



Nature Conservation Act 1992

Nature Conservation (Wildlife Management) Regulation 2006

Current as at 10 May 2013

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Queensland

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Nature Conservation (Wildlife Management) Regulation 2006

[as amended by all amendments that commenced on or before 10 May 2013]

Chapter 1 Preliminary

1 Short title

This regulation may be cited as the *Nature Conservation (Wildlife Management) Regulation 2006*.

2 Commencement

This regulation commences on 21 August 2006.

3 Relationship with Administration Regulation

- (1) This regulation must be read together with the Administration Regulation.
- (2) In overview only, the Administration Regulation—
 - (a) provides for the administrative matters relating to the grant, amendment, suspension, cancellation, surrender and replacement of relevant authorities, including restrictions on the grant of wildlife authorities in addition to restrictions stated in this regulation; and
 - (b) states requirements applying to carrying out activities under a relevant authority, including requirements applying to wildlife authorities in addition to requirements stated in this regulation; and
 - (c) provides for the review of, and appeal against, particular decisions, including decisions of the chief executive, or a conservation officer, under this regulation; and

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- (d) states the procedures applying after a thing is seized under section 346 of this regulation; and
- (e) states the requirements for records required to be kept under the Act, including records required to be kept by the holder of a wildlife authority under this regulation or a conservation plan; and
- (f) states the requirements for returns of operations required to be given to the chief executive under the Act, including returns of operations required to be given by the holder of a wildlife authority under this regulation or a conservation plan; and
- (g) provides for the fees that are payable under the Act; and
- (h) includes additional general provisions for the Act, including—
 - (i) how demerit points are accumulated; and
 - (ii) the period for which particular documents must be kept under the Act.

4 Application

This regulation applies only to wildlife that is not in a protected area.

5 Interpretation generally

- (1) The dictionary in schedule 5 defines particular terms used in this regulation.
- (2) Subject to subsection (1), and unless this regulation provides otherwise, terms used in this regulation have the same meaning they have in the Administration Regulation.
- (3) Subsection (2) is not limited to a term defined in the Administration Regulation but also applies to a provision of that regulation aiding the interpretation of a term used in it.

Note—

For provisions that aid the interpretation of terms used in the Administration Regulation, see sections 5 to 7 of that regulation.

6 Meaning of *commercial purpose*

- (1) A person does an act for a *commercial purpose* if the person does the act for gain or reward.
- (2) Without limiting subsection (1), a person takes, keeps or uses wildlife for a *commercial purpose* if—
 - (a) the activity for which the wildlife is, or is to be, used—
 - (i) is part of a business; or
 - (ii) is for a business, home occupation or home industry under a local law or a planning scheme; or
 - (b) the person buys or sells, or intends to buy or sell, the wildlife and the proceeds from the sale are, or will be, subject to income tax under a law of the Commonwealth; or
 - (c) the person operates under a business or trading name and the business or trade involves buying or selling wildlife of the same species; or
 - (d) the wildlife is brought into the State for the main purpose of selling the wildlife.
- (3) Also, without limiting subsection (1), a person displays an animal for a commercial purpose if—
 - (a) the animal is displayed in a public place in a way that another person may reasonably believe it is for sale; or
 - (b) the animal is displayed in a way that promotes a particular product or service or a business name.

7 Meaning of *unauthorised interaction*

Each of the following is an *unauthorised interaction* for a protected animal in the wild—

[s 8]

- (a) an interaction with the animal, other than photographing or filming the animal in a way that does not disturb or interfere with the animal, for which a person gains a financial benefit;
- (b) handling or touching the animal;
- (c) interacting with the animal in a way that will, or may, disturb or interfere with the animal;
- (d) physically restraining, or placing a physical restraint on, the animal.

8 Scientific names

The scientific names used for wildlife mentioned in this regulation follow the scientific reference stated for the wildlife in the Wildlife Regulation, section 5.

Chapter 2 Provisions applying to all wildlife authorities

Part 1 Restrictions on grant for all wildlife authorities

9 Purpose of pt 1

The purpose of this part is to state restrictions that apply to the grant of all wildlife authorities.

Notes—

- 1 The Administration Regulation, section 30, contains other restrictions on grant applying to all wildlife authorities.
- 2 The Koala Conservation Plan, sections 18 and 19 contain other restrictions on grant applying to most wildlife authorities.

10 Who may obtain wildlife authority

- (1) The chief executive may grant a wildlife authority to a person.
- (2) However, the chief executive can not grant a wildlife authority for an animal to an individual younger than—
 - (a) for a recreational wildlife licence, commercial wildlife harvesting licence, recreational wildlife harvesting licence, or a permit for an animal—13 years; or
 - (b) for another wildlife authority for an animal—18 years.
- (3) Also, the chief executive can not grant a wildlife authority for protected plants to an individual younger than—
 - (a) for a recreational wildlife licence or recreational wildlife harvesting licence for protected plants—13 years; or
 - (b) for another wildlife authority for protected plants—18 years.
- (4) Also, the chief executive may grant a wildlife authority, other than a wildlife movement permit, to a corporation only if the corporation has an office in the State.
- (5) In this section—

wildlife authority includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

11 General restriction on grant of wildlife authorities

- (1) The chief executive may grant a wildlife authority only if the chief executive is satisfied—
 - (a) the activities to be carried out under the authority are not likely to adversely affect the ecological sustainability of any wildlife; and
 - (b) if the authority is for wildlife that has been taken, kept or used before the authority is granted—the wildlife has been lawfully taken, kept or used.

[s 11A]

(2) In this section—

wildlife authority includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

11A General restriction on grant of wildlife authorities in dugong protection areas

(1) The chief executive may grant a wildlife authority authorising a person to take, keep or use protected wildlife in a dugong protection area only if the chief executive is satisfied the taking, keeping or using of the protected wildlife is not likely to significantly reduce the local dugong population or significantly harm dugong habitat.

(2) In this section—

dugong protection area means regulated waters, described in the *Fisheries Regulation 2008*, schedule 1, that have a name that includes either of the following terms—

- (a) greater dugong protection area;
- (b) dugong protection area.

12 Wildlife authority must not authorise taking protected animal by using regulated substance

(1) The chief executive can not grant a wildlife authority authorising a person to take a protected animal by using a regulated substance if—

- (a) the use of the substance on the animal is prohibited under an Act; or
- (b) an Act requires a person using the regulated substance on the animal to hold a particular authority and the person does not hold the authority.

(2) In this section—

regulated substance means a substance, including, for example, a poison or other toxic substance the use of which is regulated under an Act.

13 Restriction on grant about places where animals to be kept

The chief executive can not grant a wildlife authority for an animal if the chief executive reasonably believes the place where the animal is to be kept, under the authority, is not appropriate, or does not have the appropriate facilities, for keeping the animal, including, for example—

- (a) because the place does not have facilities that will enable a person keeping the animal at the place to keep the animal in a way that complies with requirements about housing the animal, under this regulation or a relevant code of practice for the animal; or

Note—

Section 331 contains requirements about housing and care of live protected animals.

- (b) because the place does not comply with requirements, under this regulation, for places where activities under wildlife authorities of the same type are to be carried out.

Note—

Section 138 contains requirements for exhibits of animals under a wildlife exhibitor licence.

14 Wildlife authority must be for only 1 licensed premises or mobile facility

- (1) The chief executive may grant a wildlife authority for an animal for only 1 licensed premises.
- (2) Also, the chief executive may grant a commercial wildlife licence (mobile) for only 1 mobile facility.

- 3 Under section 89(4) of the Act, it is an offence for a person to keep or use a protected plant that has been taken in contravention of section 89(1) of the Act.
- 4 Part 5, divisions 4 to 6 of the Act contain other restrictions about keeping, using or moving wildlife.

(2) In this section—

wildlife authority includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

17 Particular wildlife authorities for animals limited to only live or dead species

(1) This section applies if—

- (a) a wildlife authority is for—
 - (i) only a live animal of a particular species; or
 - (ii) only a dead animal of a particular species; and
- (b) the authority authorises the holder of the authority, or a relevant person for the holder, to take, keep, use, process or move an animal of the species identified on the authority.

(2) The holder or relevant person may only take, keep, use, process or move—

- (a) for a wildlife authority for only a live animal of a particular species—a live animal of the species identified on the authority; and
- (b) for a wildlife authority for only a dead animal of a particular species—a dead animal of the species identified on the authority.

(3) In this section—

wildlife authority includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

[s 18]

18 Limitation for wildlife authorities for taking animal by killing the animal

- (1) This section applies if—
 - (a) a wildlife authority authorises the holder of the authority, or a relevant person for the holder, to—
 - (i) take an animal of a species identified on the authority only by killing the animal; and
 - (ii) keep, use, process or move an animal of a species identified on the authority; and
 - (b) the authority does not state whether it is for a live or dead animal of the species.
- (2) The holder or relevant person may—
 - (a) take only a live animal of the species identified on the authority by killing the animal; and
 - (b) keep, use, process or move only a dead animal of the species identified on the authority.

19 Wildlife authorities for protected plants limited to species identified on authority

- (1) This section applies if—
 - (a) a wildlife authority authorises the holder of the authority, or a relevant person for the holder, to take or use protected plants; and
 - (b) states—
 - (i) the particular species of protected plants to which it applies; or
 - (ii) that the authority applies only to whole protected plants of a species identified on the licence; or
 - (iii) that the authority applies only to protected plant parts of a species identified on the licence.
- (2) The holder or relevant person may take or use only—

-
- (a) if the authority states the species of protected plants to which it applies—protected plants of a species identified on the authority; and
 - (b) if the authority states the authority applies only to whole protected plants of a species identified on the licence—whole protected plants of the species identified on the authority; and
 - (c) if the authority states the authority applies only to protected plant parts of a species identified on the licence—protected plant parts of the species identified on the authority.

20 Meaning of number on wildlife authority

- (1) This section applies if—
 - (a) a wildlife authority authorises a person to take, keep, use, process or move wildlife; and
 - (b) the authority has a number written opposite the species of wildlife for which the authority is granted.
- (2) Unless otherwise stated on the authority, a person may take, keep, use, process or move, for the duration of the authority, no more than the number of wildlife of the species stated opposite the species.

Examples—

- 1 A commercial wildlife harvesting licence authorises a person to take, keep or use particular animals and the licence has the following written on it without any explanation about the meaning of the numbers—
 - carpet python—5
 - spotted python—2.

The person may take, keep or use, under the licence, not more than 5 carpet pythons and not more than 2 spotted pythons for the whole duration of the licence.
- 2 A rehabilitation permit authorises a person to take, keep or use particular animals and the licence has the following written on it and

[s 21]

states that the number indicates the number of animals that may be taken, kept or used at any given time—

- bar-shouldered dove—3
- emerald dove—5.

The person may take, keep or use, under the permit, not more than 3 bar-shouldered doves, and not more than 5 emerald doves, at any given time while the permit is in force.

(3) In this section—

wildlife authority includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

21 Particular wildlife authorities authorise engaging in unauthorised interaction

- (1) This section applies to a wildlife authority that authorises the holder of the authority, or a relevant person for the holder, to take an animal of the species identified on the authority.
- (2) The holder or relevant person may, without a commercial wildlife licence (wildlife interaction), engage in an unauthorised interaction for an animal of the species in the wild, if the interaction is part of an activity carried out under the authority.

22 Animals may be moved from place of taking to place of keeping

- (1) This section applies to a wildlife authority authorising the holder of the authority, or a relevant person for the holder, to take an animal under the authority, if the licensed premises for the authority is in the State or another State.
- (2) The holder or relevant person may, without a wildlife movement permit, move the animal from the place where the animal was taken to—
 - (a) the licensed premises; or
 - (b) another authorised premises for the animal that is in the State or another State.

- (3) Also, if the authority is a commercial wildlife harvesting licence or a recreational wildlife harvesting licence, the holder or relevant person may, without a wildlife movement permit, move the animal—
- (a) from the place where the animal was taken to another place where the holder intends to take other animals under the licence; and
 - (b) from the place, mentioned in paragraph (a), where the holder intends to take other animals under the licence to—
 - (i) the licensed premises; or
 - (ii) another authorised premises for the animal that is in the State or another State.
- (4) However, subsection (2) authorises the holder of a rehabilitation permit, or a relevant person for the holder, to move an animal into the State only if the chief executive has written on the permit that the holder or relevant person may bring an animal taken in another State into the State for keeping it in the State.
- (5) Also, for subsections (2) and (3), if the licensed premises or other authorised premises is in another State, the holder or relevant person must fill in a movement advice for the movement before the movement happens.
- Maximum penalty—50 penalty units.
- (6) Further, this section does not authorise the movement of a prescribed protected animal into another State if the movement is, whether directly or indirectly, associated with—
- (a) moving the animal to another country; or
 - (b) selling, giving or moving the animal to a person in another country.

[s 23]

23 Animals may be moved to particular authorised buyers

- (1) This section applies if the holder of a wildlife authority, or a relevant person for the holder, sells or gives, under the authority, an animal to an authorised buyer for the animal.
- (2) The holder, relevant person or buyer may, without a wildlife movement permit, move the animal from the place where the holder or relevant person keeps the animal to the place where the buyer intends to keep the animal.
- (3) However, the holder or relevant person must fill in a movement advice for the movement before the movement happens.

Maximum penalty—50 penalty units.

- (4) Subsection (3) does not apply to—
 - (a) the movement of a controlled animal to a person intending to keep the animal under section 46; or
 - (b) the movement of a protected fish to a person intending to keep the fish under section 51; or
 - (c) the movement of a protected scorpion or spider to a person intending to keep the scorpion or fish under section 54.
- (5) This section does not apply to a live special native animal.
- (6) Also, this section does not authorise the movement of a prescribed protected animal—
 - (a) to another country; or
 - (b) into another State if the movement is, whether directly or indirectly, associated with—
 - (i) moving the animal to another country; or
 - (ii) selling, giving or moving the animal to a person in another country.

24 Animals may be moved from interstate sellers

- (1) This section applies if—
 - (a) the holder of a wildlife authority, or a relevant person for the holder, buys or accepts, under the authority, an animal from an authorised interstate seller for the animal; and
 - (b) the licensed premises for the authority is in the State or another State.
- (2) The holder, relevant person or seller may, without a wildlife movement permit, move the animal from the place where the seller keeps the animal to—
 - (a) the licensed premises for the wildlife authority; or
 - (b) another authorised premises for the animal that is in the State or another State.
- (3) However, the holder or relevant person must fill in a movement advice for the movement before the movement happens.

Maximum penalty—50 penalty units.
- (4) This section does not apply to—
 - (a) a live special native animal; or
 - (b) a dead crocodile or emu.
- (5) Also, this section does not authorise the movement of a prescribed protected animal into another State if the movement is, whether directly or indirectly, associated with—
 - (a) moving the animal to another country; or
 - (b) selling, giving or moving the animal to a person in another country.

[s 25]

25 Animals may be moved for private reasons

The holder of a wildlife authority, or a relevant person for the holder, who keeps an animal under the authority may, without a wildlife movement permit, move the animal—

- (a) on the land on which the authorised premises for the animal are located; or
- (b) if the animal is kept at the holder's or relevant person's place of business and the holder or relevant person moves to a new place of business within the State—to the new place of business; or
- (c) if the animal is kept at the holder's or relevant person's place of residence and the holder or relevant person moves to a new place of residence within the State—to the new place of residence.

Note—

See the Administration Regulation, section 63, for the requirement to notify the chief executive of a change of an address stated on a wildlife authority.

26 Live animals may be moved to and from veterinary surgeon

- (1) The holder of a wildlife authority, or a relevant person for the holder, who keeps a live animal in the State under the authority may, without a wildlife movement permit, move the animal—
 - (a) from the place where the animal is being kept (the *place of keeping*) to the premises of a veterinary surgeon for treatment or care for the animal; or
 - (b) from the premises of a veterinary surgeon who treated or cared for the animal to the place of keeping.
- (2) However, if the premises of the veterinary surgeon is outside the State, subsection (1)(a) applies only if the holder or relevant person ensures the animal is moved back to the place

of keeping as soon as practicable after the treatment or care is given.

- (3) Subsection (2) does not apply if the animal dies.

