as many different uses as are possible and compatible among themselves.

Plan to be
publicly
notified.

57. (1) Public notification of a proposed management plan shall be given in accordance with subsection (2).

(2) The plan shall be publicly notified by the publication—

- (a) in the *Gazette*;
- (b) in 2 issues of a daily newspaper circulating throughout the State;
- (c) in 2 issues of a local newspaper circulating within the area in which the land is situated; and

- (d) on such signs as the controlling body for that land may direct to be placed on or near the boundaries of the land.

of a notice—

- (e) describing in general terms the type of land to which the plan applies and the purpose for which it is to be made;
- (f) specifying the places at which—
 - (i) a copy of the plan may be inspected; and
 - (ii) copies of the plan may be obtained; and
- (g) stating the effect of section 58 and specifying the period and the address or addresses referred to in that section.

58. Written submissions on the proposed management plan may be made by any person—

Public
submissions.

- (a) within a period determined by the Executive Director, which period shall be not less than 2 months after the day on which the notice is published in the *Gazette*; and
- (b) by delivering or posting them, so that they are received within that period at an address designated by the Executive Director.

59. (1) The controlling body may submit the proposed management plan, modified if it thinks fit after considering submissions made under section 58, to any organization or body it thinks appropriate, together with a summary of those submissions.

Plans may
be referred
to other
bodies.

(2) The controlling body shall submit the proposed management plan to each local authority within whose district the land in question is situated and any such local authority shall, notwithstanding section 58, be given a reasonable time in which to prepare written submissions on the proposed plan.

(3) In the case of a jointly vested nature reserve referred to in section 7 (4), the Authority shall submit the proposed management plan, in accordance with subsection (1), to any associated body.

(4) If an organization or body to which the proposed plan is referred under subsection (1) or (3) considers that the controlling body should vary the plan or make any addition to or delete any provision from, the plan, it may within one month after receipt of the proposed plan under subsection (1), in writing, request the controlling body to make the variation, addition or deletion.

Approval by
Minister.

60. (1) Subject to this Part, the controlling body shall submit the proposed plan, modified as it thinks fit to give effect to submissions made under section 58 and any request under section 59 (4), to the Minister for approval together with a copy of all requests so made.

(2) The Minister may approve the proposed plan or approve it with such modifications as he thinks fit.

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

- (a) whether any modifications were made by the Minister under subsection (2); and
- (b) where a copy of the plan may be inspected or obtained.

(4) A management plan shall come into operation on the day of publication in the *Gazette* of a notice under subsection (3) or on such later day as is specified in the plan.

Revocation
and
amendment.

61. Subject to compliance, *mutatis mutandis*, with sections 57 to 60, a management plan may be amended, or revoked and a new plan substituted for it.

Division 2.—Classification of certain land.

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

Land may
be classified.

- (a) a prohibited area;
- (b) a restricted area;
- (c) a limited access area;
- (d) an unlimited access area;
- (e) a recreational area for specified activities;
- (f) in the case of a national park, a wilderness area; or
- (g) such other class of area as the Minister, on the recommendation of the Authority, thinks necessary to give effect to the objects of this Act,

and may in like manner amend or cancel any such classification.

(2) 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.

(3) This section applies to any national park, nature reserve, marine nature reserve or marine park.

PART VI.—FINANCIAL PROVISIONS.

Division 1.—Conservation and Land Management Fund.

Revenue to
be paid to
Consolidated
Revenue
Fund.

63. Subject to this Part, all moneys received by the Department under this Act or the Wildlife Conservation Act 1950 shall be paid to the Consolidated Revenue Fund.

Financial
resources.

64. (1) The moneys available for carrying this Act into effect shall be—

- (a) those from time to time appropriated by Parliament for the purposes of this Act and the Wildlife Conservation Act 1950;
- (b) such moneys as the Executive Director lawfully borrows or receives by way of grants or otherwise for those purposes;
- (c) moneys derived under the Wildlife Conservation Act 1950 and referred to in subsection (2);
- (d) moneys from time to time derived under this Act by the Department from dealing with or the management of any land which is vested in the Authority whether solely or jointly with an associated body;
- (e) the proceeds of investment of any moneys referred to in section 67;
- (f) moneys derived from the sale of the publications of the Department;
- (g) subject to any direction of the Treasurer, moneys received by the Department under section 35 for the performance of work or the supply of services or facilities; and
- (h) gifts, devises, bequests or other donations.

(2) The moneys mentioned in subsection (1) (c) are—

- (a) fees paid for licences referred to in sections 17B, 23C and 23D (2) of the Wildlife Conservation Act 1950;

- (b) royalties paid under section 23C of that Act; and
- (c) the net proceeds of the sale of—
 - (i) possum skins, paid to the Executive Director under section 15 (1b) of that Act; and
 - (ii) any other skins or carcasses of fauna taken by or on behalf of the Executive Director from a nature reserve.

65. The moneys referred to in section 64 shall be paid into and be placed to the credit of an account at the Treasury to be called the Conservation and Land Management Fund.

Conservation and
Land
Management
Fund.

66. (1) Without limiting section 68 (3) or 70, all expenditure incurred by the Department in carrying this Act and the Wildlife Conservation Act 1950 into effect, including the repayment of moneys borrowed by the Executive Director in accordance with this Act and the payment of interest and charges on such moneys, shall be paid from the Fund.

Expenditure.

(2) The Executive Director shall in each year pay to the Treasurer such amounts, if any, as are fixed by the Treasurer as the interest and sinking fund contribution for that year in respect of such portion of the General Loan Fund as has been applied for the purposes of this Act or the Wildlife Conservation Act 1950.

(3) The Executive Director shall ensure that the moneys standing to the credit of the Fund are applied only in accordance with this Act or the Wildlife Conservation Act 1950.

67. The Executive Director may invest any moneys standing to the credit of the Fund which are not immediately required for the purposes of this Act in such categories of investments as the Treasurer may approve.

Investment
of funds.

Nature
Conservation
and
National
Parks Trust
Account.

68. (1) There shall be established in the Fund a trust account to be called the Nature Conservation and National Parks Trust Account.

(2) There shall be credited to that Trust Account—

- (a) the moneys referred to in section 64 (2);
- (b) gifts, devises, bequests and donations made to that Account; and
- (c) income derived from the investment under section 67 of money credited to that Account.

(3) Without limiting section 70, the Executive Director may apply money in the Trust Account provided for by subsection (1) for the purpose of any research, or any other purpose, relating to the conservation of fauna and flora, or the management of national parks, nature reserves, marine nature reserves or marine parks.

Other trust
accounts.

69. There may, with the approval of the Treasurer, be established in the Fund other trust accounts for such purposes, in such terms, and comprising such moneys as may be prescribed.

Application
of donations.

