

# FAUNA CONSERVATION.

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No. 67 of 1975.

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AN ACT to amend the Fauna Conservation Act,  
1950-1970.

[Assented to 7th November, 1975.]

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:—

1. (1) This Act may be cited as the *Fauna Conservation Act Amendment Act, 1975*. Short title and citation.

(2) In this Act the Fauna Conservation Act, 1950-1970, is referred to as the principal Act. Reprinted as approved for reprint 10th April, 1973.

(3) The principal Act as amended by this Act may be cited as the Wildlife Conservation Act, 1950-1975.

Commence-  
ment.

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

Long title  
amended.

3. The long title to the principal Act is amended by deleting the word "Fauna", in line two, and substituting the word "Wildlife".

Section 6  
amended.

4. Section 6 of the principal Act is amended—

(a) as to the interpretation of the term "Authority", by deleting the words "Wild Life", in line two of that interpretation, and substituting the word "Wildlife";

(b) by inserting, after the interpretation of the term "Authority", a new interpretation as follows—

"carcass" includes any part of a carcass; ;

(c) as to the interpretation of the term "Director", by deleting the word "Fauna", in line two of that interpretation, and substituting the word "Wildlife";

(d) by deleting the interpretation of the term "honorary warden" and substituting a new interpretation as follows—

"honorary wildlife officer" means a person appointed to the office of that name under section seven of this Act; ;

- (e) by inserting, after the interpretation of the term "indigenous", a new interpretation as follows—

"indigenous flora" means any wildflower, palm, shrub, tree, fern, creeper, vine or other plant which—

(a) is native to the State;

(b) is not growing under cultivation; and

(c) is not a noxious weed,

and includes any part of any indigenous flora and the seeds thereof; ;

- (f) by deleting the interpretation of the term "Minister";

- (g) by inserting, immediately before the interpretation of the term "open season", a new interpretation as follows—

"nature reserve" means an area of land which is vested in the Crown and which the Governor, subject to such conditions and limitations as he thinks fit, reserves to Her Majesty or disposes of in the public interest pursuant to the provisions of paragraph (g) of subsection (1) of section twenty-nine of the Land Act, 1933, for the conservation of indigenous flora or fauna; ;

- (h) by inserting, immediately after the interpretation of the term "protected", a new interpretation as follows—

"skin" includes any part of a skin; ;

- (i) by deleting the interpretation of the term "sanctuary";

- (j) by deleting the interpretation of the term "warden" and substituting a new interpretation as follows—

"wildlife officer" means a person appointed to an office referred to in section nineteen of this Act; ; and

(k) by adding a new interpretation as follows—

“wildlife sanctuary” means an area of land which is the subject of an agreement made between the Minister and the owner of the land for its use as a sanctuary; .

**Section 7  
amended.**

5. Section 7 of the principal Act is amended—

(a) as to subsection (1), by deleting the words “Chief Warden of Fauna”, in line three, and substituting the words “Conservator of Wildlife”;

(b) as to subsection (1a), by deleting the word “Fauna”, in line three of that subsection, and substituting the word “Wildlife”;

(c) by deleting subsection (2) and substituting two new subsections as follows—

(2) There shall be appointed under the Public Service Act, 1904, a Conservator of Wildlife and such wildlife officers, licensing officers and other staff as are necessary for the effective administration of this Act.

(2a) The Minister may appoint persons to be honorary wildlife officers who shall carry out such of the duties of a wildlife officer as the Minister determines in relation to the whole or any specified part of the State. ;

(d) as to subsection (4), by deleting the passage “Acceptance of or acting in the office of chief Warden of Fauna, or of warden, honorary warden or officer, by a person shall”, in line one to line three of that subsection, and substituting the passage “The Minister may, with the

approval of the Public Service Board, engage persons to carry out such of the duties of a wildlife officer as the Minister determines in relation to any specified part of the State, but the engagement of any such person does"; and

- (e) by adding after subsection (4) three new subsections as follows—

(4a) The Minister may, with the approval of the Public Service Board, engage under contract for services any consultant or professional, technical or other assistance, and may authorise a person so engaged to carry out such of the duties of a wildlife officer as the Minister determines.

(4b) The Conservator of Wildlife shall issue to each person appointed or engaged pursuant to this section to carry out duties under this Act a certificate of appointment in the prescribed form specifying the parts of the State in which that person is authorised to carry out those duties and the general nature of the duties, and the holder shall produce such certificate whenever required so to do by any person in respect of whom he has exercised or is about to exercise any of his powers under this Act.