27 Live animals may be moved to and from display

- (1) This section applies to the holder of any of the following licences, or a relevant person for the holder, who keeps a live protected, international or prohibited animal in the State under the licence—
- (a) wildlife demonstrator licence;
 - (b) wildlife exhibitor licence;
 - (c) wildlife farming licence;
 - (d) museum licence.
- (2) The holder or relevant person may, without a wildlife movement permit, move the animal—
- (a) from the licensed premises for the licence to a place in the State or another State where the animal is to be displayed under the licence; or
 - (b) from a place in the State or another State where the animal was displayed under the licence to another place in the State or another State where the animal is to be displayed under the licence; or
 - (c) from a place in the State or another State where the animal was displayed under the licence to the licensed premises for the licence.
- (3) However, subsection (2) applies only if the holder or relevant person ensures the animal is moved back to the licensed premises for the licence as soon as practicable after the animal stops being displayed under the licence.

[s 28]

- (4) Also, if the movement is into or out of the State, the holder or relevant person must fill in a movement advice for the movement before the movement happens.

Maximum penalty for subsection (4)—50 penalty units.

28 Whole protected plants may be moved under particular wildlife authorities

- (1) The holder of a wildlife authority for whole protected plants, or a relevant person for the holder, may, without a wildlife movement permit, move a whole protected plant within, into or out of the State.

Note—

The Protected Plants Conservation Plan includes requirements that must be complied with before or while moving whole protected plants taken under a commercial wildlife harvesting licence. See, for example, sections 19 and 32.

- (2) However, if the holder or relevant person moves the plant into or out of the State, the holder or relevant person must fill in a movement advice for the movement before the movement happens.

Maximum penalty—50 penalty units.

- (3) Subsection (1) does not authorise a movement that is prohibited under a conservation plan.

Note—

The Protected Plants Conservation Plan restricts the movement of protected plants taken under a commercial wildlife harvesting licence or recreational wildlife harvesting licence. See sections 35 and 36 of that plan.

29 Protected plant parts may be moved under particular wildlife authorities

- (1) The holder of a wildlife authority for protected plant parts, or a relevant person for the holder, may, without a wildlife movement permit, move a protected plant part within, into or out of the State.

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- (i) if a conservation plan states the holder of the licence may sell or give the wildlife only to a particular person—the particular person; or
 - (ii) otherwise—the holder of a commercial wildlife licence for the wildlife, or another person if the chief executive has given the holder of the commercial wildlife harvesting licence written approval to sell or give the wildlife to the other person; or
- (b) for another licence—a person who is authorised to buy or accept the wildlife under the Act or a law of another State.

Maximum penalty—120 penalty units.

- (3) Also, the holder or relevant person must not sell or give a prescribed protected animal to an authorised buyer for the animal if—
- (a) the holder or relevant person knows, or ought reasonably to know, the authorised buyer intends to, whether from the State or another State—
 - (i) move the animal to another country; or
 - (ii) sell, give or move the animal to—
 - (A) a person in another country; or
 - (B) a person who intends to move the animal to another country; and
 - (b) an export agreement with the State has not been entered into for the animal.

Maximum penalty—120 penalty units.

31 Persons from whom holders may buy or accept wildlife

- (1) This section applies if a wildlife authority authorises the holder of the authority, or a relevant person for the holder, to—

-
- (a) buy or accept wildlife; and
 - (b) keep wildlife.
- (2) The holder or relevant person must not buy or accept the wildlife from a person other than a person who is authorised to sell or give away the wildlife under the Act or a law of another State.

Note—

The Macropod Conservation Plan includes other restrictions applying to the buying or accepting of dead macropods under a commercial wildlife licence or a commercial wildlife licence (mobile) for dead macropods.

Maximum penalty—120 penalty units.

32 Compliance with chief executive's directions about sampling or implanting

- (1) The chief executive may give the holder of a wildlife authority, or a relevant person for the holder, who keeps a live protected, international or prohibited animal under the authority, a notice requiring the holder or relevant person to—
- (a) take a biological tissue sample of the animal and give the sample to an approved scientific institution; or
 - (b) insert an approved electromagnetic implant into the animal and give the chief executive a notice stating the identification code for the implant.
- (2) The notice must state the period, of at least 28 days, within which the holder or relevant person must comply with the notice.
- (3) The holder or relevant person must comply with the notice within the stated period.

Maximum penalty for subsection (3)—165 penalty units.

33 Dealing with animals after death—sampled or implanted animals

- (1) This section applies if—

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- (a) the holder of a wildlife authority, or a relevant person for the holder, keeps a live animal under the authority; and
 - (b) either—
 - (i) a biological tissue sample was taken from the animal and given to an approved scientific institution; or
 - (ii) an approved electromagnetic implant was inserted into the animal and the chief executive was given a notice stating the identification code for the implant; and
 - (c) the animal dies.
- (2) The holder or relevant person must ensure either—
- (a) within 14 days after the animal dies, an autopsy is performed on the animal by a veterinary surgeon and the chief executive is given the following—
 - (i) a biological tissue sample taken from the animal under the autopsy;
 - (ii) if an electromagnetic implant was inserted into the animal—the implant;
 - (iii) if an electromagnetic implant was inserted into the animal and the veterinary surgeon finds the implant was not working—a written report prepared by the veterinary surgeon stating the reason why the implant was not working; or
 - (b) the animal is frozen immediately after it dies and the frozen animal is given to the chief executive within 14 days after the animal dies.

Maximum penalty—120 penalty units.

- (3) A holder or relevant person dealing with an animal under this section may, without a wildlife movement permit, move the animal—
- (a) if the holder or relevant person intends to have a veterinary surgeon perform an autopsy on the

-
- animal—from the place where the holder or relevant person kept the animal to the premises of the veterinary surgeon; and
- (b) if the holder or relevant person intends to give the frozen animal to the chief executive—from the place where the holder or relevant person kept the animal to the chief executive.
- (4) This section does not apply if a conservation plan states the way an animal to which the plan applies must be dealt with if it dies while being kept under a wildlife authority.

34 Dealing with animals after death—other animals

- (1) This section applies if—
- (a) the holder of a wildlife authority, or a relevant person for the holder, keeps a live animal under the authority; and
 - (b) the animal dies; and
 - (c) the authority does not authorise the holder or relevant person to sell or give away a dead animal of the same species; and
 - (d) section 33 does not apply.
- (2) The holder or relevant person may deal with the animal only in 1 of the following ways—
- (a) by selling or giving the animal to—
 - (i) the holder of a commercial wildlife licence for the dead animal, or a relevant person for the holder of a commercial wildlife licence; or
 - (ii) the holder of a museum licence for the dead animal, or a relevant person for the holder of a museum licence;
 - (b) by giving the animal to the holder of a commercial wildlife licence for the dead animal, or a relevant person for the holder of a commercial wildlife licence, for

[s 34]

processing and reclaiming the animal after it is processed;

- (c) by incinerating or burying the animal;
- (d) if the wildlife authority is a recreational wildlife harvesting licence and the licence authorises the holder of the authority, or a relevant person for the holder, to process the animal—by processing the animal.

Maximum penalty—50 penalty units.

- (3) A holder or relevant person dealing with an animal under this section may, without a wildlife movement permit, move the animal—
 - (a) if the animal is sold or given to the holder of a commercial wildlife licence or a museum licence for the dead animal—to the licensed premises for the commercial wildlife licence or museum licence; or
 - (b) if the animal is to be buried or incinerated—to the place where the animal is to be buried or incinerated.
- (4) However, if the holder or relevant person sells or gives the animal to a person acting under a commercial wildlife licence or museum licence, the holder or relevant person must fill in movement advice for the movement before the movement happens.

Maximum penalty—50 penalty units.

- (5) To remove any doubt, it is declared that the wildlife authority authorises the holder of the authority, or a relevant person for the holder, to deal with the animal in the way stated in subsection (2).
- (6) This section does not apply if a conservation plan states the way an animal to which the plan applies must be dealt with if it dies while being kept under a wildlife authority.

35 Assistance to conservation officers

- (1) The holder of a wildlife authority, or a relevant person for the holder, must—
- (a) allow a conservation officer to access and inspect the wildlife at any reasonable time; and
 - (b) if asked by the conservation officer—give the officer all necessary help to enable the officer to do any of the following—
 - (i) photograph the wildlife;
 - (ii) if the wildlife is a live animal—
 - (A) obtain or check the animal’s biological tissue sample; or
 - (B) if an electromagnetic implant has been inserted into the animal—identify the identification code for the implant; or
 - (C) insert an electromagnetic implant into the animal.

Maximum penalty—165 penalty units.

- (2) In this section—
- wildlife authority* includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

Chapter 3 Taking, keeping, using or moving animals

Part 1 Taking, keeping, using or moving protected animals other than under wildlife authority

36 Purpose of pt 1

The purpose of this part is to state the circumstances in which the taking, keeping, using or moving of protected animals is authorised under the Act, other than under a wildlife authority.

37 Authorised keeper in another State

A person who is an authorised keeper in another State for an animal of a species that is a protected animal may, without a wildlife authority—

- (a) buy or accept an animal of the species from a person authorised to sell or give away the animal under the Act; and
- (b) keep the animal in the other State.

38 Authorised keeper in another country

A person who is an authorised keeper in another country for an animal of a species that is a protected animal may, without a wildlife authority—

- (a) buy or accept an animal of the species from a person authorised to sell or give away the animal under the Act; and
- (b) keep the animal in the other country.

39 Veterinary surgeons

- (1) A veterinary surgeon may take, keep and use a live protected animal, without a wildlife authority for taking, keeping or using the animal, if the animal is taken, kept or used for providing treatment or care for the animal.
- (2) Also, if the surgeon reasonably believes the animal is sick or injured to the extent that the animal is unable or unlikely to recover from the sickness or injury, the surgeon may euthanase the animal.
- (3) Also, if the animal dies or the surgeon has euthanased the animal under subsection (2), the surgeon may, without a wildlife movement permit, move the animal from the place where the surgeon keeps the animal to—
 - (a) the place where the animal is to be buried or incinerated; or
 - (b) if the chief executive has asked the surgeon to move the animal to another place—the other place.

40 Particular government officers or employees

- (1) This section applies to an officer or employee of—
 - (a) a local government; or
 - (b) a rail government entity; or
 - (c) the department in which the *Transport Operations (Road Use Management) Act 1995* is administered.
- (2) The officer or employee may take a dead protected animal from public land, without a wildlife authority for taking the animal, if—
 - (a) it is necessary or desirable for the officer or employee to take the animal, including, for example, for the performance of a function or the exercise of a power under an Act; and
 - (b) the animal is to be either—

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- (i) buried or incinerated; or
- (ii) if the chief executive has directed the officer or employee to deal with the animal in a particular way—dealt with in the way directed.

Examples of when it may be necessary or desirable to take a dead protected animal—

- 1 to remove the animal from a road to ensure the free and safe movement of traffic on the road
 - 2 to remove the animal from a public place to maintain health and wellbeing of persons attending the place
- (3) Also, the officer or employee may, without a wildlife movement permit, move the dead animal from the place where the animal is taken to—
- (a) the place where the animal is to be buried or incinerated; or
 - (b) if the chief executive has asked the person to move the animal to another place—the other place.
- (4) In this section—

officer or employee, of a rail government entity, includes—

- (a) a contractor of the rail government entity; and
- (b) an employee of a contractor of the rail government entity.

public land means—

- (a) a State-controlled road under the *Transport Infrastructure Act 1994*; or
- (b) a road controlled by a local government; or
- (c) land dedicated as a reserve for community purposes under the *Land Act 1994* for which a local government is trustee; or
- (d) a railway managed by a rail government entity.

40A Exemptions for railway managers

- (1) A railway officer of a railway manager may, without a wildlife authority for taking the animal or a wildlife movement permit, and on the conditions the chief executive decides and notifies to the railway manager—
 - (a) take a dead protected animal from a railway managed by the railway manager to a place; and
 - (b) move the dead animal from the place to which the animal is taken to another place.
- (2) The conditions may include—
 - (a) the manner in which the animal is to be dealt with following its taking or movement; and
 - (b) the records the railway manager must keep for things done under subsection (1), the manner in which the records are kept and access to the records.
- (3) This section does not apply to a rail government entity.
- (4) In this section—

railway manager see the *Transport Infrastructure Act 1994*, schedule 6.

railway officer, of a railway manager, means—

- (a) an employee or contractor of the railway manager; or
- (b) an employee or contractor of a related body corporate of a railway manager; or
- (c) an employee of a contractor mentioned in paragraph (a) or (b); or
- (d) another person approved by the chief executive by written notice to the railway manager.

related body corporate has the meaning given in the Corporations Act.

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41 Australian Defence Force

A member of the Australian Defence Force may take and keep a least concern animal from land owned by the Commonwealth if—

- (a) the animal is to be used for training members of a part of the defence force about survival in the wild; and
- (b) the use of the animal is, or will be, consistent with the military standing order prepared for the part of the defence force.

42 Animals taken under Aboriginal tradition or Island custom authority for protected area

- (1) This section applies if—
 - (a) a relevant person for the holder of an Aboriginal tradition authority takes an animal from a protected area under the authority; or
 - (b) a relevant person for the holder of an Island custom authority takes an animal from a protected area under the authority.
- (2) The relevant person may—
 - (a) without a wildlife movement permit, move the animal from the protected area from which the animal was taken to the place where the person intends to keep or use the animal under paragraph (b) or (c); and
 - (b) keep the animal; and
 - (c) use the animal if the use is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.
- (3) However, subsection (2)(a) does not authorise the movement of a prescribed protected animal, whether from the State or another State, to another country.

43 Marine turtle or dugong taken under Aboriginal tradition or Island custom

- (1) A person may take, keep and use a protected marine turtle or dugong, without a wildlife authority for taking, keeping and using the turtle or dugong, if—
 - (a) the person—
 - (i) takes the turtle or dugong under Aboriginal tradition or Island custom; and
 - (ii) holds a permit or other authority granted under the *Marine Parks Act 2004* or the *Great Barrier Reef Marine Park Act 1975* (Cwlth) that authorises the person to take the turtle or dugong; or
 - (b) the person takes the turtle or dugong under a traditional use of marine resources agreement allowing the person to take the turtle or dugong.
- (2) Also, the person may, without a wildlife movement permit, move the turtle or dugong from the place from where the turtle or dugong is taken to the place where the person intends to keep or use the turtle or dugong.
- (3) However, subsection (2) does not authorise the movement of a prescribed protected animal, whether from the State or another State, to another country.
- (4) In this section—

traditional use of marine resources agreement means—

- (a) a traditional use of marine resources agreement accredited under the *Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004*, part 5, division 1; and
- (b) a traditional use of marine resources agreement accredited under the *Great Barrier Reef Marine Park Regulations 1983* (Cwlth), section 10.

43A Keeping and use of dead marine mammals

- (1) The chief executive may give a dead marine mammal to—

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- (a) a traditional owner for the land or waters from which the mammal was taken or on or in which the mammal was found; or
 - (b) a person nominated by a person mentioned in paragraph (a).
- (2) If a person is given a dead marine mammal under subsection (1), the person may keep or use the mammal if the keeping or use is for the personal, domestic or non-commercial communal needs of a community or group of Aboriginal people or Torres Strait Islanders.
- (3) In this section—
- representative Aboriginal/Torres Strait Islander body** has the meaning given by the *Native Title Act 1993* (Cwlth).
- traditional owner**, for land or waters, means a person of Aboriginal or Torres Strait Islander descent who—
- (a) is recognised in the Aboriginal or Torres Strait Islander community generally, or by a representative Aboriginal/Torres Strait Islander body for an area that includes the land or waters—
 - (i) as having spiritual or cultural affiliations with the land or waters; or
 - (ii) as holding native title in relation to the land or waters; and
 - (b) is entitled to undertake activities under Aboriginal tradition or Island custom on the land or in the waters.

44 Keeping and using exempt animals

- (1) A person may buy or accept, keep and use an exempt animal, without a wildlife authority for keeping and using the animal, if before the person bought or accepted the animal—
- (a) it was taken, kept and used lawfully; or
 - (b) the parents of the animal were taken, kept and used lawfully.

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- (2) However, the person must not—
- (a) buy or accept the animal from a person who is not authorised to sell or give away the animal under the Act or a law of another State; or
 - (b) sell or give the animal to a person who is not authorised to buy or accept the animal under the Act or a law of another State.

Maximum penalty—20 penalty units.

- (3) Also, if the person keeps a prescribed exempt bird at a place used for a commercial purpose, the person must, as soon as practicable after the person bought or accepted the bird—
- (a) apply, to the chief executive, for—
 - (i) a record book for keeping a record for the bird; or
 - (ii) an approval of an electronic record system for keeping a record for the bird; and
 - (b) pay the prescribed fee for the book or approval.