70. Where any gift, devise, bequest or donation has been made to the Fund, the Account provided for by section 68 or any other trust account upon lawful conditions which are accepted by the Executive Director, he shall apply the money representing the same in accordance with those conditions.

Division 2.—Financial powers and borrowing.

Particular
financial
powers.

71. (1) Without limiting section 34 but subject to subsection (2), the Executive Director may for the purposes of this Act—

- (a) obtain credit;
- (b) provide credit (including credit to consumers in the normal course of business), whether or not security is to be furnished to the Executive Director;

- (c) take personal property on lease;
- (d) give, take or arrange security; and
- (e) pay commission or brokerage.

(2) The Treasurer may give directions to the Executive Director in relation to the exercise of the powers, or any specified power, conferred on him by subsection (1), including a direction that he shall not exercise a power without, or otherwise than in accordance with the terms and conditions of, the prior written approval of the Treasurer.

(3) The Executive Director shall comply with any direction given to him under subsection (2).

72. (1) Subject to subsection (2), the Executive Director may, with the prior approval of the Governor, borrow money for the performance by the Department of its functions under this Act.

General
borrowing
by Executive
Director.

(2) The Executive Director shall not exercise the powers conferred by this section unless a proposal in writing showing—

- (a) the terms and particulars of the proposed loan;
- (b) the rate of interest to be paid on that loan;
- (c) the purpose to which the money borrowed is to be applied; and
- (d) the manner in which the loan is to be repaid,

shall first be submitted by him on the recommendation of the Minister to, and approved by, the Treasurer.

(3) Any moneys borrowed by the Executive Director under this section may be raised as one loan or as several loans and in such manner as the Treasurer may approve but the amount of money so borrowed shall not in any one year exceed in the aggregate such amounts as the Treasurer approves.

(4) For the purpose of making provision to repay either the whole or any part of any loan raised under this section, the Executive Director may, subject to this section, borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

Borrowing
from
Treasurer.

73. (1) In addition to the powers conferred on him by section 72 the Executive Director may borrow from the Treasurer such amounts, for such reasons and on such conditions as to repayment and payment of interest, as the Treasurer approves, and in that case the Treasurer shall make advances to the Executive Director out of moneys available to the Treasurer for that purpose.

(2) The moneys so borrowed and the interest payable in respect thereof are a charge upon the moneys in the Fund from time to time and upon the other assets vested in the Executive Director.

Guarantees
of borrow-
ings etc.

74. (1) The Treasurer is hereby authorized to guarantee—

- (a) the repayment of any amount borrowed from time to time under section 72;
- (b) the payment of rental or other charges payable on a lease under section 71 (1) (c);
- and
- (c) the payment of interest and such other charges in respect of such borrowings as he has approved.

(2) Before a guarantee is given by the Treasurer under this section, the Executive Director shall give to the Treasurer such security as the Treasurer may require and shall execute all such instruments as may be necessary for the purpose.

(3) The Treasurer shall cause any money required for fulfilling any guarantee given by him under this section to be paid out of the Consolidated Revenue Fund which, to the extent necessary, is hereby

appropriated accordingly and the Treasurer shall cause any amounts received or recovered from the Executive Director or otherwise in respect of moneys so paid by him to be paid into the Consolidated Revenue Fund.

Division 3.—Accounts and Audit.

75. The Executive Director shall cause to be kept proper accounts and records of the transactions and affairs of the Department under such heads as the Treasurer may from time to time direct and shall do all things necessary to ensure that all payments out of the moneys standing to the credit of the Fund are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, and over the incurring of liabilities by, the Executive Director.

Accounts
to be kept.

76. The Executive Director shall cause annual estimates of the receipts and payments of the Department in connection with the performance of its functions under this Act to be prepared, under such headings and in such manner as the Treasurer may approve or direct, and submitted to the Minister who, if he approves the estimates, shall cause them to be submitted to the Treasurer not later than such date as is specified by the Treasurer.

Estimates.

77. The Executive Director shall for each financial year cause to be prepared a true and fair statement of the financial transactions of the Department, and such other statements as the Treasurer may from time to time direct, in such form as the Treasurer approves, and submit those statements to the Auditor General for audit.

Financial
statements.

78. (1) The Auditor General shall inspect and audit the accounts and records of the financial transactions of the Department and records relating to assets under the management of the Department, and shall forthwith draw to the attention of the

Audit of
accounts.

Minister any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor General, of sufficient importance to justify his so doing.

(2) The Auditor General shall examine the financial statements submitted to him for audit and shall report to the Minister—

- (a) whether in his opinion the statements are based on proper accounts and records;
- (b) whether in his opinion the statements are properly drawn up in accordance with generally accepted accounting standards which are applicable so as to present a true and fair view of—
 - (i) the financial transactions for the period under review; and
 - (ii) where appropriate, the financial position at the end of that period;
- (c) whether in his opinion the controls exercised by the Executive Director are adequate to provide reasonable assurance that the receipt, expenditure and investment of moneys and the acquisition and disposal of assets have been in accordance with this Act; and
- (d) such other matters arising out of the statements as the Auditor General considers should be reported.

(3) The Auditor General has for the purposes of this Act all of the powers conferred on him by the Audit Act 1904.

PART VII.—CONTROL AND ERADICATION OF FOREST DISEASES.

Purposes
of this Part.

79. The purposes of this Part are to identify the areas of public land in which trees may be, may become, or are infected with any forest disease and to control and eradicate such forest diseases as are detected in such areas.

80. This Part and the regulations made under it shall— Application
of this Part.

- (a) apply notwithstanding any other Part of this Act, or any other Act; and
- (b) bind the Crown.

81. In this Part and in section 129 and the regulations made under that section, unless the contrary intention appears— Interpreta-
tion of this
Part.

“authorized person” means any police officer or officer of the Department;

“disease area” means a forest disease area constituted under this Part;

“infected” means actually affected with a forest disease, or liable, by reason of contact, to be so affected;

“owner”, when used in relation to a potential carrier, means the person to whom it belongs or the hirer, lessee, borrower, bailee, or mortgagee in possession thereof;

“potential carrier” means anything capable of carrying and transmitting forest disease and includes—

- (a) soil, trees, timber, firewood, and forest products;
- (b) tools;
- (c) vehicles;
- (d) machinery; and
- (e) equipment or implements designed and used or capable of being used for forestry, the production of forest products, timber cutting, timber gathering, the cutting or gathering of firewood, or earth moving;

“public land” means—

- (a) a State forest or timber reserve;
- (b) any land vested in the Crown and not contracted to be granted in fee simple and includes—
 - (i) land of which pastoral leases are held under the Land Act 1933;
 - (ii) land held as mining tenements under the Mining Act 1978; and
- (c) any land reserved or dedicated under the Land Act 1933 but vested in some person other than the Crown;

“risk area” means a forest disease risk area constituted under this Part;

“road” has the meaning assigned to it in section 6 of the Main Roads Act 1930, but does not include a main road as defined in that section; and

“vehicle” includes—

- (a) every conveyance, not being a train, vessel or aircraft, and every object capable of being propelled or drawn on wheels or tracks, by any means;
- (b) an animal being driven or ridden.