(4c) Production of a certificate in the prescribed form is conclusive proof in any court of the appointment of the person to whom that certificate relates and of his authority to exercise the powers conferred upon him by this Act in the execution of the duties therein specified. .

Section 9A  
amended.

6. Section 9A of the principal Act is amended—

(a) as to subsection (1)—

(i) by deleting the passage—

“When the Authority is constituted pursuant to this Act—

(a) the members of the body corporate constituted under this Act and known as The Fauna Protection Advisory Committee of Western Australia shall go out of office; and”,

in line one to line six, and substituting the passage—

“On the coming into operation of the Fauna Conservation Act Amendment Act, 1975—

(a) the body corporate formerly known as The Fauna Protection Advisory Committee of Western Australia, and thereafter known as The Western Australian Wild Life Authority, shall become and be known as the Western Australian Wildlife Authority;”; and

(ii) by deleting the words “the name of The Western Australian Wild Life Authority but as so”, in line nine to line eleven, and substituting the words “that name as thereafter”;

and

(b) as to subsection (2)—

(i) by deleting the passage “Fauna Protection Act Amendment Act, 1967,”

in line four of that subsection, and substituting the passage "Fauna Conservation Act Amendment Act, 1975,";

- (ii) by deleting the words "shall be read and taken to refer", in lines five and six, and substituting the word "or"; and
- (iii) by adding after the word "Authority", being the last word in that subsection, the words "shall be read and construed as a reference to the Authority".

7. Section 10 of the principal Act is amended— Section 10  
amended.

- (a) as to subsection (1), by deleting the words "referred to in the next succeeding section", in lines one and two, and substituting the words "of this Act";
- (b) as to subsection (2), by deleting the words "Wild Life", in line two of that subsection, and substituting the word "Wildlife";
- (c) as to subsection (3)—
  - (i) by deleting the word "eleven", in line one of that subsection, and substituting the word "twelve";
  - (ii) by deleting the words "Chief Warden of Fauna", in line one of subparagraph (ii) of paragraph (a), and substituting the words "Conservator of Wildlife";
  - (iii) by deleting the word "seven", in line one of paragraph (b), and substituting the word "eight";

- (iv) by deleting the word “four”, in line one of subparagraph (iii) of paragraph (b), and substituting the word “five”; and
- (v) by deleting the passage “and of whom one at least has a wide practical knowledge of the native fauna of the State and one to represent country interests”, in lines three to seven of subparagraph (iii) of paragraph (b), and substituting the passage “, of whom one shall be representative of country interests, one shall have a wide practical knowledge of the native fauna of the State and one shall have such knowledge in relation to the indigenous flora”.

**Section 11  
amended.**

**8. Section 11 of the principal Act is amended—**

**(a) as to subsection (1)—**

- (i) by deleting the words “Chief Warden of Fauna”, in line three, and substituting the words “Conservator of Wildlife”; and
- (ii) by inserting after the word “fauna”, in line four, the words “or indigenous flora”;

**(b) as to subsection (2)—**

- (i) by inserting after the word “fauna”, in line five of that subsection, the words “and of the indigenous flora”;
- (ii) by inserting after the word “fauna”, in line six, the words “or flora”; and
- (iii) by deleting the words “Chief Warden of Fauna”, in line eight and substituting the words “Conservator of Wildlife”;

and



- (c) as to subsection (3), by inserting immediately before the word "sanctuary", in line four, the words "nature reserve or wildlife".

9. Section 12 of the principal Act is amended— Section 12 amended.

- (a) as to subsection (1), by inserting after the word "fauna", in line four, the words "or of indigenous flora"; and
- (b) as to subsection (2), by inserting after the word "fauna", in line three of that subsection, the words "or of indigenous flora".

10. Section 12A of the principal Act is amended— Section 12A amended.

- (a) as to subsection (1), by inserting immediately before the word "sanctuary", in line seven, the words "nature reserve or wildlife"; and
- (b) as to subsection (2)—
  - (i) by inserting immediately before the word "sanctuary", in line two of that subsection, the words "nature reserve or wildlife"; and
  - (ii) by inserting after paragraph (a) a new paragraph as follows—
    - (aa) restricted areas; .

11. Section 12B of the principal Act is amended— Section 12B amended.

- (a) by inserting immediately before the word "sanctuary", where it appears in line two and again in line six, the words "nature reserve or wildlife";

- (b) by deleting the passage “of the kind firstly referred to in the interpretation “sanctuary” in section six of this Act”, in line four to line six, and substituting the words “which is comprised in a nature reserve”; and
- (c) by deleting the words “of the kind secondly referred to in the interpretation”, in line thirteen and line fourteen, and substituting the words “which is comprised in a wild-life sanctuary”.