Maximum penalty—10 penalty units.

- (4) Further, after the chief executive supplies the book or approves the system, the person must keep a record for the bird.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (5) In this section—

prescribed exempt bird means any of the following—

- (a) a galah (*Cacatua roseicapilla*);
- (b) a little corella (*Cacatua sanguinea*);
- (c) a long-billed corella (*Cacatua tenuirostris*);
- (d) a princess parrot (*Polytelis alexandrae*);

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- (e) a rainbow lorikeet (*Trichoglossus haematodus haematodus*);
- (f) a scarlet-chested parrot (*Neophema splendida*);
- (g) a sulphur-crested cockatoo (*Cacatua galerita*);
- (h) a twenty-eight parrot (*Barnardius zonarius semitorquatus*);
- (i) a western corella (*Cacatua pastinator*).

45 Moving exempt animals

- (1) This section applies to a person (the *exempt person*) who keeps, or intends to keep, an exempt animal under section 44.
- (2) The person may, without a wildlife movement permit, move the animal to or from any place in or outside of the State.
- (3) However, subsection (2) does not authorise the movement of a prescribed protected animal—
 - (a) to another country; or
 - (b) into another State if the movement is, whether directly or indirectly, associated with—
 - (i) moving the animal to another country; or
 - (ii) selling, giving or moving the animal to a person in another country.

46 Keeping or using controlled animals

- (1) A person, other than the holder of a wildlife authority for keeping controlled animals, (the *exempt person*) may buy or accept and keep a live controlled animal without a wildlife authority for keeping and using the animal if—
 - (a) before the person bought or accepted the animal, it was taken, kept and used lawfully; and
 - (b) the animal is kept for the person's private enjoyment.
- (2) Also, the exempt person may—

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- (a) sell or give away the animal, without a wildlife authority for using the animal, to—
 - (i) the holder of a wildlife authority, or a relevant person for the holder of a wildlife authority, who is authorised to buy or accept the animal; or
 - (ii) another person if the chief executive has given the exempt person written approval to sell or give the animal to the other person; and
 - (b) if the animal dies—sell or give the dead animal, without a wildlife authority for using the dead animal, to the holder of a commercial wildlife licence for the dead animal, or a relevant person for the holder of a commercial wildlife licence for the dead animal.

Note—

See section 337 for requirements about records of identification details of the person from whom a person buys or accepts protected, international or prohibited wildlife.

- (3) However, the person must keep an animal bought or accepted by the person for at least 6 months after the person receives the animal unless—
 - (a) the person has written approval from the chief executive to sell or give away the animal within 6 months after the person received the animal; or
 - (b) the animal dies or escapes; or
 - (c) if the animal is a bird—the person bought or accepted the bird for rearing the bird and the bird fledges within 6 months after the person received the bird.

Maximum penalty—20 penalty units.

- (4) Further, the person must not—
 - (a) buy or accept the animal from a person who is not authorised to sell or give away the animal under the Act or a law of another State; or

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- (b) deal with more than 10 live animals of the same class in any period of 12 months; or
- (c) display the animal for a commercial purpose.

Maximum penalty—20 penalty units.

- (5) In this section—

deal with means—

- (a) buy or accept; or
- (b) sell or give away.

47 Moving controlled animals from seller to exempt person

- (1) This section applies to a person (the *exempt person*) who buys or accepts a controlled animal, from another person, for keeping the animal under section 46.
- (2) The exempt person or other person may, without a wildlife movement permit, move the animal from the place where the other person kept the animal to the place where the exempt person intends to keep the animal.
- (3) However, if the exempt person buys or accepts the animal from an authorised interstate seller, the exempt person must fill in a movement advice for the movement before the movement happens.

Note—

See section 337 for requirements about records of identification details of the person from whom a person buys or accepts protected, international or prohibited wildlife.

Maximum penalty for subsection (3)—50 penalty units.

48 Moving controlled animals from exempt person to buyer

- (1) This section applies to a person (the *exempt person*) who keeps an animal under section 46 and sells or gives the animal to another person.
- (2) The exempt person or the other person may, without a wildlife

movement permit, move the animal from the place where the exempt person keeps the animal to the place where the other person intends to keep the animal.

- (3) However, the exempt person must fill in a movement advice for the movement before the movement happens.

Maximum penalty—50 penalty units.

Note—

See section 338 for requirements about records of identification details of the person to whom a person sells or gives protected, international or prohibited wildlife.

- (4) Subsection (2) does not authorise the movement of a prescribed protected animal—
- (a) to another country; or
 - (b) into another State if the movement is, whether directly or indirectly, associated with—
 - (i) moving the animal to another country; or
 - (ii) selling, giving or moving the animal to a person in another country.

49 Particular reptiles

- (1) This section applies to a person who on 1 March 2004 lawfully kept, other than under a wildlife authority, a commercial or recreational reptile that was lawfully taken from the wild other than under a wildlife authority.
- (2) The person may—
- (a) keep the reptile without a wildlife authority for keeping the reptile; or
 - (b) release the reptile into the wild at the place from where the person took the reptile.
- (3) However, if the reptile produces offspring, the person must release the offspring into the wild in the way stated in the reptile and amphibian code within 14 days after—

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- (a) for a reptile that produces offspring by giving birth to the offspring—the day the offspring is born; or
- (b) for a reptile that produces offspring by laying an egg—the day the egg hatches.

Maximum penalty—80 penalty units.

- (4) In this section—

lawfully, in relation to taking or keeping a reptile, means to take or keep the reptile in a way that is authorised under the Act.

50 Least concern amphibians

- (1) This section applies only to a person who does not hold a wildlife authority for taking, keeping or using amphibians.
- (2) The person may catch and keep a least concern amphibian from the person's land, without a wildlife authority for taking and keeping the amphibian.
- (3) However, the person—
 - (a) must keep the amphibian—
 - (i) on the person's land; and
 - (ii) only for the person's private enjoyment; and
 - (b) must not keep—
 - (i) more than 8 least concern amphibians; or
 - (ii) more than 2 least concern amphibians of the same species.

Maximum penalty—20 penalty units.

- (4) Also, if the amphibian produces offspring, the person must, within 7 days after the offspring's metamorphosis, release the offspring into the wild in the way stated in the reptile and amphibian code.

Maximum penalty—80 penalty units.

- (5) For subsection (3)(b), tadpoles are not counted in the number of amphibians kept by a person or the number of species of amphibians kept by a person.

51 Keeping or using particular protected fish for recreational purpose

- (1) A person may buy or accept, keep and use a protected fish of the following species, without a wildlife authority for keeping and using the fish, if the fish is not kept or used for a commercial purpose—
- (a) Elizabeth Springs goby (*Chlamydogobius* sp. A);
 - (b) Edgbaston goby (*Chlamydogobius* sp. B);
 - (c) red-finned blue-eye (*Scaturiginichthys vermeilipinnis*);
 - (d) oxleyan pygmy perch (*Nannoperca oxleyana*);
 - (e) honey blue-eye (*Pseudomugil mellis*).
- (2) However, the person must not—
- (a) buy or accept the fish from a person who is not authorised to sell or give away the fish under the Act or a law of another State; or
 - (b) sell or give the fish to a person who is not authorised to buy or accept the fish under the Act or a law of another State.

Maximum penalty for subsection (2)—20 penalty units.

52 Moving protected fish kept for recreational purpose from seller to exempt person

- (1) This section applies if a person (the *exempt person*) buys or accepts protected fish, from another person, for keeping the fish under section 51.
- (2) The exempt person or other person may, without a wildlife movement permit, move the fish from the place where the

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other person kept the fish to the place where the exempt person intends to keep the fish.

Note—

See section 337 for requirements about records of identification details of the person from whom a person buys or accepts protected, international or prohibited wildlife.

53 Moving protected fish kept for recreational purpose from exempt person to buyer

- (1) This section applies if a person (the *exempt person*) keeps protected fish under section 51 and sells or gives the fish to another person.
- (2) The exempt person or the other person may, without a wildlife movement permit, move the fish from the place where the exempt person keeps the fish to the place where the other person intends to keep the fish.

Note—

See section 338 for requirements about records of identification details of the person to whom a person sells or gives protected, international or prohibited wildlife.

54 Taking, keeping and using protected scorpions or spiders for recreational purpose

- (1) A person may take, keep and use a protected scorpion or spider, without a wildlife authority for taking, keeping and using the scorpion or spider, if the scorpion or spider is not taken, kept or used for a commercial purpose.
- (2) However, the person must not—
 - (a) buy or accept the scorpion or spider from a person who is not authorised to sell or give away the scorpion or spider under the Act or a law of another State; or
 - (b) sell or give the scorpion or spider to a person who is not authorised to buy or accept the scorpion or spider under the Act or a law of another State.

Maximum penalty for subsection (2)—20 penalty units.

55 Moving protected scorpion or spider kept for recreational purpose from seller to exempt person

- (1) This section applies if a person (the *exempt person*) buys or accepts a protected scorpion or spider, from another person, for keeping the scorpion or spider under section 54.
- (2) The exempt person or other person may, without a wildlife movement permit, move the scorpion or spider from the place where the other person kept the scorpion or spider to the place where the exempt person intends to keep the scorpion or spider.

Note—

See section 337 for requirements about records of identification details of the person from whom a person buys or accepts protected, international or prohibited wildlife.

56 Moving protected scorpion or spider kept for recreational purpose from exempt person to seller

- (1) This section applies if a person (the *exempt person*) keeps a protected scorpion or spider under section 54 and sells or gives the scorpion or spider to another person.
- (2) The exempt person or the other person may, without a wildlife movement permit, move the scorpion or spider from the place where the exempt person keeps the scorpion or spider to the place where the other person intends to keep the scorpion or spider.

Note—

See section 338 for requirements about records of identification details of the person to whom a person sells or gives protected, international or prohibited wildlife.

57 Educational or scientific purposes

- (1) This section applies to a protected animal that—

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- (a) was taken or kept under a licence, permit or other authority under the Act or a law of another State; and
 - (b) is in the State.
- (2) A person may, without a wildlife authority for using the animal, use part of the animal if—
- (a) the person is a person to whom an educational purposes permit or scientific purposes permit for using the part of the animal may be granted; and
 - (b) the part of the animal is used for—
 - (i) scientific research at a tertiary or other institution administered by the Commonwealth or a State or an entity that is involved in scientific research; or
 - (ii) teaching at an educational institution or organisation.

Notes—

- 1 Section 190 includes a restriction about persons to whom an educational purposes permit for an animal may be granted.
- 2 Section 218 includes a restriction about persons to whom a scientific purposes permit may be granted.

58 Sick or injured protected marine mammals and turtles

- (1) This section applies to a sick or injured protected marine mammal or marine turtle.
- (2) A person may take and keep the mammal or turtle, without a wildlife authority for taking and keeping the mammal or turtle.
- (3) Also, the person may, without a wildlife movement permit, move the animal—
 - (a) from the place where the person takes possession of the animal to a place in the State where the person intends to care for the animal; or

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- (b) to a place in the State where the holder of a rehabilitation permit, or a relevant person for the holder, intends to keep the animal; or
 - (c) if a conservation officer directs, under subsection (4)(b), the person to move the animal to another place—to the other place.
- (4) However, the person must—
- (a) notify, as soon as practicable, a conservation officer that the person has taken possession of the mammal or turtle; and
 - (b) if the conservation officer directs the person to deal with the mammal or turtle in a particular way—deal with the mammal or turtle in the way directed.

Maximum penalty for subsection (4)—20 penalty units.

59 Other sick, injured or orphaned protected animals

- (1) This section applies to a sick, injured or orphaned protected animal other than a marine mammal or marine turtle.
- (2) A person may take and keep the animal without a wildlife authority for taking and keeping the animal.
- (3) Also, the person may, without a wildlife movement permit, move the animal—
 - (a) from the place where the person takes possession of the animal to a place in the State where the person intends to care for the animal; or
 - (b) to a place in the State where the holder of a rehabilitation permit, or a relevant person for the holder, intends to keep the animal; or
 - (c) if a conservation officer directs, under subsection (5), the person to move the animal to another place—to the other place.
- (4) However, the person must, within 72 hours after the person takes possession of the animal, either—

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- (a) give the animal to the holder of a rehabilitation permit for the animal, or a relevant person for the holder; or
- (b) notify a conservation officer that the person has taken possession of the animal.

Maximum penalty—20 penalty units.

- (5) If the person notifies a conservation officer under subsection (4)(b) and the officer directs the person to deal with the animal in a particular way, the person must deal with the animal in the way directed.

Maximum penalty for subsection (5)—20 penalty units.

60 Interacting with animals in the wild

- (1) A person may, without a commercial wildlife licence (wildlife interaction), interact with a protected animal in the wild if the interaction is not an unauthorised interaction for the animal.
- (2) Also, a person who is authorised to watch, observe, interact with or feed a protected animal in the wild under either of the following Acts may, without a commercial wildlife licence (wildlife interaction), engage in an unauthorised interaction for the animal—
 - (a) the *Marine Parks Act 2004*;
 - (b) the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

60A Interacting with dolphins as part of Tin Can Bay dolphin feeding program

- (1) A person may, without a commercial wildlife licence (wildlife interaction), engage in an unauthorised interaction for a dolphin if the interaction—
 - (a) is part of the Tin Can Bay dolphin feeding program; and
 - (b) is authorised under the conditions of operation imposed by the chief executive on the approval for the program.

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- (2) If the operator of the Tin Can Bay dolphin feeding program knows, or ought reasonably to know, a dolphin the subject of the program is sick or injured or has died, the operator must—
- (a) immediately notify a conservation officer of the matter; and
 - (b) if the officer directs the operator to deal with the dolphin in a particular way—deal with the dolphin in the way directed.

Maximum penalty—100 penalty units.

- (3) A conservation officer may give a direction under subsection (2)(b) only if the direction is reasonable in the circumstances.
- (4) The operator of the Tin Can Bay dolphin feeding program must give the chief executive a written report, in the approved form, about the activities carried out as part of the program—
- (a) for each month; and
 - (b) within 10 business days after the month ends.

Maximum penalty—120 penalty units.

- (5) In this section—

Tin Can Bay dolphin feeding program means the program for feeding dolphins in the waters adjacent to lot 80 shown on plan MCH5383 approved by the chief executive (subject to stated conditions of operation).

Note—

A copy of plan MCH5383 is available on the department's website.

61 Wholesalers may move dead protected animals

- (1) This section applies to a dead protected animal, other than a crocodile or emu, lawfully taken, kept and used in another State.
- (2) A wholesaler in the State may, without a wildlife movement permit, move the skin, carcass or meat of the animal into the State if—

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- (a) the wholesaler buys the skin, carcass or meat by wholesale from a person in the other State; and
- (b) the way in which the skin, carcass or meat is packed complies with the requirements of any applicable law of the other State; and
- (c) the movement of the skin, carcass or meat from the place is authorised by any applicable law of the other State; and
- (d) the movement is for a lawful purpose.

Note—

See also section 317 and schedule 1 and, for harvest macropods, the Macropod Conservation Plan, section 113 and schedule 1, for the skin, carcass and meat of animals that are a processed product.

- (3) However, the wholesaler must fill in a movement advice for the movement before the movement happens.

Maximum penalty for subsection (3)—50 penalty units.

62 Protected animals may be moved for private reasons

A person who lawfully keeps, other than under a wildlife authority, a protected animal may, without a wildlife movement permit, move the animal—

- (a) on the person's land; or
- (b) if the person keeps the animal at the person's place of residence and is moving to a new place of residence within the State—to the new place of residence.

63 Animals may be moved to and from veterinary surgeon

- (1) A person who lawfully keeps, other than under a wildlife authority, a live protected animal in the State may, without a wildlife movement permit, move the animal—

- (a) from the place where the animal is being kept (the *place of keeping*) to the premises of a veterinary surgeon for treatment or care for the animal; or

- (b) from the premises of a veterinary surgeon who treated or cared for the animal to the place of keeping.
- (2) However, if the premises of the veterinary surgeon is outside the State, subsection (1) applies only if the person ensures the animal is moved back to the place of keeping as soon as practicable after the treatment or care is given.
- (3) Subsection (2) does not apply if the animal dies.