Risk areas.

82. (1) Where the Executive Director considers that earth, soil, or trees in any area of public land may be, or may become, infected with a forest disease and gives notice in writing thereof to the Minister, the Minister may, subject to section 84, recommend to the Governor that the area be constituted a forest disease risk area.

(2) Upon the recommendation of the Minister under subsection (1), the Governor may, by order wherein the area and the forest disease is specified, constitute the area a forest disease risk area with such name as may be specified in the order.

83. (1) Where the Executive Director considers that earth, soil, or trees in any area of public land are infected with a forest disease and gives notice in writing thereof to the Minister, the Minister may, subject to section 84, recommend to the Governor that the area be constituted a forest disease area.

Disease
areas.

(2) Upon the recommendation of the Minister under subsection (1), the Governor may, by order wherein the area and the forest disease is specified, constitute the area a forest disease area with such name as may be specified in the order.

84. (1) Where pursuant to section 82 (1) or 83 (1) the Executive Director gives notice in respect of any area of public land that is not vested in the Crown or is not under the control and management of the Department, the Executive Director shall forthwith give a copy of the notice to the person in whom the area of public land is vested or who has the control and management thereof, as the case may be.

Steps to be
taken before
Minister
makes
recom-
mendation.

(2) Before he makes a recommendation under section 82 (1) or 83 (1), the Minister shall consult the Minister to whom the administration of the Mining Act 1978 is for the time being committed.

(3) The Minister shall not make a recommendation under section 82 (1) or 83 (1) unless he has given the person referred to in subsection (1) the opportunity to make a submission in writing on the matter within reasonable time of receiving the copy of the notice under that subsection.

Extension,
reduction or
abolition of
risk and
disease
areas.

85. (1) A risk area or a disease area—

- (a) may be extended in the manner in which it was constituted; or
- (b) may be reduced by order of the Governor made on the recommendation of the Minister,

and the area as so extended or reduced is then constituted as the risk area or the disease area, as the case may be, in substitution for the former area but with the same name or such other name as may be specified in the order extending or reducing the area.

(2) A risk area or a disease area may be abolished by order of the Governor.

Mining
tenements
in risk or
disease area.

86. (1) Where land held as a mining tenement under the Mining Act 1978 is in a risk area or a disease area and the holder of the tenement intends to explore or exploit a part of it he shall, at least 3 months before the day on which he intends to commence to do so, give to the Minister notice in writing thereof in which the part of the tenement and that day are specified.

(2) Where the holder of a mining tenement gives notice, under subsection (1), the Minister shall give him written authority to explore or exploit, as the case may be, the part specified in the notice on and after the day so specified unless the Minister, after consultation with the Minister to whom the administration of the Mining Act 1978 is for the time being committed, has good and sufficient reason to the contrary, but the holder may do so only—

- (a) by entering that part by a route described in the written authority; and
- (b) subject to such conditions as are specified in the written authority.

(3) A holder of a mining tenement shall not contravene or fail to comply with the terms of a written authority given under this section.

Penalty: \$500.

PART VIII.—PERMITS, LICENCES, LEASES, ETC.

Division 1.—State forests, timber reserves, and certain Crown land.

87. (1) In this Division—

Definitions.

“Crown land” means—

- (a) Crown land within the meaning in section 11;
- (b) State forest and timber reserves; and
- (c) land which is the subject of a declaration under subsection (2);

“permit” means a permit described in section 89;

“licence” means a licence described in section 90.

(2) Notwithstanding anything in subsection (1) or section 11, the Governor may by order declare to be Crown land, for the purposes of this Division, any land which is—

- (a) reserved under the Land Act 1933 but not vested in any person; and
- (b) placed under the management of the Department under section 33 (2).

88. (1) Subject to this Part, the Executive Director may—

Permits and licences.

- (a) grant permits and licences to take; and
(b) contract for the sale of,
forest produce on Crown land.

(2) No permit or licence shall be granted and no contract of sale shall be entered into in respect of any land in a State forest or timber reserve unless there is a management plan in force for that land.

Form and
effect of
permit
under this
Division.

89. (1) A permit shall be in the prescribed form, and subject to the conditions and limitations expressed therein and to the regulations, shall confer on the holder the exclusive right to take and remove any forest produce specified in the permit on and from that portion of Crown land defined in the permit.

(2) A permit may, subject to subsection (1), confer on the holder the right—

- (a) to occupy land as the site of a sawmill or of other buildings, as a timber depot, and for any other purpose approved by the Executive Director;
- (b) to operate a plant or other facilities for converting, treating or processing forest produce;
- (c) to make roads and construct and work tramways, and, with the approval of the Executive Director, to extend such roads and tramways upon Crown lands beyond the boundaries of the permit area.

Form and
effect of
licence
under this
Division.

90. Licences shall be in the prescribed form and, subject to the conditions and limitations expressed therein and to the regulations, shall authorize the licensee, in common with other licensees, if any, to take and remove forest produce specified in the licence on Crown land.

Terms of
permits,
licences, etc.

91. (1) The term of a permit shall not exceed 10 years.

(2) The term of a licence or the period of operation of a contract of sale shall not exceed 15 years, but the Executive Director may extend the term or period for a further period not exceeding 5 years on such terms and conditions as he thinks fit.

(3) Subject to this section, a permit, licence, or contract of sale may be renewed for a further term or period.

92. (1) Every permit or licence shall be granted or renewed subject to the payment of royalties for all forest produce taken. Royalty on forest produce taken.

(2) Every contract for the sale of forest produce shall provide for payment of royalties for all forest produce taken.

(3) The royalties payable may be established by public auction or tender.

(4) A permit, licence, or contract may provide for periodic review of royalties during the currency thereof.

(5) (a) Royalty may be assessed on timber standing or in the log.

(b) The contents of timber cut and measured in the log shall be calculated on such system as the Executive Director may from time to time determine.

93. A permit, licence or contract of sale, or the benefit thereof, shall not be transferred unless the Executive Director has consented in writing to the transfer. No transfer without consent.

94. (1) All forest produce obtained under the authority of a permit, licence or contract of sale shall be removed from the Crown land during the currency of the permit, licence or contract, unless the Executive Director extends the time for removal, which he may do on such conditions, if any, as he thinks fit. Forest produce to be removed during currency of permit etc.

(2) Any forest produce not so removed is forfeited to the Crown and may be disposed of by the Executive Director.

Cancellation.