Section 12C  
amended.

12. Section 12C of the principal Act is amended—

- (a) by inserting immediately before the word “sanctuary”, where it appears in line four, line eight, line nine, and line ten, the words “nature reserve or wildlife”; and
- (b) by inserting immediately before the word “limited”, in line thirteen, the passage “restricted area,”.

Section 12D  
amended.

13. Section 12D of the principal Act is amended—

- (a) as to subsection (1), by deleting the passage “area of land of the kind firstly mentioned in the interpretation “sanctuary” in section six of this Act”, in line two and line three, and substituting the words “nature reserve”; and
- (b) as to subsection (2), by inserting after the word “fauna”, in line four, line five and line seven of that subsection, the words “or indigenous flora”.

14. Section 12E of the principal Act is amended— Section 12E amended.

- (a) as to subsection (1), by inserting immediately before the word “sanctuary” in line four, the words “nature reserve or wild-life”; and
- (b) as to subsection (2), by deleting the passage “where the sanctuary comprises land of a kind secondly described in the interpretation “sanctuary” in section six of this Act”, in line one to line three, and substituting the words “where the land is comprised in a wildlife sanctuary”.

15. Section 13 of the principal Act is amended— Section 13 amended.

- (a) by inserting after the section designation “13.” the subsection designation “(1)”;
- (b) by inserting immediately before the word “sanctuary” in line three, the word “wild-life”;
- (c) by adding after the word “fauna” in line four, the words “or indigenous flora”; and
- (d) by adding a new subsection as follows—

(2) A person shall not directly or indirectly purport to describe any area of land as a wildlife sanctuary unless he is permitted to do so pursuant to an agreement entered into under this section.

Penalty: Two hundred dollars. .

16. Section 14 of the principal Act is amended by deleting the words “rare and likely to become extinct”, in lines four and five of paragraph (ba) of subsection (2) and substituting the passage “likely to become extinct, or is rare, or otherwise in need of special protection”. Section 14 amended.

Section 15  
amended.

17. Section 15 of the principal Act is amended—

- (a) as to subsection (1a), by inserting immediately before the word “sanctuary”, in line nine of that subsection, the words “nature reserve or wildlife”;
- (b) as to subsection (1b), by deleting the words “Chief Warden of Fauna”, in line seven of that subsection, and substituting the words “Conservator of Wildlife”;
- (c) as to subsection (2) by adding after paragraph (b) two new paragraphs as follows—

(c) Where the Minister considers that in the interest of conservation the operation of a license should not be permitted to continue the Minister may, at any time and from time to time, by notice in writing given to the holder of a license, cancel the license or suspend it for such period as the Minister thinks fit.

(d) Where the holder of a license cannot reasonably be served with a notice required by this section or his whereabouts are unknown, the service of that notice may be effected by an advertisement published in a newspaper circulating in the general area in which he was last known to be. ; and

- (d) as to subsection (3), by deleting the passage “Chief Warden of Fauna, or to any warden”, in lines three and four of that subsection, and substituting the passage “Conservator of Wildlife, or to any wildlife officer”.

Section 16A  
amended.

18. Section 16A of the principal Act is amended—

- (a) by inserting after the section designation “16A.” the subsection designation “(1)”;
- and
- (b) by adding two new subsections as follows—

(2) A person who sells, buys, transports or has in his possession or control

the skin or carcass of any fauna to which a tag is required to be affixed under this Act and to which no such tag is affixed commits an offence against this Act unless the provisions of subsection (3) of this section apply.

"This Act" includes regulations cf. Act No. 30 of 1918.

(3) The provisions of subsection (2) of this section do not apply to any skin or carcass, or any part thereof, lawfully taken and processed for the purposes of sale pursuant to section seventeen A of this Act.

19. Section 17B of the principal Act is amended by inserting after the word "proclaimed", in line five, the words "or declared".

Section 17B amended.

20. Section 17C of the principal Act is amended, as to paragraph (e) of subsection (3),—

Section 17C amended.

- (a) by deleting the words "Chief Warden of Fauna", in line two of subparagraph (i), and substituting the words "Conservator of Wildlife"; and
- (b) by inserting immediately before the word "sanctuary", in line three of subparagraph (ii), the words "nature reserve or wildlife".