64 Animals may be moved to and from display

- (1) This section applies to a person who lawfully keeps a protected animal in the State, other than under a wildlife authority.
- (2) The person may, without a wildlife movement permit, move the animal to or from an authorised display.
- (3) However, subsection (2) applies only if the person ensures the animal is moved back to the place the person keeps the animal as soon as practicable after the animal stops being displayed in the display.
- (4) This section does not apply to a restricted animal.

65 Dead protected animals may be moved to particular holders

- (1) This section applies if—
 - (a) either—
 - (i) a person lawfully keeps a live protected animal other than under a wildlife authority, and the animal dies; or
 - (ii) a person lawfully keeps a dead protected animal other than under a wildlife authority; and
 - (b) under the Act, the person is authorised to sell or give away the animal; and

- (c) the person sells or gives the dead animal to the holder of a commercial wildlife licence for the dead animal, or a relevant person for the holder.
- (2) The person may, without a wildlife movement permit, move the animal from the place where the person keeps the animal to the place where the holder of the commercial wildlife licence, or a relevant person for the holder, intends to keep the animal.
- (3) However, the person must fill in a movement advice for the movement before the movement happens.
Maximum penalty—50 penalty units.
- (4) This section does not apply to an exempt animal.

Part 2 Keeping, using or moving international or prohibited animals, other than under wildlife authority

66 Purpose of pt 2

The purpose of this part is to state the circumstances in which the keeping, using or moving of international or prohibited animals is authorised under the Act, other than under a wildlife authority.

67 Authorised keepers in another State

A person who is an authorised keeper in another State for an animal of a species that is an international or prohibited animal may, without a wildlife authority—

- (a) buy or accept an animal of the species from a person authorised to sell or give away the animal under the Act; and
- (b) keep the animal in the other State.

68 Authorised keepers in another country

A person who is an authorised keeper in another country for an animal of a species that is an international or prohibited animal may, without a wildlife authority—

- (a) buy or accept an animal of the species from a person authorised to sell or give away the animal under the Act; and
- (b) keep the animal in the other country.

69 Veterinary surgeons

- (1) A veterinary surgeon may—
 - (a) keep and use an international or prohibited animal for providing treatment or care for the animal; and
 - (b) euthanase the animal if the surgeon reasonably believes the animal is sick or injured to the extent that the animal is unable or unlikely to recover from the sickness or injury.
- (2) Also, if an animal kept under subsection (1) dies or has been euthanased by the surgeon, the surgeon may, without a wildlife movement permit, move the animal from the place where the surgeon keeps the animal to—
 - (a) the place where the animal is to be buried or incinerated; or
 - (b) if the chief executive has asked the surgeon to move the animal to another place—the other place.

Part 3 Licences for taking, keeping or using animals

Division 1 Commercial wildlife licence (wildlife interaction)

Subdivision 1 Purposes

70 Purpose of licence and div 1

- (1) The purpose of a commercial wildlife licence (wildlife interaction) for an animal is to allow a person to engage in particular interactions with protected animals in a way that is not otherwise authorised under a provision of this regulation, or most other licences, permits or other authorities granted under the Act.
- (2) The purpose of this division is to control and monitor the interactions for which a commercial wildlife licence (wildlife interaction) is granted, to ensure the safety, health and wellbeing of humans and animals is maintained.
- (3) The purpose mentioned in subsection (2) is achieved by—
 - (a) allowing the chief executive to grant a commercial wildlife licence (wildlife interaction) only in limited circumstances; and
 - (b) requiring holders of a commercial wildlife licence (wildlife interaction) to give reports about the activities carried out under the licence.

Subdivision 2 Restrictions on grant of licence

71 Restriction about persons to whom licence may be granted

The chief executive can not grant a commercial wildlife licence (wildlife interaction) for a protected animal of a species to a person unless the person has an approved interaction plan for the species.

72 Restriction about activities for which licence may be granted

The chief executive can not grant a commercial wildlife licence (wildlife interaction) for a protected animal to a person if the chief executive reasonably believes the activity for which the application for the licence is made is an activity for which another wildlife authority would be more appropriate.

Example—

A person applies for a commercial wildlife licence (wildlife interaction) for an activity for a scientific purpose and the chief executive believes, in the circumstances, it would be more appropriate for the person to carry out the activities under a scientific purposes permit.

Subdivision 3 Activities authorised by licence

73 Engaging in unauthorised interaction authorised for particular animals

- (1) The holder of a commercial wildlife licence (wildlife interaction), or a relevant person for the holder, may engage in an unauthorised interaction for a protected animal in the wild of a species identified on the licence.

[s 74]

Notes—

- 1 For the unauthorised interactions authorised under a commercial wildlife licence (wildlife interaction) for estuarine crocodiles, see the Estuarine Crocodile Conservation Plan, section 35.
 - 2 Section 340 contains an offence for feeding native animals in the wild that applies to the holder of a commercial wildlife licence (wildlife interaction), and relevant persons for the holder.
- (2) However, subsection (1) does not authorise a person to engage in an unauthorised interaction in either of the following—
- (a) an area declared as a marine park under the *Marine Parks Act 2004*;
 - (b) the Great Barrier Reef Marine Park.

74 Using animals for training authorised for particular animals

- (1) The holder of a commercial wildlife licence (wildlife interaction), or a relevant person for the holder, may use a protected animal under the licence if—
 - (a) the animal is lawfully kept by the holder or relevant person under another wildlife authority held by the holder; and
 - (b) the use is for training a person about handling the animal safely.
- (2) To remove any doubt, it is declared that subsection (1) does not authorise the use of an animal in a way that contravenes the applicable requirements about workplace health and safety under the *Work Health and Safety Act 2011*.
- (3) Also, subsection (1) does not authorise the display of a reptile in a permanent or temporary enclosure.

Subdivision 4 Carrying out activities under licence

75 Compliance with approved interaction plan

The holder of a commercial wildlife licence (wildlife interaction) for a protected animal of a species, or a relevant person for the holder, must comply with the holder's approved interaction plan for the species while carrying out activities under the licence.

Maximum penalty—20 penalty units.

76 Keeping report about activities under licence

- (1) The holder of a commercial wildlife licence (wildlife interaction) for a protected animal, or a relevant person for the holder, must keep a written report, complying with subsection (2), about the activities carried out under the licence.

Maximum penalty—20 penalty units.

- (2) The report must include the following information about the activities—
- (a) any identified problems or concerns relating to the activities, including, for example—
 - (i) any increase in illness or injury in the animals the subject of the activities; and
 - (ii) any incidence of aggression by animals the subject of the activities against the holder's clients participating in the activities; and
 - (iii) any complaint by a member of the public about the impact of the activities on the member's lifestyle or interests;
 - (b) how the problems or concerns mentioned in paragraph (a) were identified and resolved.
- (3) The holder must—

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- (a) keep the report in a secure place at the licensed premises for the licence, for the record-keeping period; and
- (b) if asked by a conservation officer, make the report available for inspection by the officer.

Maximum penalty for subsection (3)—20 penalty units.

Division 2 Commercial wildlife licences

Subdivision 1 Purposes

77 Purpose of licence and div 2

- (1) The purpose of a commercial wildlife licence for an animal is to allow a person to keep and use protected or international animals for a commercial purpose.
- (2) The purpose of this division is to ensure the grant of commercial wildlife licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
 - (a) allowing the chief executive to grant a commercial wildlife licence for an animal only in limited circumstances; and
 - (b) limiting the activities that a person is authorised to do under a commercial wildlife licence for an animal; and
 - (c) regulating activities of persons acting under a commercial wildlife licence for an animal.

Subdivision 2 Restrictions on grant of licence

78 Restriction about animals for which licence may be granted

The chief executive may grant a commercial wildlife licence only for—

- (a) a live controlled or commercial animal; or
- (b) a dead protected or international animal.

79 General restriction on grant of licence for birds or reptiles

- (1) The chief executive can not grant a commercial wildlife licence for birds for a place for which a recreational wildlife licence for birds has been granted under the Act.
- (2) The chief executive can not grant a commercial wildlife licence for reptiles for a place for which a recreational wildlife licence for reptiles has been granted under the Act.

80 Additional restriction for licence for live birds or reptiles

- (1) The chief executive can not grant a commercial wildlife licence for a live bird or reptile for a place unless the chief executive is satisfied the place is used, or is intended to be used, to keep live birds or reptiles of the same species on more than a temporary basis.

Examples of when chief executive may be satisfied—

- 1 the place has appropriate housing structures for birds or reptiles of the same species fixed to it
 - 2 all or part of the place is permanently roofed
 - 3 the place is usually open for the conduct of a business for most days in a year
- (2) However, subsection (1) does not apply if the licence is granted to a recreational bird society for a term of not more than 2 days.

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(3) In this section—

recreational bird society, for an animal, means a society that—

- (a) is an incorporated association; and
- (b) has, as its main function, the keeping and breeding of native animals of the same species.

81 Additional restriction for licence for reptiles

The chief executive can not grant a commercial wildlife licence for reptiles to a person (the *applicant*) unless the chief executive is satisfied the applicant, or a person who would be a relevant person for the applicant if the applicant were granted the licence (the *relevant person*), has passed a course approved by the chief executive that—

- (a) includes matters about maintaining the health, safety and wellbeing of reptiles; and
- (b) provides training about how the applicant or relevant person may teach another person about the matters mentioned in paragraph (a).

Subdivision 3 Activities authorised by licence

82 Keeping and using animals authorised

- (1) The holder of a commercial wildlife licence for an animal, or a relevant person for the holder, may—
 - (a) buy or accept an animal of a species identified on the licence; and
 - (b) keep and use an animal of a species identified on the licence at the licensed premises for the licence.
- (2) Also, the holder or a relevant person for the holder may keep a live animal of a species identified on the licence at the

holder's or person's place of residence for a period of time if—

- (a) the licensed premises for the licence—
 - (i) are not the holder's place of residence; and
 - (ii) are unattended for the period; and
- (b) the animal is kept at the place of residence for providing care to the animal.

Note—

The Macropod Conservation Plan includes provisions limiting and extending the activities authorised under a commercial wildlife licence for dead macropods.

83 Processing animals authorised

The holder of a commercial wildlife licence for a dead animal, or a relevant person for the holder, may process a dead animal of a species identified on the licence.

84 Moving live protected animal to and from residence to provide care authorised

- (1) This section applies if the licensed premises for a commercial wildlife licence for a live protected animal is not the place of residence of the holder of the licence.
- (2) The holder, or a relevant person for the holder, may, without a wildlife movement permit, move the animal—
 - (a) from the licensed premises for the licence to the holder's or person's place of residence if—
 - (i) the movement is necessary to care for the animal; and
 - (ii) the licensed premises will be unattended for the period for which the animal is to be kept at the place of residence; and

[s 85]

- (b) from the holder's or person's place of residence to the licensed premises for the licence.

85 Moving protected animals to display authorised with approval

- (1) The holder of a commercial wildlife licence for a protected animal, or a relevant person for the holder, may, without a wildlife permit, move the animal to or from an authorised display if the holder has written approval from the chief executive for the movement.
- (2) However, subsection (1) applies only if the holder or person ensures the animal is moved back to the place the holder or person keeps the animal as soon as practicable after the animal stops being displayed in the display.
- (3) This section does not apply to a restricted animal.

86 Moving international animals to display authorised with approval

- (1) The holder of a commercial wildlife licence for an international animal, or a relevant person for the holder, may, without a wildlife movement permit, move the animal to or from an authorised display if the holder has written approval from the chief executive for the movement.
- (2) However, subsection (1) applies only if the holder or person ensures the animal is moved back to the place the holder or person keeps the animal as soon as practicable after the animal stops being displayed in the display.

87 Breeding mutation of protected birds authorised

The holder of a commercial wildlife licence for a protected bird, or a relevant person for the holder, may breed a mutation of the bird.

Note—

Under section 92(1) of the Act, it is an offence for a person to knowingly breed a hybrid or mutation of a protected animal other than under a regulation or an exemption under a regulation.

Subdivision 4 Carrying out activities under licence

88 Way animal must be kept and used

- (1) A person who keeps or uses a live protected animal under a commercial wildlife licence must keep and use the animal in a way that ensures the likelihood of escape, injury or ill-health of the animal is minimised.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person complies with a relevant code of practice for the animal to the extent the code of practice provides for how the likelihood of escape, injury or ill-health of the animal may be minimised.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).

89 Identifying dead animals kept under licence

A person who keeps a dead animal under a commercial wildlife licence must identify the animal in the way approved by the chief executive.

Examples of ways that may be approved—

- 1 attaching a particular tag to the animal
- 2 placing a particular mark on the animal

Maximum penalty—80 penalty units.

90 Keeping record

- (1) The holder of a commercial wildlife licence for an animal must keep a record for the licence.

[s 91]

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a commercial wildlife licence for an animal to which the plan relates.

91 Giving return of operations

- (1) The holder of a commercial wildlife licence for an animal must give the chief executive a return of operations for the licence.

Note—

For the requirements for returns of operation required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a commercial wildlife licence for an animal to which the plan relates.

Note—

For the requirements about returns of operations required to be given for a commercial wildlife licence for dead macropods, see the Macropod Conservation Plan.

Division 3 Commercial wildlife licence (mobile)

Subdivision 1 Purposes

92 Purpose of licence and div 3

- (1) The purpose of a commercial wildlife licence (mobile) for an animal is to allow a person to obtain protected animals from any place in the State by using a mobile facility.
- (2) The purpose of this division is to ensure the grant of commercial wildlife licences (mobile) for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
 - (a) allowing the chief executive to grant a commercial wildlife licence (mobile) for an animal only in limited circumstances; and
 - (b) limiting the activities that a person is authorised to do under a commercial wildlife licence (mobile); and
 - (c) regulating the activities of persons acting under a commercial wildlife licence (mobile).

Subdivision 2 Restrictions on grant of licence

93 Restriction about animals for which licence may be granted

The chief executive may grant a commercial wildlife licence (mobile) only for dead macropods.

[s 94]

Subdivision 3 Activities authorised by licence

94 Keeping and moving particular animals authorised

The holder of a commercial wildlife licence (mobile), or a relevant person for the holder, may—

- (a) buy or accept an animal of a species identified on the licence from any place in the State; and
- (b) move the animal, in the mobile facility for which the licence is granted, to—
 - (i) the licensed premises for the licence; or
 - (ii) a person, in the State, who is authorised to process the animal under the Act.

Note—

The Macropod Conservation Plan includes provisions limiting and extending the activities authorised under a commercial wildlife licence (mobile) for dead macropods.

Subdivision 4 Carrying out activities under licence

95 Keeping record

- (1) The prescribed person for a commercial wildlife licence (mobile) must keep a record for the licence.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) If the prescribed person is the holder of the licence, the holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.

-
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a commercial wildlife licence (mobile) for an animal to which the plan relates.
- (4) In this section—
- prescribed person***, for a commercial wildlife licence (mobile), means—
- (a) for a period during which the mobile facility for which the licence is granted is being used to carry out activities under the licence, the particulars for which are to be included in the record for the licence—the person in charge of the facility; or
- (b) for another period—the holder of the licence.

96 Giving return of operations

- (1) The holder of a commercial wildlife licence (mobile) must give the chief executive a return of operations for the licence.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a commercial wildlife licence (mobile) for an animal to which the plan relates.

Note—

For the requirements for returns of operations required to be given for a commercial wildlife licence (mobile) for dead macropods, see the Macropod Conservation Plan.

Division 4 Recreational wildlife licences

Subdivision 1 Purposes

97 Purpose of licence and div 4

- (1) The purpose of a recreational wildlife licence for an animal is to allow a person to keep and use protected or international animals for the person's personal enjoyment.
- (2) The purpose of this division is to ensure the grant of recreational wildlife licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
 - (a) allowing the chief executive to grant a recreational wildlife licence for an animal only in limited circumstances; and
 - (b) limiting the activities that a person is authorised to do under a recreational wildlife licence for an animal; and
 - (c) regulating the activities of persons acting under a recreational wildlife licence for an animal.

Subdivision 2 Restrictions on grant of licence

98 Restriction about animals for which licence may be granted

The chief executive may grant a recreational wildlife licence only for 1 or more of the following—

- (a) a live controlled, commercial, recreational, restricted or international animal;
- (b) a dead protected or international animal.

99 Restriction on grant of licence to children

- (1) The chief executive may grant a recreational wildlife licence for an animal to a child only if—
 - (a) the child and the child's parents or guardians live at the licensed premises for the licence; and
 - (b) the chief executive is satisfied the parents or guardians will supervise the child while the child is carrying out activities under the licence; and
 - (c) the chief executive states the name of the parents or guardians on the licence.
- (2) Also, the chief executive can not grant a recreational wildlife licence for a restricted animal to a child.