95. A permit, licence or contract of sale—

- (a) may be cancelled for default in payment of the royalty or fees payable thereunder, or for breach or non-observance of any condition thereof or of any provision of this Act; and
- (b) may contain provision for the payment to the Executive Director of a sum by way of penalty (not exceeding such maximum as may be prescribed) for default in such payment or for the breach or non-observance of any such condition.

Timber, etc.,
on mining
and other
leases.

96. (1) A holder of a mining tenement may, subject to the regulations under this Act and the payment of the prescribed royalty, if any, take from the land comprising the tenement such timber as may be required for mining purposes thereon.

(2) A royalty shall not be prescribed for the purposes of subsection (1) except in respect of mining tenements within the boundaries of a State forest or timber reserve.

(3) Royalties paid under this section may, with the approval of the Governor, be credited to a special trust account and expended in the work of improving the forests on land which is subject to the tenements in respect of which royalties are paid.

(4) Subject to this section and to the regulations, the privileges conferred by permits, licences and contracts of sale under this Part shall extend to forest produce on—

- (a) land which is subject to a pastoral or other lease, including a forest lease, which does not confer on the lessee the right to forest produce; and
- (b) on mining tenements,

and a permit holder, licensee or contractor, if so authorized by his permit, licence or contract, may, subject to the regulations, enter upon the land comprised in any such lease or mining tenement and take and remove forest produce therefrom.

(5) In this section "mining tenement" has the same meaning as in the Mining Act 1978.

97. (1) The Executive Director may, with the approval of the Minister, grant on such terms and conditions as he thinks fit, leases of land within a State forest or a timber reserve for a term not exceeding 20 years (including any term obtainable at the option of the lessee on the expiry of a previous term), for grazing and other purposes not opposed to the interests of forestry.

Grant of
forest leases.

(2) No compensation shall be payable to a lessee under a forest lease, on the expiration thereof, for any improvements to the land comprised therein; but the lessee shall be entitled, at any time before the expiration of his lease, to remove any buildings or fences erected by him or to dispose of them to an incoming tenant.

Division 2.—Other land.

98. This Division applies to—

Application
of this
Division.

(a) all land to which this Act applies, other than—

(i) State forest and timber reserves; and

(ii) any national park or part thereof classified under section 62 (1) (f) as a wilderness area; and

(b) land referred to in section 33 (2),

and so applies, subject to paragraph (a) (ii), whether or not the land is classified under section 62.

Restriction
on exercise
of powers.

99. (1) The powers conferred on the Executive Director by this Division are exercisable only—

- (a) with the approval of the Minister, the Authority and, where applicable, an associated body;
- (b) in the case of land to which section 16 applies, with the approval of the owner and any person occupying the land with his consent; and
- (c) in conformity with section 33 (3).

(2) Nothing in this Division shall authorize the Executive Director to permit any person to take or remove forest produce, other than honey, bees-wax or pollen, or other flora from a national park or nature reserve for any commercial or other profit-making purpose.

Leases of
land.

100. The Executive Director may, on such terms and conditions as he thinks fit, grant a lease of any land to which this Division applies for a term not exceeding 20 years (including any term obtainable at the option of the lessee on the expiry of a previous term).

Licences
for use
of land.

101. (1) The Executive Director may grant a licence in writing to any person to enter and use any land to which this Division applies.

(2) The Executive Director may renew the period of operation of a licence under this section from time to time, or transfer the authority it confers

from one person to another, or, where its operation relates to any place, may transfer that operation to another place of the same kind.

(3) A licence under this section may be granted, renewed or transferred subject to such conditions as the Executive Director thinks fit, which conditions—

- (a) shall be endorsed upon or attached to the licence when granted, renewed or transferred, as the case may be; and
- (b) may be added to, cancelled, suspended and otherwise varied by the Executive Director from time to time during the operation of the licence.

(4) The holder of a licence under this section shall not contravene or fail to comply with any condition endorsed upon or attached to the licence.

Penalty: \$1 000.

(5) Where the holder of a licence under this section contravenes or fails to comply with any condition endorsed upon or attached to the licence, the Executive Director may, by notice in writing to him, cancel the licence or suspend it for such period as he thinks fit.

PART IX.—OFFENCES AND ENFORCEMENT.

Division 1.—Preliminary.

102. In this Part “State forest” includes land to which section 131 applies. Definition.

Division 2.—Forest offences.

Unlawful
cutting, etc.

103. No person shall, without lawful authority, fell, cut, injure, destroy, obtain, or remove any forest produce in, on, or from any Crown land, within the meaning in section 87, or any land to which section 131 applies.

Penalty: \$1 000 and imprisonment for one year.

Unlawfully
lighting fires.

104. (1) No person shall—

(a) light, kindle, or assist to light or kindle, or aid or abet another person in lighting or kindling, any fire within the boundaries or within 20 metres of any boundary of a State forest or timber reserve; or

(b) leave, without taking due precaution against its spreading or causing injury, a fire lighted or kindled by him as mentioned in paragraph (a), or in the lighting or kindling of which he has aided or abetted,

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

Penalty: \$1 000 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. No person shall set fire in the open air to any tree, wood, bush or grass on any land contiguous to a State forest or timber reserve, without giving notice of his intention to a forest officer so as to allow such officer to be present at the firing.

Penalty: \$500 and imprisonment for 6 months.

106. No person shall, in any State forest or timber reserve, except under a permit, licence, or forest lease under this Act, or a grant, lease, licence, or other authority from the Crown,—

Unlawful
occupation
of forest
land.

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

Penalty: \$500 and imprisonment for 6 months.

107. (1) Any person found within any State forest or timber reserve, or on any road in the vicinity thereof, and having in his possession any forest produce, who on being required to do so by a forest 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, and the forest produce shall be forfeited.

Unlawful
possession
of forest
produce.

(2) In subsection (1) “forest officer” means a forest officer who is authorized in writing by the Executive Director to exercise the power conferred by that subsection.

108. No person shall—

Other forest
offences.

- (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;

- (c) counterfeit or without due authority issue any licence, permit, or order for the cutting, removal, or sale of forest produce;
- (d) 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 forest officer;
- (e) unlawfully cut, break, throw down or in any way destroy or damage any building, fence, or gate, in or enclosing any State forest or timber reserve or 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 State forest or timber reserve;
- (f) exercise compulsion upon any forest officer by violence or threats, or corrupt or attempt to corrupt by promises, offers, gifts or presents any forest 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 forest officer from any act which forms part of his duties, or refuse or fail to comply with any lawful direction of a forest officer;
- (g) being a forest officer accept any bribe or receive any gift or present in connection with the performance of the functions of his office;
- (h) without a permit or licence therefor do or cause to be done any act, matter, or thing for which a permit or licence may be granted under this Act;

- (i) without the written authority of a forest officer remove from any land, within any State forest or timber reserve, any forest produce without previously paying the proper royalty or fee due thereon;
- (j) knowingly furnish a forest officer with a false or incorrect statement of any forest produce felled, cut, split, sawn, or removed by him or by any 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: \$1 000 and imprisonment for one year.