21. Section 18 of the principal Act is amended—

Section 18 amended.

- (a) as to subsection (6), by adding after the word "paid", being the last word in the subsection, the words "or it is sold or otherwise disposed of pursuant to the provisions of section twenty A of this Act"; and
- (b) as to subsection (8), by inserting after the word "who", in line one of that subsection, the passage "neglects or fails to make, or who".

22. Section 19 of the principal Act is amended—

Section 19 amended.

- (a) by deleting the word "wardens", in line two, and substituting the words "wildlife officers";

- (b) by deleting the words "Chief Warden of Fauna", in lines four and five, and substituting the words "Conservator of Wildlife";
- (c) by deleting the word "warden", in line six, and substituting the words "wildlife officer";
- (d) by deleting the words "Chief Inspector", in lines thirteen and fourteen, and substituting the word "Director".

Section 20  
amended.

23. Section 20 of the principal Act is amended—

- (a) by deleting subsection (1);
- (b) as to subsection (2),—
  - (i) by deleting the word "warden", in lines one, twelve, sixteen, twenty-four, twenty-nine, forty-three, fifty-seven, sixty-four, sixty-five and sixty-eight of that subsection and substituting in each case the words "wildlife officer";
  - (ii) by deleting the word "them", in line nineteen, and substituting the words "any firearms";
  - (iii) by deleting the words "or in the case of fauna", in lines twenty and twenty-one, and substituting the passage ", detaining or delivering";
  - (iv) by inserting after the word "purpose", in line twenty-two, the passage "any fauna or other thing so taken";
  - (v) by deleting the words "to so deliver the fauna", in line twenty-five, and substituting the words "detain or deliver up any fauna";
  - (vi) by deleting the words "to so deliver the fauna", in line twenty-eight;
  - (vii) by deleting the words "or enclosed garden or curtilage of a dwelling house", in lines thirty-three to thirty-five;

- (viii) by deleting the word "it", in line fifty-one, and substituting the words "any firearm";
  - (ix) by deleting the words "or in the case of fauna", in line fifty-three, and substituting the passage ", detaining or delivering"; and
  - (x) by inserting after the word "purpose", in line fifty-five, the words "any fauna or other thing so seized";
- (c) as to subsection (2a)—
- (i) by deleting the word "warden", in lines one, nine, twelve and fifteen of that subsection, and substituting in each case the words "wildlife officer"; and
  - (ii) by deleting the words "into the custody of a member of the Police Force or", in lines ten and eleven, and substituting the words "to a suitable place of detention or to a";
- (d) as to subsection (3)—
- (i) by deleting the word "warden", in line seventeen of that subsection, and substituting the words "wild-life officer";
  - (ii) by deleting the word "wardens", in line eighteen, and substituting the words "wildlife officers"; and
  - (iii) by adding after paragraph (b) a new paragraph as follows—
    - (c) Where a wildlife officer enters upon or searches the enclosed garden or curtilage of a dwelling house the owner or occupier of that dwelling house may make a complaint on oath before a justice of the peace

alleging that in his opinion there had been no reasonable grounds for the exercise of that power, and thereupon the justice shall cause the matter to be inquired into and shall make his findings known to the complainant and to the Minister;

and

(e) as to subsection (5)—

(i) by deleting the word “warden”, in line one of that subsection, and substituting the words “wildlife officer”;

and

(ii) by deleting the word “wardens”, in line three, and substituting the words “wildlife officers”.

Section 20A  
added.

24. The principal Act is amended by inserting after section 20 a new section, to stand as section 20A, as follows—

Powers of  
disposal and  
proceeds  
of sale.

20A. (1) Where an officer authorised to receive royalty under section eighteen or to receive fauna or other things taken or seized pursuant to section twenty of this Act takes control of any fauna, or the skin or carcass of any fauna, or any other thing likely, in his opinion, to suffer, deteriorate or perish if no action is taken to protect it, he may take such action by way of care, processing, sale or other disposal as appears to him to be reasonably necessary.

(2) The payment of the charges and expenses attributable to any action taken by an officer under subsection (1) of this section shall be deducted from any moneys thereby derived, and the net proceeds thereafter brought to account in accordance with the provisions of the Audit Act, 1904, and dealt with according to law. .