100 Restriction on grant of licence for restricted birds

- (1) The chief executive can not grant a recreational wildlife licence for a restricted bird to a person unless the chief executive is satisfied the person has the knowledge, experience and facilities necessary to keep the bird in the way required under the aviculture code.
- (2) In this section—

aviculture code means the document called 'Code of Practice—Aviculture', approved by the chief executive under section 174A of the Act.

Note—

A copy of the code is open for public inspection, during office hours on business days, at the department's head office and each regional office of the department. See section 174A(3) of the Act.

101 General restriction on grant of licence for birds and reptiles

- (1) The chief executive can not grant a recreational wildlife licence for birds for a place for which a commercial wildlife licence for birds has been granted under the Act.

[s 102]

- (2) The chief executive can not grant a recreational wildlife licence for reptiles for a place for which a commercial wildlife licence for reptiles has been granted under the Act.

Subdivision 3 Activities authorised by licence

102 Keeping and using animals authorised

- (1) The holder of a recreational wildlife licence for an animal, or a relevant person for the holder, may—
 - (a) buy or accept an animal of a species identified on the licence; and
 - (b) keep and use an animal of a species identified on the licence at the licensed premises for the licence.
- (2) Also, the holder of a recreational wildlife licence for a live protected animal other than a restricted animal, or a relevant person for the holder, may also keep and use, at the licensed premises for the licence—
 - (a) if the licence is a recreational wildlife licence for birds—1 or 2 birds that are a restricted animal; or
 - (b) if the licence is a recreational wildlife licence for reptiles and amphibians—1 or 2 reptiles that are a restricted animal, other than reptiles of the family Elapidae, Hydrophiidae or Laticaudidae.
- (3) However, subsections (1) and (2) do not authorise the holder or relevant person to use an animal for a commercial purpose.

103 Taking particular reptiles to feed other reptiles authorised

The holder of a recreational wildlife licence for reptiles, or a relevant person for the holder, may take any of the following reptiles if the reptile is taken to ensure the wellbeing or maintenance of a reptile kept under the licence—

- (a) *Carlia pectoralis*;

- (b) *Carlia vivax*;
- (c) *Cryptoblepharus carnabyi*;
- (d) *Cryptoblepharus virgatus*;
- (e) *Ctenotus robustus*;
- (f) *Lampropholis delicata*;
- (g) *Morethia boulengeri*.

104 Moving protected animals to display authorised with approval

- (1) The holder of a recreational wildlife licence for a protected animal, or a relevant person for the holder, may, without a wildlife permit, move the animal to or from an authorised display if the holder has written approval from the chief executive for the movement.
- (2) However, subsection (1) applies only if the holder or person ensures the animal is moved back to the place the holder or person keeps the animal as soon as practicable after the animal stops being displayed in the display.
- (3) This section does not apply to a restricted animal.

105 Moving international animals to display authorised with approval

- (1) The holder of a recreational wildlife licence for an international animal, or a relevant person for the holder, may, without a wildlife movement permit, move the animal to or from an authorised display if the holder has written approval from the chief executive for the movement.
- (2) However, subsection (1) applies only if the holder or person ensures the animal is moved back to the place the holder or person keeps the animal as soon as practicable after the animal stops being displayed in the display.

[s 106]

106 Breeding mutation of protected birds authorised

- (1) The holder of a recreational wildlife licence for a protected bird, or a relevant person for the holder, may breed a mutation of the bird.

Note—

Under section 92(1) of the Act, it is an offence for a person to knowingly breed a hybrid or mutation of a protected animal other than under a regulation or an exemption under a regulation.

- (2) However, this section does not apply to a bird that is a restricted animal.

Subdivision 4 Carrying out activities under licence

107 Way animal must be kept and used

- (1) A person who keeps or uses a live animal under a recreational wildlife licence must keep and use the animal in a way that ensures the likelihood of escape, injury or ill-health of the animal is minimised.

Maximum penalty—80 penalty units.

- (2) The person complies with subsection (1) if the person complies with a relevant code of practice for the animal to the extent the code of practice provides for how the likelihood of escape, injury or ill-health of the animal may be minimised.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).

108 Particular animals must be kept for minimum period

- (1) This section applies to a live protected animal bought or accepted under a recreational wildlife licence for the animal.
- (2) The holder of the licence must keep the animal for at least 6 months after the person who bought or accepted the animal, under the licence, receives the animal unless—

- (a) the holder has written approval from the chief executive to sell or give away the animal within 6 months after the person received the animal; or
- (b) the animal dies or escapes; or
- (c) if the animal is a bird—the person bought or accepted the bird for rearing the bird and the bird fledges within 6 months after the person receives the bird.

Maximum penalty—80 penalty units.

- (3) For subsection (2), the holder keeps an animal under the licence if a relevant person for the holder keeps the animal under the licence.

109 Keeping record

- (1) The holder of a recreational wildlife licence for an animal must keep a record for the licence.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a recreational wildlife licence for an animal to which the plan relates.

Division 5 Commercial wildlife harvesting licences

Subdivision 1 Purposes

110 Purpose of licence and div 5

- (1) The purpose of a commercial wildlife harvesting licence for animals is to allow a person to harvest protected animals for a commercial purpose.
- (2) The purpose of this division is to ensure the grant of commercial wildlife harvesting licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
 - (a) allowing the chief executive to grant a commercial wildlife harvesting licence for an animal only in limited circumstances; and
 - (b) limiting the activities that a person is authorised to do under a commercial wildlife harvesting licence for an animal; and
 - (c) regulating the activities of persons acting under a commercial wildlife harvesting licence for an animal.

Subdivision 2 Restrictions on grant of licence

111 Restriction about animals for which licence may be granted

- (1) The chief executive can not grant a commercial wildlife harvesting licence for a threatened or near threatened animal unless a conservation plan for the animal authorises the holder of a commercial wildlife harvesting licence to take the animal.

- (2) Subsection (1) does not apply to a commercial wildlife harvesting licence for a vulnerable or near threatened snake if the snake is to be taken for the extraction of venom to produce antivenene for humans.

112 Restriction on grant of licence to children if weapons involved

The chief executive can not grant to a child younger than 17 years a commercial wildlife harvesting licence that authorises the holder of the licence to take an animal by using a weapon.

113 Restriction on grant of licence for whales or dolphins

The chief executive can not grant a commercial wildlife harvesting licence for a whale or dolphin if the chief executive reasonably believes the whale or dolphin is to be taken for displaying the whale or dolphin under a wildlife demonstrator licence or wildlife exhibitor licence.

Subdivision 3 Activities authorised by licence

114 Taking, keeping and using particular animals authorised

- (1) The holder of a commercial wildlife harvesting licence for an animal, or a relevant person for the holder, may—
- (a) take an animal of a species identified on the licence from the place stated on the licence as a place from where the animal may be taken; and
 - (b) keep and use an animal of a species identified on the licence at the licensed premises for the licence.

Note—

The Macropod Conservation Plan includes provisions limiting and extending the activities authorised under a commercial wildlife harvesting licence for harvest macropods.

[s 115]

- (2) However, subsection (1) does not authorise the holder or relevant person to buy or accept an animal from another person.

Subdivision 4 Carrying out activities under licence

115 Way animal may be taken

- (1) The holder of a commercial wildlife harvesting licence for a protected animal, or a relevant person for the holder, may take the animal only—
- (a) from a location that is not visible to a person other than a person also taking an animal from the location; and
 - (b) in a way that causes minimal damage or disturbance to other wildlife or the environment; and
 - (c) by using an approved method for taking the animal; and
 - (d) if the animal is to be taken by killing the animal—by killing the animal in a quick and humane way.

Maximum penalty—120 penalty units.

- (2) Subsection (1) is subject to any provision of a conservation plan, or a harvest period notice, about the way the animal may be taken.

Note—

For the requirements about the way a harvest macropod may be taken, see the Macropod Conservation Plan.

116 Dealing with carcass of animal taken under licence

- (1) The holder of a commercial wildlife harvesting licence, or a relevant person for the holder, who takes, under the licence, an animal by killing the animal must keep the carcass of the animal in a way that ensures the animal can be easily identified.

Maximum penalty—120 penalty units.

-
- (2) Subsection (1) is subject to any provision of a conservation plan about identifying animals to which the plan relates.

Note—

For the requirements about identifying harvest macropods, see the Macropod Conservation Plan.

117 Keeping record

- (1) The holder of a commercial wildlife harvesting licence for an animal must keep a record for the licence.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a commercial wildlife harvesting licence for an animal to which the plan relates.
- (4) In this section—

relevant person, for the holder of a commercial wildlife harvesting licence for harvest macropods, includes—

- (a) a person who lives with the holder; and
- (b) a person who is authorised to keep the record for the licence under the Macropod Conservation Plan, section 70.

118 Giving return of operations

- (1) The holder of a commercial wildlife harvesting licence for an animal must give the chief executive a return of operations for the licence.

[s 119]

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a commercial wildlife harvesting licence for an animal to which the plan relates.

Note—

For the requirements for returns of operations required to be given for a commercial wildlife harvesting licence for harvest macropods, see the Macropod Conservation Plan.

- (4) In this section—

relevant person, for the holder of a commercial wildlife harvesting licence for harvest macropods, includes—

- (a) a person who lives with the holder; and
- (b) a person who is authorised to give a return of operations to the chief executive for the holder under the Macropod Conservation Plan, section 70.

Division 6 Recreational wildlife harvesting licences

Subdivision 1 Purposes

119 Purpose of licence and div 6

- (1) The purpose of a recreational wildlife harvesting licence for animals is to allow a person to harvest and use protected animals for the person's personal enjoyment.

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- (2) The purpose of this division is to ensure the grant of recreational wildlife harvesting licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
- (a) allowing the chief executive to grant a recreational wildlife harvesting licence for an animal only in limited circumstances; and
 - (b) limiting the activities that a person is authorised to do under a recreational wildlife harvesting licence for an animal; and
 - (c) regulating the activities of persons acting under a recreational wildlife harvesting licence for an animal.

Subdivision 2 Restriction on grant of licence

120 Restriction about animals for which licence may be granted

The chief executive may grant a recreational wildlife harvesting licence for a threatened or near threatened animal only if a conservation plan authorises the holder of a recreational wildlife harvesting licence to take the animal under the licence.

121 Restriction on grant of licence to children if weapons involved

The chief executive can not grant to a child younger than 17 years a recreational wildlife harvesting licence that authorises the holder of the licence to take an animal by using a weapon.

Subdivision 3 Activities authorised by licence

122 Taking, keeping, processing and using particular animals authorised

- (1) The holder of a recreational wildlife harvesting licence for an animal may—
 - (a) take an animal of a species identified on the licence from the place stated on the licence as a place from where the animal may be taken; and
 - (b) keep, use, other than sell or give away, an animal of a species identified on the licence at the licensed premises for the licence; and
 - (c) process an animal of a species identified on the licence at the licensed premises for the licence.

Note—

The Macropod Conservation Plan includes provisions limiting and extending the activities authorised under a recreational wildlife harvesting licence for harvest macropods.

- (2) However, subsection (1) does not authorise the holder to buy or accept an animal from another person.

Subdivision 4 Carrying out activities under licence

123 Way animal may be taken

- (1) The holder of a recreational wildlife harvesting licence for a protected animal may take the animal only—
 - (a) from a location that is not visible to a person other than a person also taking an animal from the location; and
 - (b) in a way that causes minimal damage or disturbance to other wildlife or the environment; and
 - (c) by using an approved method for taking the animal; and

- (d) if the animal is to be taken by killing the animal—by killing the animal in a quick and humane way.

Maximum penalty—120 penalty units.

- (2) Subsection (1) is subject to any provision of a conservation plan, or a harvest period notice, about the way animals to which the plan relates may be taken.

Note—

For the requirements about how a harvest macropod may be taken, see the Macropod Conservation Plan.

124 Dealing with carcass of animal taken under licence

- (1) The holder of a recreational wildlife harvesting licence who takes, under the licence, an animal by killing the animal must keep the carcass of the animal in a way that ensures the animal can be easily identified.

Maximum penalty—120 penalty units.

- (2) However, the holder may remove a tag or any other thing used to identify the animal—
- (a) immediately before the holder tans the skin of the animal; or
- (b) immediately before the holder prepares the meat of the animal for consumption.
- (3) Subsections (1) and (2) are subject to any provision of a conservation plan about identifying animals to which the plan relates.

Note—

For the requirements about identifying harvest macropods, see the Macropod Conservation Plan.

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125 Giving return of operations

- (1) The holder of a recreational wildlife harvesting licence for an animal must give the chief executive a return of operations for the licence.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a recreational wildlife harvesting licence for an animal to which the plan relates.
- (4) In this section—

relevant person, for the holder of a recreational wildlife harvesting licence for harvest macropods, includes a person who lives with the holder.

Division 7 Wildlife demonstrator licences

Subdivision 1 Purposes

126 Purpose of licence and div 7

- (1) The purpose of a wildlife demonstrator licence for animals is to allow a person to keep and use an animal for a travelling or temporary display.
- (2) The purpose of this division is to ensure the grant of wildlife demonstrator licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—

-
- (a) limiting the activities that a person is authorised to do under a wildlife demonstrator licence, including, in particular, limiting the purpose for which an animal may be displayed under the licence to be either for—
 - (i) promoting an understanding of the ecology and conservation of protected, prohibited or international animals; or
 - (ii) a film or television production; and
 - (b) regulating the activities of persons acting under a wildlife demonstrator licence.

Note—

The Estuarine Crocodile Conservation Plan also includes restrictions on the grant of wildlife demonstrator licences for estuarine crocodiles, and limitations on activities authorised under wildlife demonstrator licences for estuarine crocodiles, that are directed at achieving the purpose mentioned in subsection (2) for estuarine crocodiles. See part 3 of that plan.

Subdivision 2 Activities authorised by licence

127 Keeping and using particular animals authorised

- (1) The holder of a wildlife demonstrator licence for an animal, or a relevant person for the holder, may—
 - (a) buy or accept an animal of a species identified on the licence; and
 - (b) keep and use, other than display, an animal of a species identified on the licence at the licensed premises; and
 - (c) display an animal of a species identified on the licence in a travelling or temporary display.
- (2) However, subsection (1)(c) only authorises the holder or relevant person to display an animal for—
 - (a) an approved display purpose; or
 - (b) a film or television production.

Subdivision 3 Carrying out activities under licence

128 Number of live animals that may be kept under licence

- (1) The holder of a wildlife demonstrator licence must not, without the chief executive's written approval, keep more than 30 self-sufficient animals of the same species under the licence.

Maximum penalty—165 penalty units.

- (2) For subsection (1), the holder keeps an animal under the licence if a relevant person for the holder keeps the animal under the licence.

129 Minimum number of displays

- (1) This section applies if the holder is granted a wildlife demonstrator licence for a term of longer than 3 months.

- (2) The holder must—

- (a) ensure animals are displayed, under the licence, at a place other than the licensed premises for the licence at least once in each month in the term of the licence; and
- (b) keep, for the record-keeping period, a report of each display of animals that was conducted at a place other than the licensed premises.

Maximum penalty—80 penalty units.

- (3) If asked by a conservation officer, the holder must, unless the holder has a reasonable excuse, produce evidence containing the details of each display of animals that was conducted at a place other than the licensed premises.

Maximum penalty—80 penalty units.

130 Way animal may be displayed

- (1) A person displaying an animal under a wildlife demonstrator licence must display the animal in a way that ensures the following are minimised—
 - (a) the likelihood of the animal's escape;
 - (b) the risk of injury to a person;
 - (c) the risk of injury or ill-health to the animal.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person complies with the exhibition code to the extent the code is relevant to the way in which animals should be displayed.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).
- (4) A person displaying animals under a wildlife demonstrator licence must not, without the chief executive's written approval, display an animal that has visible signs of illness or injury.

Maximum penalty for subsection (4)—80 penalty units.

131 Animal being displayed must be supervised

A person displaying an animal under a wildlife demonstrator licence must ensure the animal is supervised by the holder of the licence, or a relevant person for the holder, at all times while it is being displayed.

Maximum penalty—80 penalty units.

132 Acts animal being displayed may be required to do

A person displaying an animal under a wildlife demonstrator licence must not, without the chief executive's written approval, require the animal to do an act the animal would not normally do in the wild.