Division 3.—General provisions as to offences.

109. A person who aids, abets, counsels, or procures, or by any act is in any way directly or indirectly concerned in the commission of an offence against this Act, shall be deemed to have committed that offence, and shall be punishable accordingly.

Aiding and
abetting
offences.

110. Any person who commits an offence against this Act may, on conviction, be held by the court to be liable for any loss or damage caused by the offence in addition to the penalty for the offence, and the amount of such loss or damage or part thereof may be awarded by the court to the Executive Director in fixing the penalty, and may be recovered in the same manner as a pecuniary penalty.

Liability
for damage.

Presumption
as to owner-
ship of
forest
produce.

111. When in any proceedings under this Act a question arises as to whether any forest produce is the property of the Crown, such forest produce shall be presumed to be the property of the Crown until the contrary is proved.

Presumption
as to place
of offence.

112. Where in a complaint of an offence against this Act there is an averment that an act occurred within the boundaries of any category of land described in section 6, on the act being proved, it shall be presumed, in the absence of proof to the contrary, that the act occurred within the boundaries of that category of land.

Authority to
prosecute.

113. (1) A complaint for an offence against this Act may be made and prosecuted pursuant to the Justices Act 1902 by any police officer or any person authorized in writing for the purpose of the proposed proceedings by the Executive Director.

(2) In any proceedings under this Act the authority of any person to prosecute for an offence shall be presumed unless the contrary is proved.

Penalties not
substituted
for others.

114. Nothing in this Part shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or from being liable under such other law to any higher punishment or penalty than that provided by this Act, but no person shall be punished twice for the same offence.

Division 4.—Enforcement powers.

Obstruction
of officers.

115. (1) No person shall wilfully obstruct a wildlife officer, forest officer or ranger performing any function under this Act.

(2) A person who fails to give to any person performing any function under this Act any assistance which that person may reasonably request him to give, or any information which that person is expressly authorized by this Act to call for, or who, when required to give any such information, knowingly makes any false or misleading statement in relation thereto, shall be treated as having wilfully obstructed that person.

Penalty: \$500.

Forest officers, etc.

116. (1) Unbranded timber in course of conveyance without a permit in writing from a forest officer may be seized and detained by a forest officer pending inquiry, and no damages shall be recoverable with regard to such seizure or detention should it afterwards appear that such timber has not been removed in contravention of this Act.

Unbranded
timber
liable to
seizure.

(2) All such unbranded timber in course of conveyance without a permit shall be deemed to be the property of the Crown in the absence of proof to be furnished by the person in charge of such timber that the said timber is private property.

117. All forest produce cut or obtained, upon which any royalty dues or charges are payable under this Act, shall, until the payment thereof, remain the property of the Crown, and may be seized and detained or removed by any forest officer until such dues and charges have been paid; and in default of payment within 10 days of seizure may be disposed of.

Forest
produce the
property of
Crown till
royalty paid.

118. (1) A forest officer who finds a person committing an offence against this Act in respect of any forest produce or who on reasonable grounds suspects that such an offence has been committed may seize such produce and stamp or mark it with a distinctive mark, and the forest produce shall thereupon become and remain the property of the Crown until the title of a lawful owner is established.

Seizure of
forest
produce.

(2) Any forest produce seized under this section may be sold or otherwise disposed of as the Executive Director may direct, and the proceeds of any such sale shall be paid into the Treasury, and carried to the Consolidated Revenue Fund as revenue of the Department, subject to the claim to such proceeds of any lawful owner of the forest produce.

Search
warrant for
secreted
forest
produce.

119. On the complaint on oath of any forest officer stating his belief that forest produce liable to the payment of any royalty, dues, or charges, is secreted in any place other than a State forest, or timber reserve, any justice may issue a warrant to enter and search for such produce.

Power to
enter and
inspect land.

120. A forest officer authorized by the Executive Director may enter upon the land held or occupied by virtue of a permit, licence, agreement, or forest lease under this Act for the purpose of making inspections, carrying out silvicultural operations, or other forest work, and preventing or suppressing fires.

Presence,
removal or
disposal of
buildings etc.
within State
forest or
timber
reserve.

121. (1) When any building, hut, tramline, fence, dam, weir, or standing crop is found within a State forest or timber reserve, and—

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

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

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

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

122. State forests and timber reserves 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 the owner of State forests and timber reserves, and forest officers shall be deemed his agents.

Cattle
may be
impounded.

123. All unbranded cattle above the age of 12 months at any time depasturing in any State forest or timber reserve, and having no reputed or apparent owner, shall be and be deemed and taken to be the property of the Crown, and the Executive Director may cause the same to be sold or otherwise disposed of.

Unbranded
cattle the
property of
the Crown.

Rangers.

124. (1) A ranger who finds a person committing an offence to which this section applies, or who on reasonable grounds suspects that such an offence has been committed or is about to be committed, may without warrant—

Powers of a
ranger.

- (a) remove any vehicle, animal or other thing from the land;
- (b) stop, detain and search any vehicle, vessel or conveyance;

(c) enter and search any hut, tent, caravan or other erection which is not a permanent residence; and

(d) require any person to give to him the person's name and address.

(2) The 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 his name and address, or gives to the ranger 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 ranger shall not exercise any power specified in subsection (1) (a), (b) or (c) unless he has first taken all reasonable steps to communicate to the owner or person in charge of the vehicle, animal, vessel, conveyance, hut, tent, caravan or other thing concerned his intention to exercise the power and his reasons for believing that he is authorized to exercise the power.

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

(6) This section applies to offences against regulations made under section 130 relating to national parks.

Wildlife officers.

Powers of
wildlife
officer.

125. The powers of a wildlife officer under sections 20 and 20A of the Wildlife Conservation Act 1950, and the other provisions of those sections, extend to offences against regulations made under section 130 relating to nature reserves, marine nature reserves and marine parks.

PART X.—REGULATIONS.

126. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

Regulations
—general
power.

127. The regulations may provide for—

Regulations
as to
admin-
istration.

- (a) the qualifications of officers of the Department, and for examinations for appointment or promotion;
- (b) the powers and duties of honorary wildlife officers, honorary forest officers and honorary rangers appointed under section 46;
- (c) subject to section 96, the imposition and payment of rents, fees, dues, charges, and royalties, and the method of recovery thereof; and
- (d) the permits, leases and licences authorized by this Act.

128. (1) The regulations may provide for—

Regulations
as to
forestry,
State
forests etc.