25. Section 21 of the principal Act is repealed. Section 21 repealed.

26. Section 23 of the principal Act is amended— Section 23 amended.

(a) as to subsection (1),—

- (i) by deleting the passage “who is a native according to the interpretation, “Native” in section two of the Native Administration Act, 1905-1947,” in line three to line five, and substituting the passage “who is “a person of Aboriginal descent” as that term is defined in section four of the Aboriginal Affairs Planning Authority Act, 1972,”;
- (ii) by inserting immediately before the word “sanctuary”, in line eight, the words “nature reserve or wildlife”;
- (iii) by deleting the words “any of the privileges conferred by”, in line thirteen, and substituting the words “the provisions of”;
- (iv) by deleting the words “upon the native has been or is”, in line fourteen, and substituting the word “are”; and
- (v) by deleting the words “curtail the privileges”, in lines seventeen and eighteen, and substituting the words “suspend or restrict the operation of this section”;

and

(b) as to subsection (2),—

- (i) by deleting the words “Chief Warden of Fauna”, in line one of that subsection, and substituting the words “Conservator of Wildlife”;

and

- (ii) by deleting the words "the native", in line two and substituting the words "any person".

Section 24  
amended.

27. Section 24 of the principal Act is amended by deleting the passage "Chief Warden of Fauna, a warden of fauna, an honorary warden, an", in lines two to four, and substituting the passage "Conservator of Wildlife, a wildlife officer, an honorary wildlife officer, or any other".

Section 25  
amended.

28. Section 25 of the principal Act is amended—

- (a) as to subsection (1), by deleting the word "warden", in lines fifteen, seventeen, eighteen, nineteen and twenty-one, and substituting in each case the words "wildlife officer"; and
- (b) as to subsection (2) by deleting the word "warden", in line two and again in line four of that subsection, and substituting in each case the words "wildlife officer".

Section 27  
amended.

29. Section 27 of the principal Act is amended—

- (a) as to subsection (1), by deleting the word "warden", in line three, and substituting the words "wildlife officer"; and
- (b) as to subsection (3), by deleting the passage commencing with the word "to", in line one of that subsection, and ending with the word "nor", in line three.

Section 27A  
amended.

30. Section 27A of the principal Act is amended by deleting the word "warden", in line three and again in line four, and substituting in each case the words "wildlife officer".

Section 27B  
amended.

31. Section 27B of the principal Act is amended by deleting the words "Chief Warden of Fauna", in line one, and substituting the words "Conservator of Wildlife".

32. The principal Act is amended by inserting after section 27C a new section, to stand as section 27D, as follows—

Section 27D  
added.

27D. Where, in a complaint of an offence against this Act, the name of the person against whom the complaint is made is that given by the alleged offender at the time of, or immediately following the occurrence giving rise to the complaint, there is a presumption, rebuttable by evidence to the contrary, that the person named in the complaint is the alleged offender. .

Presumption  
as to  
identity.

33. Section 28 of the principal Act is amended—

Section 28  
amended.

(a) by deleting paragraph (a) and substituting a new paragraph as follows—

(a) providing for the protection and conservation of fauna and indigenous flora in nature reserves and wildlife sanctuaries and for the control—

(i) of nature reserves, by the Authority or such other persons as the Governor may appoint; and

(ii) of wildlife sanctuaries, in accordance with the terms of any agreement made under section thirteen of this Act relating thereto; ;

(b) by inserting immediately before the word "sanctuary", in line two and line six of paragraph (aa), lines two, seven, eight and ten of paragraph (ab), line four of paragraph (ac), line three of paragraph (ad), line three of paragraph (ae), line two and line six of paragraph (af), line two of paragraph (ag), line two of paragraph (ah), line three of paragraph (ai), line two and line five of paragraph (aj),

line four of paragraph (ak), line three of paragraph (al), and line two of paragraph (am), the words "nature reserve or wildlife";

(c) as to paragraph (ak), by deleting the word "private" in line three;

(d) as to paragraph (al), by deleting the word "warden", in line two, and substituting the words "wildlife officer";

(e) by inserting after the word "fauna", in line two of paragraph (ab), line four of paragraph (al), and line three of paragraph (f), the words "or indigenous flora";

(f) as to paragraph (e), by deleting the passage "by wardens, collectors and officers", in lines two and three, and substituting the words "in accordance with the requirements of this Act";

(g) as to paragraph (j), by deleting the word "time", being the last word of subsection (1), and substituting the passage—  
time; and

(k) prescribing the powers and duties of honorary wildlife officers;

and

(h) by adding a new subsection as follows—

(3) No regulation shall be made in relation to a wildlife sanctuary unless—

(a) the agreement made under section thirteen of this Act relating thereto so authorises, either generally or specifically; or

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