Maximum penalty—80 penalty units.

133 Handling dangerous animals

- (1) The holder of a wildlife demonstrator licence must not allow a person to handle a live dangerous or venomous animal kept under the licence unless the person is—
 - (a) a relevant person for the holder; and
 - (b) has appropriate training for handling the animal.Maximum penalty—80 penalty units.
- (2) Subsection (1) does not apply if the person is handling the animal as part of training being conducted by the holder.

134 Keeping record

- (1) The holder of a wildlife demonstrator licence must keep a record for the licence.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a wildlife demonstrator licence for an animal to which the plan relates.

135 Giving return of operations

- (1) The holder of a wildlife demonstrator licence must give the chief executive a return of operations for the licence.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a wildlife demonstrator licence for an animal to which the plan relates.

Division 8 Wildlife exhibitor licences

Subdivision 1 Purposes

136 Purpose of licence and div 8

- (1) The purpose of a wildlife exhibitor licence for animals is to allow a person to keep and use an animal for display in an exhibit.
- (2) The purpose of this division is to ensure the grant of wildlife exhibitor licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
 - (a) requiring additional information for applications for a wildlife exhibitor licence; and
 - (b) allowing the chief executive to grant a wildlife exhibitor licence only for particular exhibits; and
 - (c) limiting the activities that a person is authorised to do under a wildlife exhibitor licence, including, in particular, limiting the purpose for which an animal may be displayed under the licence to be either for—
 - (i) promoting an understanding of the ecology and conservation of protected, prohibited or international animals; or
 - (ii) a film or television production; and

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- (d) regulating the activities of persons acting under a wildlife exhibitor licence.

Note—

The Koala Conservation Plan, section 20, contains other restrictions on the grant of a wildlife exhibitor licence for koalas.

Subdivision 2 Additional application requirement

137 Additional information requirement

- (1) A person who makes an application for a wildlife exhibitor licence must ensure either—
 - (a) the person has given the chief executive an exhibit notice before the application is made; or
 - (b) the application is accompanied by an exhibit notice.
- (2) If a person gives the chief executive an exhibit notice before an application for a wildlife exhibitor licence is made, the chief executive must, within 40 business days after receiving the exhibit notice, consider the matters mentioned in the exhibit notice and give the person a notice stating—
 - (a) if the chief executive is satisfied the facilities mentioned in the exhibit notice for housing or displaying animals under the licence comply, or will comply, with the code requirements for an exhibit for the animals—the chief executive is satisfied the facilities comply, or will comply, with the code requirements; or
 - (b) if paragraph (a) does not apply—
 - (i) the chief executive is not satisfied the facilities mentioned in the exhibit notice for housing or displaying animals under the licence comply, or will comply, with the code requirements for an exhibit for the animals; and
 - (ii) the changes that may be made to the facilities to ensure the chief executive is satisfied that they

comply, or will comply, with the code requirements.

- (3) Subsection (2) does not apply if the person who gave the exhibit notice to the chief executive makes an application for a wildlife exhibitor licence within 40 business days after giving the exhibit notice.
- (4) A person may give the chief executive more than 1 exhibit notice before applying for a wildlife exhibitor licence.

Subdivision 3 Restriction on grant of licence

138 Exhibit must meet particular criteria

The chief executive may grant a wildlife exhibitor licence for an animal to a person only if the chief executive is satisfied that—

- (a) the person's facilities for housing or displaying the animal—
 - (i) if the chief executive has given the person a notice under section 137(2)(a)—have been, or will be, built in the way mentioned in the exhibit notice; or
 - (ii) if the chief executive has given the person a notice under section 137(2)(b) (the *changes notice*)—have been, or will be, built in the way mentioned in the exhibit notice subject to the changes mentioned in the changes notice; or
 - (iii) otherwise—comply, or will comply, with the code requirements for an exhibit for the animal; and
- (b) the exhibit in which the animal for which the application is made will be displayed complies with the prescribed criteria for an exhibit for the animal.

Subdivision 4 Activities authorised by licence

139 Keeping and using particular animals authorised

- (1) The holder of a wildlife exhibitor licence, or a relevant person for the holder, may—
 - (a) buy or accept an animal of a species identified on the licence; and
 - (b) keep and use, other than display, an animal of a species identified on the licence at the licensed premises; and
 - (c) display an animal of a species identified on the licence in an exhibit at the licensed premises or in a travelling or temporary display.
- (2) However, subsection (1)(c) only authorises the holder or relevant person to display an animal for—
 - (a) an approved display purpose; or
 - (b) a film or television production.

140 Obtaining and keeping particular animals authorised

- (1) The holder of a wildlife exhibitor licence, or a relevant person for the holder, may obtain and keep a sick, injured or orphaned animal of a species identified on the licence.
- (2) The holder—
 - (a) is taken to also hold a rehabilitation permit for the animal; and
 - (b) may do, in relation to the animal, all things that the holder of a rehabilitation permit may do in relation to an animal kept under the permit.
- (3) In this section—

obtain, an animal, means take the animal or accept the animal from another person.

141 Engaging in unauthorised interaction authorised in particular circumstances

The holder of a wildlife exhibitor licence, or a relevant person for the holder, may, without a commercial wildlife licence (wildlife interaction), engage in an unauthorised interaction for a protected animal, of a species, in the wild if the holder has an approved interaction plan for the species.

142 Moving animals to or from other licensed premises authorised

- (1) The holder of a wildlife exhibitor licence (the *primary licence*), or a relevant person for the holder, who keeps a protected or an international animal in the State under the licence may, without a wildlife movement permit, move the animal—
 - (a) from the licensed premises for the primary licence to the licensed premises for either of the following (each a *secondary authority*) also held by the holder—
 - (i) another wildlife exhibitor licence for the animal;
 - (ii) a permit to keep protected wildlife for the animal;or
 - (b) from the licensed premises for the secondary authority to the licensed premises for the primary licence.
- (2) However, subsection (1) does not authorise the movement of a prescribed protected animal out of the State.

Subdivision 5 Carrying out activities under licence

143 Way animal may be displayed

- (1) A person displaying an animal under a wildlife exhibitor licence must display the animal in a way that ensures the following are minimised—
 - (a) the likelihood of the animal's escape;

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- (b) the risk of injury to a person;
- (c) the risk of injury or ill-health to the animal.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person complies with the exhibition code to the extent the code is relevant to the way in which animals should be displayed.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).
- (4) A person displaying animals under a wildlife exhibitor licence must not, without the chief executive's written approval, display an animal that has visible signs of illness or injury.

Maximum penalty for subsection (4)—80 penalty units.

144 Animal being displayed must be supervised

A person displaying an animal under a wildlife exhibitor licence must ensure the animal is supervised by the holder of the licence, or a relevant person for the holder, at all times while it is being displayed.

Maximum penalty—80 penalty units.

145 Acts animal being displayed may be required to do

A person displaying an animal under a wildlife exhibitor licence must not, without the chief executive's written approval, require the animal to do an act the animal would not normally do in the wild.

Maximum penalty—80 penalty units.

146 Handling dangerous animals

- (1) The holder of a wildlife exhibitor licence must not allow a person to handle a live dangerous or venomous animal kept under the licence unless the person—

- (a) is a relevant person for the holder; and
- (b) has appropriate training in handling the animal.

Maximum penalty—80 penalty units.

- (2) Subsection (1) does not apply if the person is handling the animal as part of training being conducted by the holder.

147 Dealing with sick, injured and orphaned animals

- (1) This section applies if—
 - (a) the holder of a wildlife exhibitor licence, or a relevant person for the holder, has obtained a sick, injured or orphaned animal under the licence; and
 - (b) the holder is taken to hold a rehabilitation permit for the animal under section 140.

- (2) The person who keeps the animal under the licence must keep the animal in a way that will, or is likely to, rehabilitate the animal so that it can be returned to the wild.

Maximum penalty—80 penalty units.

- (3) A person complies with subsection (2) if the person keeps the animal in a way complying with the rehabilitation code to the extent the code provides for how an animal should be rehabilitated.
- (4) Subsection (3) does not limit the ways in which a person may comply with subsection (2).
- (5) The person who keeps the animal under the licence must return the animal to a prescribed natural habitat for the animal—
 - (a) if the chief executive has given the holder a notice stating the animal must be returned to the wild on a stated day—the stated day; or
 - (b) otherwise—when the animal is able to again live in the habitat.

Maximum penalty—80 penalty units.

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- (6) Subsection (5) does not apply if—
 - (a) the animal dies or escapes; or
 - (b) the chief executive has given the holder of the licence a notice stating that the animal should not be returned to the wild.
- (7) In this section—

obtain, an animal, means take the animal or accept the animal from another person.

148 Particular holders must comply with approved interaction plan

- (1) This section applies if—
 - (a) the holder of a wildlife exhibitor licence has an approved interaction plan for a species of protected animal; and
 - (b) the holder, or a relevant person for the holder, carries out activities mentioned in the plan.
- (2) The holder or relevant person must comply with the interaction plan while carrying out the activities.

Maximum penalty—20 penalty units.

149 Particular holders must keep report about particular activities

- (1) This section applies if—
 - (a) the holder of a wildlife exhibitor licence has an approved interaction plan for a species of protected animal; and
 - (b) the holder, or a relevant person for the holder, carries out activities mentioned in the plan.
- (2) The holder must keep a written report, complying with subsection (3), about the activities to the extent they relate to interacting with animals of the species.

Maximum penalty—20 penalty units.

- (3) The report must include the following information about the activities—
- (a) any identified problems or concerns relating to the activities, including, for example—
 - (i) any increase in illness or injury in the animals the subject of the activities; and
 - (ii) any incidence of aggression by animals the subject of the activities against the holder's clients participating in the activities; and
 - (iii) any complaint by a member of the public about the impact of the activities on the member's lifestyle or interests;
 - (b) how the problems or concerns mentioned in paragraph (a) were identified and resolved.
- (4) The holder must—
- (a) keep the report in a secure place at the licensed premises for the licence, for the record-keeping period; and
 - (b) if asked by a conservation officer, make the report available for inspection by the officer.

Maximum penalty for subsection (4)—20 penalty units.

150 Keeping record

- (1) The holder of a wildlife exhibitor licence must keep a record for the licence.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.

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- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a wildlife exhibitor licence for an animal to which the plan relates.

151 Giving return of operations

- (1) The holder of a wildlife exhibitor licence must give the chief executive a return of operations for the licence.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a wildlife exhibitor licence for an animal to which the plan relates.

Division 9 Wildlife farming licence

Subdivision 1 Purposes

152 Purpose of licence and div 9

- (1) The purpose of a wildlife farming licence for animals is to allow a person to farm a protected animal.
- (2) The purpose of this division is to ensure the grant of wildlife farming licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
 - (a) allowing the chief executive to grant a wildlife farming licence only in limited circumstances; and

- (b) limiting the activities that a person is authorised to do under a wildlife farming licence; and
- (c) regulating the activities of persons acting under a wildlife farming licence.

Subdivision 2 Restrictions on grant of licence

153 Restriction about animals for which licence may be granted

The chief executive may grant a wildlife farming licence for only a farm animal.

154 Restriction on grant of licence for particular reptiles

The chief executive may grant a wildlife farming licence for a reptile of the family Elapidae, Hydrophiidae or Laticaudidae only if the chief executive is satisfied the reptile is to be kept for collecting venom to produce antivenene for humans.

Subdivision 3 Activities authorised by licence

155 Keeping, using and processing particular animals authorised

- (1) The holder of a wildlife farming licence, or a relevant person for the holder, may—
 - (a) buy or accept an animal of a species identified on the licence; and
 - (b) keep, use, other than display, and process an animal of a species identified on the licence at the licensed premises for the licence; and
 - (c) display a live animal of a species identified on the licence at the licensed premises for the licence or in a travelling or temporary display.

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- (2) However, subsection (1)(c) only authorises the holder or relevant person to display an animal for an approved display purpose.

156 Moving animals to or from other licensed premises authorised

- (1) The holder of a wildlife farming licence, or a relevant person for the holder, who keeps a farm animal in the State under the licence may, without a wildlife movement permit, move the animal—
- (a) from the licensed premises for the licence to the licensed premises for a permit to keep protected wildlife for the animal also held by the holder; or
 - (b) from the licensed premises for a permit to keep protected wildlife for the animal also held by the holder to the licensed premises for the licence.
- (2) However, subsection (1) does not authorise the movement of a prescribed protected animal out of the State.

Subdivision 4 Carrying out activities under licence

157 Identifying animal taken from the wild

- (1) This section applies if the holder of a wildlife farming licence, or a relevant person for the holder, keeps, under the licence, an animal that was taken from the wild.
- (2) The holder must ensure the animal is identified in the way approved for the animal by the chief executive.

Maximum penalty—80 penalty units.

158 Sampling particular reptiles

- (1) This section applies if—

-
- (a) the Minister has approved a scientific institution as an approved scientific institution for reptiles; and
 - (b) the holder of a wildlife farming licence, or a relevant person for the holder—
 - (i) keeps a reptile of the family Elapidae, Hydrophiidae or Laticaudidae under the licence when the approval happens; or
 - (ii) buys or accepts a reptile of the family Elapidae, Hydrophiidae or Laticaudidae under the licence after the approval happens.
 - (2) The holder must ensure that, by the relevant day for the reptile, a biological tissue sample is taken from the reptile and given to an approved scientific institution.

Maximum penalty—165 penalty units.

- (3) This section does not apply if, before the relevant day for the reptile—
 - (a) the Minister approves an electromagnetic implant as an approved electromagnetic implant; and
 - (b) an approved electromagnetic implant is inserted into the reptile; and
 - (c) the chief executive is given a notice stating the identification code for the implant.
- (4) In this section—

relevant day means—

- (a) for a reptile kept under a wildlife farming licence when the approval under subsection (1) happens—the day that is 20 business days after the approval happens; or
- (b) for a reptile bought or accepted under a wildlife farming licence after the approval under subsection (1) happens—the day that is 20 business days after the reptile is bought or accepted.

159 Implanting particular reptiles

- (1) This section applies if—
 - (a) the Minister has approved an electromagnetic implant as an approved electromagnetic implant; and
 - (b) the holder of a wildlife farming licence, or a relevant person for the holder—
 - (i) keeps a reptile of the family Elapidae, Hydrophiidae or Laticaudidae under the licence when the approval happens; or
 - (ii) buys or accepts a reptile of the family Elapidae, Hydrophiidae or Laticaudidae under the licence after the approval happens.
- (2) The holder must ensure that, by the relevant day for the reptile—
 - (a) an approved electromagnetic implant is inserted into the reptile; and
 - (b) the chief executive is given a notice stating the identification code for the implant.

Maximum penalty—165 penalty units.

- (3) This section does not apply if, before the relevant day for the reptile—
 - (a) the Minister approves a scientific institution as an approved scientific institution for reptiles; and
 - (b) a biological tissue sample is taken from the reptile and given to the approved scientific institution.
- (4) In this section—

relevant day means—

 - (a) for a reptile kept under a wildlife farming licence when the approval under subsection (1) happens—the day that is 20 business days after the approval happens; or
 - (b) for a reptile bought or accepted under a wildlife farming licence after the approval under subsection (1)

happens—the day that is 20 business days after the reptile is bought or accepted.

160 Way animal may be displayed

- (1) A person displaying an animal under a wildlife farming licence must display the animal in a way that ensures the following are minimised—
 - (a) the likelihood of the animal's escape;
 - (b) the risk of injury to a person;
 - (c) the risk of injury or ill-health to the animal.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person complies with the exhibition code to the extent the code is relevant to the way in which animals should be displayed.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).
- (4) A person displaying animals under a wildlife farming licence must not, without the chief executive's written approval, display an animal that has visible signs of illness or injury.

Maximum penalty for subsection (4)—80 penalty units.

161 Animal being displayed must be supervised

A person displaying an animal under a wildlife farming licence must ensure the animal is supervised by the holder of the licence, or a relevant person for the holder, at all times while it is being displayed.

Maximum penalty—80 penalty units.

162 Acts animal being displayed may be required to do

A person displaying an animal under a wildlife farming licence must not, without the chief executive's written

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approval, require the animal to do an act the animal would not normally do in the wild.

Maximum penalty—80 penalty units.

163 Handling dangerous animals

- (1) The holder of a wildlife farming licence must not allow a person to handle a live dangerous or venomous animal kept under the licence unless the person—
 - (a) is a relevant person for the holder; and
 - (b) has appropriate training for handling the animal.