- (a) the organization of a system of education and training in scientific forestry;
- (b) the organization and establishment of a forest produce research laboratory and matters connected therewith;
- (c) the protection of trees in parks and reserves under the control and management of a board under the Parks and Reserves Act 1895 and for the regulation or prohibition of the cutting or removal of such trees and other forest produce;

- (d) the protection, management and control of State forests and timber reserves, and flora and fauna therein, including provision as to—
- (i) the sale of forest produce by auction or tender;
 - (ii) the furnishing of information concerning forest produce taken and the destination thereof;
 - (iii) the furnishing of information for the purposes of ascertaining royalties payable;
 - (iv) the inspection, grading, branding and marking of forest produce;
 - (v) the regulation of persons engaged in the timber industry by requiring the registration of their names and addresses; and
 - (vi) the authority of forest officers to give directions as to the route for the movement of forest produce in a State forest or timber reserve or to stop or detain forest produce therein or on a road within or abutting a State forest or timber reserve;
- (e) the prohibition or regulation of the export of any specified kind of forest produce;
- (f) the maintenance of Government timber depots and the terms and conditions for the use thereof;
- (g) the identification, by branding or otherwise, of timber and the registration of the means of identification;
- (h) for the purposes of section 26 (2) (b) of the Mining Act 1978, the conditions and restrictions applicable to the marking out of mining tenements in State forests and timber reserves.

(2) In this section "State forests" includes land to which section 131 applies.

129. (1) The regulations may provide for—Regulations
as to forest
diseases.

- (a) the prohibition or regulation of the admission to risk areas or disease areas, and the use or movement therein, of potential carriers or classes of potential carriers;
- (b) the regulation of the conduct of persons in respect of potential carriers in risk areas or disease areas;
- (c) the notification, and the manner of notification, of any occurrence, or suspected occurrence, of infection and the furnishing by persons of all information within their power in respect of any such occurrence or suspected occurrence;
- (d) the conferral of power on an authorized person to stop and examine any potential carrier and to signpost and barricade roads for that purpose;
- (e) the detention, control, removal, treatment, cleansing and quarantine of infected carriers, or potential carriers or infected earth, soil or trees;
- (f) in respect of an alleged breach of the regulations or any condition, involving a potential carrier, the circumstances under which the owner of the potential carrier is deemed to be the person in charge of the potential carrier at the time of the offence;
- (g) the furnishing by any person in a risk area or a disease area of particulars of his name and address whenever asked to do so by an authorized person.

(2) Regulations made under this section may provide minimum penalties, not exceeding \$200 and maximum penalties, not exceeding \$2 000 for

offences against such regulations or any condition and may provide daily penalties not exceeding \$20 for every day that such an offence continues after the offender is convicted.

Regulations
as to
national
parks etc.

130. (1) The regulations may provide for the protection, management and control of national parks, nature reserves, marine nature reserves, marine parks and land referred to in section 5 (g) including provision as to the protection and conservation of fauna and flora therein whether indigenous or not.

(2) Regulations under subsection (1) shall not be made applicable to land which is subject to an agreement under section 16 unless—

(a) the agreement so authorizes, either generally or specifically; or

(b) the owner of the land has been consulted.

(3) In subsection (1), and regulations made thereunder “nature reserves” includes land that is reserved under section 29 of the Land Act 1933, whether before or after the commencement of this Act, for the conservation of flora or fauna, or both flora and fauna, but which is not a nature reserve within the meaning of sections 6 (4) and 16 (7).

PART XI.—MISCELLANEOUS.

Devolution
of certain
acquired
forest land.

131. (1) Land purchased, acquired, resumed or appropriated under section 22 or 23 of the Forests Act 1918 and immediately before the commencement of this Act registered in the name of the Conservator of Forests under the Transfer of Land Act 1893 is by this section vested in the Executive Director and shall be held, disposed of or dealt with in such manner as the Governor may determine.

(2) Subsection (1) also applies to land referred to in section 9 (3).

132. The Minister, the Executive Director, any person employed in the Department, a member of the Commission, Authority or Council, and any person who performs functions under this Act or the Wildlife Conservation Act 1950 is not personally liable for anything done or omitted to be done by him in good faith in, or in connection with, the performance or purported performance of his functions under this Act or the Wildlife Conservation Act 1950.

Exemption
from
liability.

133. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to the Executive Director or a person employed in the Department any of his functions under this Act or the Wildlife Conservation Act 1950, other than this power of delegation or the power to make any instrument having legislative effect.

Delegation.

(2) The Executive Director may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person employed in the Department any of his functions under this Act or the Wildlife Conservation Act 1950, other than this power of delegation or a function delegated to him under subsection (1).

134. (1) The Executive Director may erect or cause to be erected at such places, within or on the boundaries of any area of land or water to which this Act applies, notices of such form and construction as he considers necessary or desirable for the purpose of indicating publicly—

Erection of
notices.

- (a) that the area is one to which this Act applies;
- (b) the general extent of the area;
- (c) the nature of any conduct which is forbidden in the area;
- (d) any other matters relating to the area; and
- (e) the liability of any person who contravenes this Act with respect thereto,

or any of those things.

(2) A person is not relieved of any liability for a contravention of any provision of this Act by reason of the fact that a notice is not erected at any place under this section.

(3) No person shall destroy, damage, deface, obliterate, move or interfere with a notice erected under this section.

Penalty: \$500.

A forest officer may call for assistance to extinguish fires.

135. (1) In the event of a fire occurring in or adjacent to any State forest or timber reserve, a forest officer may call upon any person residing or working within a radius of 8 kilometres of the outbreak to assist in extinguishing the fire.

(2) All persons who in response to such call render the assistance required shall be remunerated at the prescribed rate.

Export of certain timber prohibited except under permit.

136. (1) The Governor may, by notification in the *Gazette*, declare that certain species or classes of timber to be therein specified shall not be exported until after such timber has been inspected and the permission of the Executive Director to the exportation thereof has been obtained.

(2) No person shall export any such timber which does not bear a mark or brand, to be affixed by a forest officer, indicating that such permission has been given.

Penalty: \$40 per cubic metre of timber exported.

Timber on catchment areas may be placed under control of Executive Director.

137. The Governor may order that the forest produce on any water catchment area vested in or controlled by the Crown or any public authority shall be placed under the management or control of the Executive Director, subject to such conditions as the Governor may think fit; and thereupon such areas shall be deemed Crown land for the purposes of Division 1 of Part VIII.

138. (1) Notwithstanding anything contained in any other Act relating to parks or reserves, no licence, permit, or any other authority to cut or remove forest produce in any designated park or reserve, not being land to which this Act applies, shall be granted by any person having the control of the park or reserve, without the authority of the Executive Director.

Forest
produce on
parks and
reserves.