Maximum penalty—80 penalty units.

- (2) Subsection (1) does not apply if the person is handling the animal as part of training being conducted by the holder.

164 Keeping record

- (1) The holder of a wildlife farming licence must keep a record for the licence.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a wildlife farming licence for an animal to which the plan relates.

165 Giving return of operations

- (1) The holder of a wildlife farming licence must give the chief executive a return of operations for the licence.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a wildlife farming licence for an animal to which the plan relates.

Division 10 Museum licences

Subdivision 1 Purposes

166 Purpose of licence and div 10

- (1) The purpose of a museum licence for animals is to allow a State museum to take, keep and use a protected or international animal.
- (2) The purpose of this division is to ensure the grant of museum licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
 - (a) allowing the chief executive to grant a museum licence only in limited circumstances; and
 - (b) limiting the activities that a person is authorised to do under a museum licence; and
 - (c) regulating the activities of persons acting under a museum licence.

Subdivision 2 Restrictions on grant of licence

167 Restriction about persons to whom licence may be granted

The chief executive may grant a museum licence only to a State museum.

168 Restriction about animals for which licence may be granted

The chief executive may grant a museum licence only for a live or dead protected or international animal.

169 Restriction on grant of licence authorising display

- (1) The chief executive may grant a museum licence authorising a State museum to display, under the licence, a live protected or international animal in an exhibit only if the chief executive is satisfied—
 - (a) the museum has the facilities to comply with the code requirements for the exhibit; and
 - (b) the exhibit complies with the prescribed criteria for the exhibit.
- (2) For subsection (1), the chief executive grants a museum licence authorising the State museum to display a live protected or international animal if the chief executive writes on the licence that the State museum may display the live animal under the licence.

Subdivision 3 **Activities authorised by licence**

170 Taking, keeping, using and processing particular animals authorised

- (1) The holder of a museum licence for a protected or international animal, or a relevant person for the holder, may—
 - (a) take a protected animal of a species identified on the licence from the place stated on the licence from where the animal may be taken; and
 - (b) buy or accept an animal of a species identified on the licence; and
 - (c) keep, use and process a live protected or international animal of a species identified on the licence at the licensed premises for the licence; and
 - (d) if the chief executive has written on the licence that the holder may display, under the licence, a live protected or international animal of a species identified on the licence—display a live animal of the species at the licensed premises for the licence.
- (2) However, subsection (1) does not authorise the holder or relevant person to—
 - (a) take, keep, use or process an animal for biodiscovery; or
 - (b) take an animal for display as a live animal.

Notes—

- 1 The holder of a museum licence could also be granted 1 or more other licences under the Act authorising the holder to take, keep, use or process, for biodiscovery, animals in or on land other than State land under the *Biodiscovery Act 2004*.
- 2 The holder of a museum licence could also be granted 1 or more collection authorities under the *Biodiscovery Act 2004* for animals in or on State land under that Act.

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- (3) Also, subsection (1) only authorises the holder or relevant person to display a live animal for an approved display purpose.

171 Moving animals to or from other licensed premises authorised

- (1) The holder of a museum licence, or a relevant person for the holder, who keeps a live protected or international animal in the State under the licence may, without a wildlife movement permit, move the animal—
 - (a) from the licensed premises for the licence to the licensed premises for a permit to keep protected wildlife for the animal also held by the holder; or
 - (b) from the licensed premises for a permit to keep protected wildlife for the animal also held by the holder to the licensed premises for the licence.
- (2) However, subsection (1) does not authorise the movement of a prescribed protected animal out of the State.

Subdivision 4 Carrying out activities under licence

172 Where animals may be displayed

A person displaying a live animal under a museum licence must display the animal in permanent enclosures that form an integral part of the display.

Maximum penalty—80 penalty units.

173 Way animal may be displayed

- (1) A person displaying a live animal under a museum licence must display the animal in a way that ensures the following are minimised—
 - (a) the likelihood of the animal's escape;

- (b) the risk of injury to a person;
- (c) the risk of injury or ill-health to the animal.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person complies with the exhibition code to the extent the code is relevant to the way in which animals should be displayed.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).
- (4) A person displaying live animals under a museum licence must not, without the chief executive's approval, display an animal that has visible signs of illness or injury.

Maximum penalty for subsection (4)—80 penalty units.

174 Animal being displayed must be supervised

A person displaying a live animal under a museum licence must ensure the animal is supervised by the holder of the licence, or a relevant person for the holder, at all times while it is being displayed.

Maximum penalty—80 penalty units.

175 Acts animal being displayed may be required to do

A person displaying an animal under a museum licence must not, without the chief executive's written approval, require the animal to do an act the animal would not normally do in the wild.

Maximum penalty—80 penalty units.

176 Handling dangerous animals

- (1) The holder of a museum licence must not allow a person to handle a live dangerous or venomous animal kept under the licence unless the person—

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- (a) is a relevant person for the holder; and
- (b) has appropriate training for handling the animal.

Maximum penalty—80 penalty units.

- (2) Subsection (1) does not apply if the person is handling the animal as part of training being conducted by the holder.

177 Keeping record

- (1) The holder of a museum licence must keep a record for the licence.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a museum licence for an animal to which the plan relates.

178 Giving return of operations

- (1) The holder of a museum licence for an animal must give the chief executive a return of operations for the licence.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.

- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a museum licence for an animal to which the plan relates.

Part 4 Permits for taking, keeping or using animals

Division 1 General restrictions on grant for all permits

179 General restriction on grant of permits to children

The chief executive may grant a permit to a child only if—

- (a) the child and the child's parents or guardians live at the premises for which the permit is granted; and
- (b) the chief executive is satisfied the parents or guardians will supervise the child while the child is carrying out activities under the permit; and
- (c) the chief executive states the name of the parents or guardians on the permit.

180 Restriction on grant of particular permits to children if weapon involved

The chief executive can not grant any of the following permits to a child younger than 17 years if the permit is for an activity for which a weapon is to be used—

- (a) a damage mitigation permit;
- (b) an educational purposes permit;
- (c) a scientific purposes permit.

Division 2 Damage mitigation permits

Subdivision 1 Purposes

181 Purpose of permit and div 2

- (1) The purpose of a damage mitigation permit for animals is to allow a person to do an authorised act affecting a protected animal if the animal—
 - (a) is causing, or may cause, damage to property; or
 - (b) represents a threat to human health or wellbeing.
- (2) The purpose of this division is to ensure the grant of damage mitigation permits to do authorised acts affecting animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
 - (a) allowing the chief executive to grant a damage mitigation permit to do an authorised act affecting an animal only in limited circumstances; and
 - (b) limiting the activities that a person is authorised to do under a damage mitigation permit; and
 - (c) regulating the activities of persons acting under a damage mitigation permit.
- (4) In this section—

authorised act, affecting a protected animal, means any of the following—

 - (a) taking, keeping or using the animal;
 - (b) if the protected animal is a flying-fox—
 - (i) destroying a flying-fox roost used by the animal; or
 - (ii) driving away the animal from a flying-fox roost; or
 - (iii) disturbing the animal in a flying-fox roost.

Subdivision 2 Restrictions on grant of permit

182 General restriction about animals for which permit may be granted

- (1) The chief executive may grant a damage mitigation permit only for—
 - (a) a least concern animal; or
 - (b) an endangered, vulnerable or near threatened animal.
- (2) However, the chief executive may grant a damage mitigation permit for an animal mentioned in subsection (1)(b) only if a conservation plan authorises the holder of a damage mitigation permit to do any of the following under the permit—
 - (a) take the animal;
 - (b) if the animal is a flying-fox—
 - (i) destroy a flying-fox roost used by the animal; or
 - (ii) drive away the animal from a flying-fox roost; or
 - (iii) disturb the animal in a flying-fox roost.

184 Restriction about purposes for which permit may be granted

- (1) The chief executive may grant a damage mitigation permit only for 1 or both of the following purposes—
 - (a) to prevent damage or loss caused, or likely to be caused, by a protected animal;
 - (b) to prevent or minimise a threat, or potential threat, to human health and wellbeing caused by a protected animal.
- (2) However, a conservation plan may authorise the grant of a damage mitigation permit for another purpose for animals to which the plan relates.

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Note—

For problem crocodiles, see the Estuarine Crocodile Conservation Plan, section 22.

185 Restriction on grant of permit for damage or loss

- (1) The chief executive may grant a damage mitigation permit, other than a permit for taking a flying-fox, for damage or loss caused, or likely to be caused, by a protected animal only if the chief executive is satisfied—
- (a) the animal is causing, or may cause, damage; and
 - (b) the landholder of the land on which the animal is causing, or may cause, damage has made a reasonable attempt to prevent or minimise the damage and the action taken has not prevented or minimised the damage; and

Examples of action that may be taken to prevent or minimise damage caused by an animal—

- 1 taking measures, for example, installing a fence or other enclosure, to prevent the animal from accessing the land, or property on the land, on which the animal is causing or may cause damage
 - 2 using an audio or visual device or other thing to deter the animal from accessing the land, or property on the land, on which the animal is causing or may cause damage
- (c) if the damage is not prevented or controlled—
- (i) individuals may suffer significant economic loss; or
 - (ii) the ecological sustainability of nature is likely to be harmed; and
- (d) action under the permit will not adversely affect the survival of the animal in the wild; and
- (e) the proposed way of taking the animal is humane and not likely to cause unnecessary suffering to the animal.

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- (2) The chief executive may grant a damage mitigation permit for taking a flying-fox, for damage or loss caused, or likely to be caused, by a flying-fox, only if the chief executive is satisfied—
- (a) the flying-fox is causing, or may cause, damage to crops; and
 - (b) the landholder of the land on which the flying-fox is causing, or may cause, damage has made a reasonable attempt to take any action the flying-fox damage mitigation code states the landholder must take to prevent or control the damage; and
 - (c) if the damage is not prevented or controlled the landholder may suffer significant economic loss as defined under the flying-fox damage mitigation code; and
 - (d) action under the permit will not adversely affect the survival of the species of flying-fox in the wild; and
 - (e) the landholder is a commercial crop grower for the land; and
 - (f) the proposed way of taking the flying-fox complies with the flying-fox damage mitigation code; and
 - (g) the proposed way of dealing with the flying-fox after the flying-fox has been taken complies with the flying-fox damage mitigation code.
- (3) Despite subsection (2), the chief executive can not grant a damage mitigation permit for taking a flying-fox of a particular species in a financial year after the total permit number for the species for the financial year has reached the maximum permit number for the species.
- (4) In this section—
- commercial crop grower***, for the land on which the flying-fox is causing, or may cause, damage, means a person carrying on a business of growing a crop for commercial gain, other than

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incidentally to a lawful use of the land that does not involve growing a crop.

maximum permit number, for a species of flying-fox, means the number of flying-foxes of that species that the flying-fox damage mitigation code states is the maximum number of flying-foxes of that species that may be taken in a financial year under damage mitigation permits.

total permit number, for a species of flying-fox for a financial year, means the total number of flying-fox of that species for which damage mitigation permits for taking flying-fox have been granted under the Act in the financial year.

186 Restriction on grant of permit for threat to human health and wellbeing

The chief executive may grant a damage mitigation permit for a threat, or potential threat, to human health and wellbeing caused by a protected animal only if the chief executive is satisfied—

- (a) there is, or may be, a threat to a person's health and wellbeing resulting from harm caused by the animal to the person; and
- (b) action under the permit will not detrimentally affect the survival of the animal in the wild; and
- (c) the proposed way of taking the animal is humane and not likely to cause unnecessary suffering to the animal; and
- (d) if the animal is a protected reptile—
 - (i) the reptile will be released into the wild; or
 - (ii) a conservation plan for the reptile authorises the holder of a damage mitigation permit to keep the reptile under the permit or otherwise.

Subdivision 3 Activities authorised by permit

187 Taking particular animals authorised

- (1) The holder of a damage mitigation permit, or a relevant person for the holder, may do the following—
 - (a) take an animal of a species identified on the permit—
 - (i) if the identified species is a species other than a species of flying-fox—from the place stated on the permit from where the animal may be taken; or
 - (ii) if the identified species is a species of flying-fox—
 - (A) from the place stated on the permit from where the animal may be taken; and
 - (B) only in a way that complies with the flying-fox damage mitigation code;
 - (b) if it is stated on the permit that the holder may remove or otherwise deal with an animal breeding place used by the animal—remove the place or deal with the place in the way stated on the permit;
 - (c) if it is stated on the permit that the holder may release the animal—release the animal into prescribed natural habitat for the animal.
- (2) Subsection (1) does not authorise the holder or relevant person to keep or use an animal under the permit.

187A Particular activities affecting flying-foxes authorised

- (1) This section applies if a damage mitigation permit is for flying-foxes.
- (2) The holder of the permit, or a relevant person for the holder, may do the following—
 - (a) if it is stated on the permit that the holder may destroy a flying-fox roost used by flying-foxes—destroy the flying-fox roost in the way stated on the permit;

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- (b) if it is stated on the permit that the holder may drive away flying-foxes from a flying-fox roost—drive away flying-foxes from the flying-fox roost in the way stated on the permit, including, for example, using a device of a type stated on the permit;
- (c) if it is stated on the permit that the holder may disturb flying-foxes in a flying-fox roost—disturb flying-foxes in the flying-fox roost in the way stated on the permit.

187B Killing dependent flying-fox authorised for particular permits

- (1) This section applies if a damage mitigation permit authorises the taking of a flying-fox.
- (2) The holder, or a relevant person for the holder, of the permit may kill another flying-fox if—
 - (a) the other flying-fox is attached to a female flying-fox that has been taken under the permit; or
 - (b) the other flying-fox—
 - (i) has been separated from a female flying-fox to which it was attached or upon which it was otherwise dependent; and
 - (ii) is at the place stated on the permit from where a flying-fox may be taken.
- (3) However, the holder or relevant person may kill the other flying-fox only in the way stated in the flying-fox damage mitigation code.

Subdivision 4 Carrying out activities under permit

188 Giving return of operations

- (1) The holder of a damage mitigation permit for an animal must give the chief executive a return of operations for the permit.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a damage mitigation permit for an animal to which the plan relates.

Division 3 Educational purposes permits

Subdivision 1 Purpose

189 Purpose of permit

The purpose of an educational purposes permit for animals is to allow particular persons to take, use or keep a protected animal for a genuine educational purpose.

Subdivision 2 Restriction on grant of permit

190 Restriction about persons to whom permit may be granted

- (1) The chief executive may grant an educational purposes permit for a protected animal to an individual only if the chief executive is satisfied the person—
 - (a) either—
 - (i) holds a tertiary qualification relevant to the activities to be carried out under the permit; or

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- (ii) has demonstrated experience and knowledge in relation to the activities to be carried out under the permit; and
 - (b) has experience in the care and husbandry of the species of animals for which the permit is to be granted.
- (2) The chief executive may grant an educational purposes permit for a protected animal to a corporation only if the corporation is an educational institution or organisation.

191 Restriction about purposes for which permit may be granted

The chief executive may grant an educational purposes permit for a protected animal only if the chief executive is satisfied—

- (a) the purpose for which the animal is proposed to be taken, used or kept under the permit is a genuine educational purpose; and
- (b) the applicant for the permit will not, or does not intend to, make a financial benefit from taking, keeping or using the animal under the permit.

Subdivision 3 Activities authorised by permit

192 Taking, keeping and using particular animals authorised

- (1) The holder of an educational purposes permit, or a relevant person for the holder, may—
 - (a) if the chief executive has written on the permit that the holder of the permit may take an animal of a species identified on the permit—take an animal of a species identified on the permit from the place stated on the permit as the place from where the animal may be taken; and
 - (b) buy or accept an animal of a species identified on the permit; and

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- (c) keep and use, other than sell or give away, an animal of a species identified on the permit at the licensed premises for the permit.
- (2) However, subsection (1) does not authorise the holder or relevant person to use the animal for a commercial purpose.

Subdivision 4 Carrying out activities under permit

193 Giving return of operations

- (1) The holder of an educational purposes permit for an animal must give the chief executive a return of operations for the permit.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for educational purposes permit for an animal to which the plan relates.

Division 4 Permits to keep protected wildlife

Subdivision 1 Purpose

194 Purpose of permit

The purpose of a permit to keep protected wildlife for animals is to allow a person—

- (a) to keep a protected animal when there is no other

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wildlife authority that would be appropriate for allowing the person to keep the animal; or

- (b) to temporarily keep a protected animal that is or was kept under another wildlife authority.