(2) The revenue to be derived from any such licence, permit, or other authority shall, if the Governor so directs, be apportioned between the body having the management and control of the park or reserve and the Department.

(3) In subsection (1) "designated park or reserve" means a park or reserve to which the Governor may, by notice in the *Gazette*, apply this section.

139. (1) Roads within State forests and timber reserves, and other roads to which the Governor may, by notice in the *Gazette*, apply to this section shall be deemed Crown land within the meaning of section 87; and, notwithstanding anything in the Local Government Act 1960, the timber thereon shall not vest in the council of the municipality in which such roads are situated.

Timber on
roads.

(2) Notwithstanding subsection (1), the council may fell timber in the process of clearing such roads, and may sell and dispose of the timber so felled, and may fell timber growing on roads within its district for use by the council in the construction and repair of buildings, bridges, culverts, fences, and other works.

140. When any area of land of not less than 4 hectares in extent is planted with forest trees approved by the Executive Director as being suitable for commercial purposes, the number of trees not being less than 1 200 to the hectare, then

The
increased
value of
areas of land
planted with
forest trees
not rateable.

in computing the value of such area of land as rateable property within the meaning of any Act relating to local government, the increase in the value of such area of land by reason of the trees so planted shall not be taken into consideration.

Arbor Day.

141. A day shall be set apart in every year for the planting of trees in the several land divisions of the State, and such day shall be called "Arbor Day".

Trees to be
planted by
conditional
purchase
holders.

142. (1) On the disposal of land under the conditional purchase provisions of the Land Act 1933, it shall be a condition that the purchaser shall use an area of not less than 2% of the area of the holding acquired by him for the growth of timber or other forest produce.

(2) The planting of trees, approved by the Executive Director, on not less than 2 hectares of any land acquired under the conditional purchase provisions of the Land Act 1933, shall be deemed an improvement within the meaning of that Act, and the conservation and improvement, to the satisfaction of the Executive Director, of indigenous timber already growing on any portion of land acquired under those provisions may, with the approval of the Minister to whom the administration of the Land Act 1933 is for the time being committed, be deemed an improvement within the meaning of that Act.

Administra-
tion of Act
within area
of Green-
bushes
State forest.

143. The administration of this Act in relation to the area comprised within the boundaries of the Greenbushes State forest, excepting any area within such boundaries the subject of any permit, licence, agreement or forest lease shall be carried out subject to the concurrence of the Minister to whom the administration of the Mining Act 1978 is for the time being committed.

144. (1) The Minister shall carry out a review of the operation of this Act not later than 31 December 1985 and in the course of such review the Minister shall consider and have regard to—

*Review
of Act.*

- (a) any report of a Select Committee of the Legislative Council or Honorary Royal Commission touching on the subject matter of this Act or any part thereof;
- (b) the effectiveness of the operations of the Department, the Commission, the Authority, and the Council;
- (c) the need for the continuation of the functions of the Department, the Commission, the Authority and the Council; and
- (d) such other matters as appear to him to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall prepare a report based on his review of this Act and shall, not later than 31 December 1985, cause the report to be laid before each House of the Parliament.

PART XII.—REPEAL, SAVINGS, TRANSITIONAL AND VALIDATION.

Division 1.—Preliminary.

145. In this Part—

*Interpreta-
tion of this
Part.*

“Conservator” means “The Conservator of Forests” under section 8 of the Forests Act 1918;

“Forests Department” means the Forests Department established by section 7 of the Forests Act 1918;

“former authority” means the Conservator, the Forests Department, the National Parks Authority or the Western Australian Wildlife Authority;

“National Parks Authority” means the Authority established by section 7 of the National Parks Authority Act 1976;

“repealed Act” means an Act repealed by section 147 (1);

“Western Australian Wildlife Authority” means the Authority established by section 10 of the Wildlife Conservation Act 1950.

Interpreta-
tion Act not
affected.

146. Nothing in this Part shall be construed so as to limit the operation of the Interpretation Act 1984.

Division 2.—Repeal, Savings and Transitional.

Repeal.

147. (1) The following Acts are repealed—

(a) the Forests Act 1918; and

(b) the National Parks Authority Act 1976.

(2) For the purposes of section 16 of the Interpretation Act 1984 it is declared that this Act is in substitution for the repealed Acts.

(3) Section 16 of the Interpretation Act 1984 shall also have effect for the purposes of a reference to a repealed Act in any Government agreement within the meaning of the Government Agreements Act 1979.

Saving.

148. (1) The repeal of a former provision does not affect any document or appointment made or anything done under any provision so repealed so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act.

(2) Each such document, appointment or thing shall have effect as if it had been made or done under the corresponding provision of this Act, and as if that provision had been in force when the document or appointment was made or the thing was done.

(3) In particular, and without limiting the generality of subsections (1) and (2), those subsections apply to—

- (a) honorary wildlife officers and honorary rangers appointed;
- (b) any classification of land made;
- (c) any notice erected on any land;
- (d) any management scheme or working plan approved, (such management scheme or working plan being deemed to be a management plan under this Act);
- (e) any permit, licence or lease granted (a permit granted under section 12E of the Wildlife Conservation Act 1950 being deemed to be a licence under Division 2 of Part VIII);
- (f) any map or plan certified;
- (g) any forest disease risk area or forest disease area constituted (the proclamation therefor being deemed to be an order under section 82 or 83 as the case may be); and
- (h) any order or notice under section 67, 68 or 69 of the Forests Act 1918.

(2) In subsection (1) “former provision” means a provision of a repealed Act and a provision of the Wildlife Conservation Act 1950 repealed by the Acts Amendment (Conservation and Land Management) Act 1984.

Saving of
certain
regulations.

149. Until regulations are made under this Act to provide for a matter referred to in Part X or a matter which may be prescribed, the regulations made under the repealed Acts and the Wildlife Conservation Act 1950 to make provision for that matter and in force immediately before the commencement of this Act shall apply as if they had been made under this Act.

Devolution
of rights,
assets and
liabilities.

150. Subject to, and without limiting, sections 7, 131 and 155, on the commencement of this Act—

- (a) all rights, obligations and liabilities of a former authority existing immediately before such commencement are vested in or imposed on the Executive Director;
- (b) all real and personal property of whatever kind vested in or belonging to a former authority immediately before such commencement is vested in the Executive Director;
- (c) any proceedings which immediately before such commencement might have been brought or continued against a former authority may be brought or continued against the Executive Director;
- (d) anything lawfully commenced by a former authority may, so far as it is not contrary to this Act, be carried on and completed by the Executive Director.

References
in other
laws etc.

151. Subject to, and without limiting, sections 7, 131 and 155, in any written law and in any agreement, whether in writing or not, and in every deed or other instrument unless the context is such that it would be incorrect or inappropriate—

- (a) a reference to—
 - (i) a former authority, other than the Forests Department, shall be read as a reference to the Executive Director;

- (ii) the Forests Department shall be read as a reference to the Department;
 - (iii) a wildlife officer, forest officer or ranger shall be read as a reference to a wildlife officer, forest officer or ranger under this Act; and
 - (iv) the Minister for Forests shall be read as a reference to the Minister to whom the administration of this Act is committed;
- (b) a reference, relating to the performance of any function under the Wildlife Conservation Act 1950—
- (i) to the Director of Fisheries and Wildlife or the Conservator of Wildlife shall be read as a reference to the Executive Director; or
 - (ii) to the Department of Fisheries and Wildlife shall be read as a reference to the Department.

152. On the commencement of this Act all persons who were employed immediately before such commencement—

Staff not
under the
Public
Service Act
1978.

- (a) by a former authority; or
- (b) by the Department of Fisheries and Wildlife to perform any function under the Wildlife Conservation Act 1950,

not being persons subject to the Public Service Act 1978, shall be deemed to have been engaged by the Executive Director under section 43 (2) on the same terms and conditions, including the salary payable, as those on which they were employed immediately before such commencement.

Funds etc.

153. On the commencement of this Act—

- (a) the Forestry Fund under section 41 of the Forests Act 1918 and the National Parks Authority Account under section 38 of the National Parks Authority Act 1976 shall be closed and the moneys standing to the credit thereof shall be placed to the credit of the Conservation and Land Management Fund referred to in section 65; and
- (b) the Wildlife Conservation Trust Fund under section 17C of the Wildlife Conservation Act 1950 shall be closed and the moneys standing to the credit thereof shall be placed to the credit of the Nature Conservation and National Parks Trust Account referred to in section 68.

Annual
reports for
part of
a year.

154. (1) As soon as is practicable after the commencement of this Act—

- (a) the Conservator shall report as required by section 42 of the Forests Act 1918; and
- (b) the National Parks Authority shall report as required by section 39 of the National Parks Authority Act 1976,

but limited to the period from the preceding 1 July to the date of commencement of this Act, and the reports shall be laid before both Houses of Parliament.

(2) Notwithstanding section 147 (1), the Conservator and the National Parks Authority shall continue in existence for the purposes of subsection (1).

(3) For the purposes of sections 31 and 52 the period from the commencement of this Act to the succeeding 30 June shall be deemed to be a full financial year.

155. (1) Section 5 (g) shall be deemed to include land to which section 17 (1) (b) of the National Parks Authority Act 1976 applied and which immediately before the commencement of this Act was vested in, or under the control and management of, the National Parks Authority, but not as a national park. Devolution
of certain
land.

(2) The land referred to in subsection (1) shall be deemed, as from the commencement of this Act, to have been vested in the Authority by order under section 33 of the Land Act 1933 and may be dealt with accordingly.

Division 3.—Validation.

156. Where after the commencement of the National Parks Authority Act 1976 land was reserved as a national park under section 29 of the Land Act 1933 and was, by order under section 33 (2) of that Act, purported to be vested in the National Parks Authority for the purpose of a national park, the land shall be deemed, notwithstanding that section 19 of the National Parks Authority Act 1976 was not complied with— Validation.

- (a) to have been validly vested, as from the commencement of the order, in the National Parks Authority as if it had been vested under section 18 of the National Parks Authority Act 1976; and
- (b) to have been, as from such commencement, a national park under that section.

SCHEDULE. (Section 29)

**PROVISIONS AS TO CONSTITUTION AND PROCEEDINGS
OF THE COMMISSION, THE AUTHORITY, AND
THE COUNCIL.**

1. (1) Except as otherwise provided by this Act an appointed member shall hold office for such term, being not more than 3 years, as is specified in his instrument of appointment, but he may from time to time be reappointed. Term of
office.

(2) An appointed member, unless he sooner resigns or is removed from office, shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

Extra-
ordinary
vacancies.

2. The office of an appointed member becomes vacant if—

- (a) he resigns his office by written notice addressed to the Minister;
- (b) he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (c) he is removed from office by the Governor on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his duties;

or

- (d) in the case of a member appointed under section 26 (b) (i), he ceases to be a member of the Water Resources Council.

Acting
chairman
and
members.

3. (1) Where the chairman and the deputy chairman of a controlling body are both unable to act as chairman by reason of sickness, absence or other cause, the Minister may appoint a person (including a person acting under subclause (2) or (3)) to act as chairman, and while so acting according to the tenor of his appointment that person has all the functions of the chairman.

(2) Where an appointed member is unable to act by reason of sickness, absence or other cause, the Minister may appoint another person to act in his place, and while so acting according to the tenor of his appointment that other person is deemed to be a member.

(3) Each of the *ex officio* members may with the approval of the Minister nominate, in writing, a senior officer of the Department to represent him as a member at any meeting which he is unable to attend by reason of sickness, absence or other cause, and while so attending the person so nominated shall be deemed to be an *ex officio* member.

(4) No act or omission of a person acting in place of another under this clause shall be questioned on the ground that the occasion for his appointment or acting had not arisen or had ceased.

(5) The appointment of a person as an acting member or an acting chairman may be terminated at any time by the Minister.

4. (1) The first meeting of a controlling body shall be convened by the chairman of that body and thereafter, subject to subclause (2), meetings shall be held at such times and places as the body determines. Meetings.

(2) A special meeting of a controlling body may at any time be convened by—

- (a) the chairman;
- (b) in the case of the Commission, any 2 members;
- or
- (c) in the case of the Authority or the Council, any 4 members.

(3) At a meeting of a controlling body the chairman, the deputy chairman or the person appointed under clause 3 (1) shall preside, but where, in the case of the Authority or the Council, all of those members are absent from a meeting the members of that body present shall appoint one of their number to preside at that meeting.

(4) At any meeting of a controlling body—

- (a) a majority of the members (at least one of whom shall be an *ex officio* member) constitute a quorum; and
- (b) each member present is entitled to a deliberative vote on any question, and if there is an equality of votes the question shall be taken to have been answered in the negative.

(5) A controlling body shall cause accurate minutes to be kept of the proceedings at its meetings.

5. (1) A controlling body may from time to time, by resolution, appoint committees of such members as it thinks fit and may discharge, alter, continue or reconstitute any committee so appointed. Committees.

(2) Subject to the directions of a controlling body each committee may determine its own procedures.

Resolution
may be
passed
without
meeting.

6. A resolution in writing signed or assented to by letter, telegram or telex by each member shall be as valid and effectual as if it had been passed at a meeting of a controlling body.

Leave of
absence.

7. A controlling body may grant leave of absence to a member on such terms and conditions as it thinks fit.

Body to
determine
own
procedures.

8. Subject to this Act, a controlling body shall determine its own procedures.