Subdivision 2 Restrictions on grant of permit

195 Restriction about purposes for which permit may be granted

The chief executive may grant a permit to keep protected wildlife for a protected animal only for 1 or more of the following purposes—

- (a) to keep an animal taken under a rehabilitation permit;
- (b) to keep an animal that has been taken and kept under a law of another State;
- (c) to temporarily keep an animal that has been kept or used under a wildlife authority, other than a rehabilitation permit, that has ended;
- (d) to temporarily keep an animal that is being kept or used under a wildlife exhibitor licence, wildlife farming licence or museum licence at a place other than the authorised premises for keeping the animal under the licence.

196 Restriction on grant of permit for animal taken under rehabilitation permit

- (1) This section applies to a protected animal taken under a rehabilitation permit.
- (2) The chief executive may grant a permit to keep protected wildlife for the animal to a person only if—
 - (a) the chief executive reasonably believes the animal will not, or is unlikely to, survive in the wild, including, for

example, because of the nature of the animal's sickness or injury; and

- (b) the chief executive has notified the holder of the rehabilitation permit, in writing, that the animal must not be returned to the wild; and

Note—

See section 216 for when a holder of a rehabilitation permit must return an animal taken under the permit to the wild.

- (c) for an animal other than a relevant protected animal—the chief executive is satisfied the animal will contribute to the rehabilitation of animals of the same species or closely related species; and
- (d) if there is an approved captive breeding program for animals of the same species—the person is a participant in the captive breeding program.

- (3) In this section—

approved captive breeding program, for a species of animal, means a program for the captive breeding for the species that has been approved by the chief executive.

197 Restriction on grant of permit for animal from another State

- (1) This section applies to a person who—
 - (a) resides or has resided in another State; and
 - (b) has kept, in that other State, a protected animal under a law of that other State.
- (2) The chief executive may grant a permit to keep protected wildlife for the animal to the person only if the chief executive is satisfied—
 - (a) the person resides, or intends to reside, in the State; and
 - (b) the person intends to keep the animal for the term of its natural life; and

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- (c) the person intends to keep, but not use, the animal under the permit.

198 Restriction on grant of permit for animal kept under expired authority

- (1) This section applies if—
 - (a) a person kept a live protected animal under a wildlife authority, other than a rehabilitation permit; and
 - (b) the authority has ended or is about to end.
- (2) The chief executive may grant a permit to keep protected wildlife for the animal to the person only if—
 - (a) the animal is not a relevant protected animal; and
 - (b) the chief executive is satisfied the person intends—
 - (i) to keep, but not use, the animal under the permit; and
 - (ii) to keep the animal under the permit only temporarily.

199 Restriction on grant of permit to holders of particular authorities

- (1) This section applies if the holder of a wildlife exhibitor licence, wildlife farming licence or museum licence keeps a live protected animal under the licence.
- (2) The chief executive may grant a permit to keep protected wildlife for the animal to the holder only if the chief executive is satisfied—
 - (a) the person intends to keep, but not use, the animal under the permit; and
 - (b) the animal is to be kept under the permit only temporarily.

Subdivision 3 Activities authorised by permit

200 Keeping particular animals authorised

The holder of a permit to keep protected wildlife for a protected animal may keep an animal of a species identified on the permit at the licensed premises for the permit.

201 Moving animal to another holder authorised in particular circumstances

- (1) This section applies if—
- (a) the holder of a permit to keep protected wildlife keeps an animal under the permit; and
 - (b) the holder—
 - (i) has decided to dispose of all animals kept by the holder; or
 - (ii) is no longer able to keep the animal because the holder's personal circumstances have changed; and

Examples for subparagraph (ii)—

- 1 The person is no longer able to keep the animal because of injury, illness or old age.
 - 2 The person is no longer able to keep the animal because the person has moved to a place where the person can not keep the animal because the place does not have the appropriate facilities to keep the animal or is not large enough to keep all the animals the person usually keeps.
- (c) the holder has written approval from the chief executive to give the animal to the holder of a wildlife authority for the animal, or a relevant person for the holder of the wildlife authority.
- (2) The holder may, without a wildlife movement permit, move the animal to the place where the holder of the wildlife authority, or the relevant person for the holder of the wildlife authority, intends to keep the animal under the authority.

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- (3) However, subsection (2) does not authorise the movement of a prescribed protected animal—
 - (a) to another country; or
 - (b) into another State if the movement is, whether directly or indirectly, associated with—
 - (i) moving the animal to another country; or
 - (ii) selling, giving or moving the animal to a person in another country.

202 Moving animal to an institution authorised in particular circumstances

- (1) This section applies if—
 - (a) the holder of a permit to keep protected wildlife keeps an animal under the permit; and
 - (b) the chief executive has asked the holder to give the animal to a zoological institution for captive breeding.
- (2) The holder may, without a wildlife movement permit, move the animal to the institution.

203 Moving particular birds authorised

- (1) This section applies if the holder of a permit to keep protected wildlife—
 - (a) keeps only 1 bird under the permit; and
 - (b) the bird suffers from the behavioural disorder known as human imprinting.
- (2) The holder may, without a wildlife movement permit, move the bird to or from any place within the State.

Subdivision 4 Carrying out activities under permit

204 Breeding animals

- (1) The holder of a permit to keep protected wildlife who keeps an animal other than a bird under the permit must not, without the chief executive's approval, allow the animal to breed.

Maximum penalty—165 penalty units.

- (2) Subsection (3) applies if the holder advises the chief executive that an animal kept under the permit is incapable of breeding because of permanent surgical or chemical sterilisation.
- (3) If asked by the chief executive, the holder must give the chief executive a certificate from a veterinary surgeon stating the animal is incapable of breeding because of permanent surgical or chemical sterilisation.

Maximum penalty—20 penalty units.

205 Keeping record

- (1) This section applies if the holder of a permit to keep protected wildlife keeps an animal under the permit that is breeding, or has bred, while being kept by the holder under the permit.
- (2) The holder must keep a record for the permit.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (3) The holder complies with subsection (2) if a relevant person for the holder keeps the record for the holder.
- (4) This section is subject to any provision of a conservation plan about the keeping of a record for a permit to keep protected wildlife for an animal to which the plan relates.

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206 Giving return of operations

- (1) This section applies to the holder of a permit to keep protected wildlife if—
 - (a) the holder keeps an animal under the permit; and
 - (b) either—
 - (i) the holder is required to keep a record for the permit; or
 - (ii) the animal dies or escapes.
- (2) The holder must give the chief executive a return of operations for the permit.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (3) The holder complies with subsection (2) if a relevant person for the holder gives the return to the chief executive for the holder.
- (4) This section is subject to any provision of a conservation plan about the giving of a return of operations for a permit to keep protected wildlife for an animal to which the plan relates.

Division 5 Rehabilitation permits

Subdivision 1 Purpose

207 Purpose of permit

The purpose of a rehabilitation permit for animals is to allow a person to care for and rehabilitate—

- (a) a sick, injured or orphaned protected animal; or

- (b) a protected animal whose habitat has been, or will be, destroyed by human activity or a natural disaster.

Subdivision 2 Restrictions on grant of permit

208 Restriction about persons to whom permit may be granted

The chief executive can not grant a rehabilitation permit for a protected animal to a person unless the chief executive is satisfied the person intends to rehabilitate the animal and return it to a prescribed natural habitat for the animal.

209 Restriction on grant of permit to voluntary wildlife care associations

The chief executive can not grant a rehabilitation permit for a protected animal to a voluntary wildlife care association unless the association does not engage in commercial activities, other than fundraising for the objects of the association.

210 Restriction about animals for which permit may be granted

The chief executive may grant a rehabilitation permit only for a protected animal.

Note—

The Koala Conservation Plan, section 20, contains other restrictions on the grant of a rehabilitation permit for koalas.

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Subdivision 3 Activities authorised by permit

211 Obtaining and keeping particular animals authorised

- (1) The holder of a rehabilitation permit, or a relevant person for the holder, may do any of the following—
 - (a) obtain and keep a sick, injured or orphaned animal of a species identified on the permit;
 - (b) obtain and keep an animal of a species identified on the permit whose habitat has been destroyed by human activity or a natural disaster;
 - (c) if stated on the rehabilitation permit—obtain and keep an animal of a species identified on the permit whose habitat is about to be destroyed by human activity.
- (2) However, subsection (1)—
 - (a) only authorises the holder or relevant person to obtain or keep an animal that was taken from the wild; and
 - (b) only authorises the holder or relevant person to keep the animal at the holder's or person's place of residence.
- (3) Also, the holder of the permit may limit the species of animals that a relevant person may obtain or keep under the permit by giving the person a copy of the permit with the animals the person may not obtain or keep crossed out.
- (4) In this section—

obtain, an animal, means take the animal or accept the animal from another person.

212 Taking particular dead animals for feeding particular animals authorised

- (1) The holder of a rehabilitation permit for a bird of prey, or a relevant person for the holder, may take a dead least concern animal, other than a special native animal, if the dead animal is taken to feed the bird of prey kept under the permit.

(2) In this section—

bird of prey means a bird of the family Accitripidae, Falconidae or Strigidae.

213 Displaying particular animals authorised with approval

(1) This section applies if—

- (a) the holder of a rehabilitation permit is a voluntary wildlife care association; and
- (b) the chief executive has given the holder a written approval authorising the holder to display an animal kept under the permit.

(2) The holder, or a relevant person for the holder, may display the animal.

(3) For subsection (1)(b), the chief executive may give the written approval only if the chief executive is satisfied—

- (a) the animal does not have any visible signs of illness or injury; and
- (b) the purpose of the display is—
 - (i) an approved display purpose; or
 - (ii) to raise funds to assist in providing care and treatment for animals kept under the permit.

214 Moving particular animals authorised in particular circumstances

The holder of a rehabilitation permit, or a relevant person for the holder, who keeps a protected animal under the permit may, without a wildlife movement permit, move the animal—

- (a) from the place where the animal is kept under the permit to—
 - (i) a place, within the State, where the holder of another rehabilitation permit is to care for the animal; or

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- (ii) a prescribed natural habitat for the animal; or
 - (iii) if the chief executive has asked the holder or relevant person to give the animal to another person—the place where the other person intends to keep the animal; or
- (b) if the holder is a volunteer wildlife care association and the chief executive has given the holder a written approval authorising the holder to display an animal kept under the permit—to and from the place where the animal is to be displayed.

Subdivision 4 Carrying out activities under permit

215 Way animal must be kept

- (1) A person who keeps an animal under a rehabilitation permit must keep the animal in a way that will, or is likely to, rehabilitate the animal so that it can be returned to the wild.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person keeps the animal in a way complying with the rehabilitation code to the extent the code provides for how an animal should be rehabilitated.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).
- (4) In this section—

rehabilitation code means the document called ‘Code of Practice—Care of Orphaned, Sick or Injured Protected Animals by Wildlife Care Volunteers’, approved by the chief executive under section 174A of the Act.

Note—

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

216 Returning animal to natural habitat

- (1) A person who keeps an animal under a rehabilitation permit must return the animal to a prescribed natural habitat for the animal—
 - (a) if the chief executive has stated on the permit that the animal must be returned to the wild on a stated day—the stated day; or
 - (b) otherwise—when the animal is able to again live in the habitat.

Maximum penalty—80 penalty units.

- (2) Subsection (1) does not apply if—
 - (a) the animal dies or escapes; or
 - (b) the chief executive has given the holder of the permit a notice stating that the animal should not be returned to the wild.

Division 6 Scientific purposes permit

Subdivision 1 Purposes

217 Purpose of permit

The purpose of a scientific purposes permit for animals is to allow a person to take, keep or use a protected, international or prohibited animal for conducting scientific research for a genuine scientific purpose.

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Subdivision 2 Restrictions on grant of permit

218 Restriction about persons to whom permit may be granted

- (1) The chief executive may grant a scientific purposes permit to a person only if—
 - (a) the person is, or is associated with, any of the following—
 - (i) a tertiary or other institution administered by the Commonwealth or a State;
 - (ii) an entity that is involved in scientific research; and
 - (b) if the person is an individual—the individual—
 - (i) is receiving, or has completed, postgraduate training in scientific research relevant to the activities the person proposes to carry out under the permit; or
 - (ii) has achieved a satisfactory level of competence in scientific research relevant to the activities the person proposes to carry out under the permit.
- (2) Also, the chief executive may grant a scientific purposes permit to a person associated with an institution or entity only if the chief executive is satisfied the way the scientific purpose is to be achieved is consistent with the requirements of the institution or entity.

219 Restriction on grant of permit authorising animal to be taken

- (1) The chief executive may grant a scientific purposes permit for a protected animal authorising the holder to take the animal only if the chief executive is satisfied—
 - (a) the animal is to be taken, kept, used or processed for research that will, or is likely to, make a significant

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- contribution to community knowledge about the matter for which the research is carried out; and
- (b) the animal is not intended to be taken, kept, used or processed for a commercial purpose; and
 - (c) it is necessary to take the animal from the wild, including, for example, because there are no animals of the same species in captivity that are available or appropriate for the research that is to be carried out under the permit.
- (2) For subsection (1), the chief executive grants a scientific purposes permit authorising the holder to take a protected animal if the chief executive writes on the permit that the holder may take the animal.

220 Restriction on grant of permit for particular mammals

- (1) The chief executive may grant a scientific purposes permit for whales or dolphins only if the whale or dolphin is to be taken, kept, used or processed for scientific research that has been recommended by—
 - (a) the scientific advisory committee; or
 - (b) a person who is recognised in the research community for whales or dolphins as a person who is highly experienced and qualified in scientific research about whales or dolphins.
- (2) In this section—

minimum distance, for a whale or dolphin, means the minimum distance permitted under chapter 7, part 5A for the whale or dolphin.

research community, for whales or dolphins, means the group of academics in the field of research about whales or dolphins.

scientific advisory committee means the scientific advisory committee established under section 132 of the Act.

[s 221]

scientific research, in relation to a whale or dolphin, includes research involving any of the following—

- (a) the temporary capture of a whale or dolphin;
- (b) attaching a tracking device to a whale or dolphin;
- (c) taking biological samples from a whale or dolphin;
- (d) the use of a floating platform for commercial filming of whales or dolphins;
- (e) approaching a whale or dolphin, at a closer distance than the minimum distance for the whale or dolphin, for interacting with or observing the whale or dolphin.

Note—

For restrictions on the grant of a scientific purposes permit for koalas, see the Koala Conservation Plan, section 21.

Subdivision 3 Activities authorised by permit

221 Taking, keeping, using and processing particular animals authorised

- (1) The holder of a scientific purposes permit, or a relevant person for the holder, may—
 - (a) if the chief executive has written on the permit that the holder of the permit may take an animal of a species identified on the permit—take an animal of a species identified on the permit from the place stated on the permit as a place from where the animal may be taken; and
 - (b) keep, use, other than sell or give away, and process an animal of a species identified on the permit at the licensed premises for the permit.
- (2) Also, the holder, or a relevant person for the holder, may give a part of an animal kept under the permit to a person who intends to keep and use the part of the animal under section 57.

Subdivision 4 Carrying out activities under permit

222 Giving return of operations

- (1) The holder of a scientific purposes permit for an animal must give the chief executive a return of operations for the permit.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a scientific purposes permit for an animal to which the plan relates.

Part 5 Authorities for taking, keeping or using animals

Division 1 Aboriginal tradition authorities

Subdivision 1 Preliminary

223 Application of div 1

This division applies only if, under section 93 of the Act, a person may take, keep or use protected wildlife under Aboriginal tradition.

[s 224]

Note—

At the commencement of this section, section 93 of the Act had not commenced.

Subdivision 2 Considering application

224 Additional matter to be considered

In considering an application for an Aboriginal tradition authority for a protected animal, the chief executive must have regard to any advice given by the corporation named in the application on the significance, under Aboriginal tradition, of the activity the subject of the application.

Note—

See the Administration Regulation, section 25 for other matters the chief executive must have regard to when considering an application for a wildlife authority.

Subdivision 3 Restrictions on grant of authority

225 Restriction about persons to whom authority may be granted

The chief executive may grant an Aboriginal tradition authority for a protected animal only to a corporation whose members represent a community or group of Aboriginal people particularly concerned with the land from where the animal is to be taken.

226 Restriction about purpose for which authority may be granted

The chief executive may grant an Aboriginal tradition authority for a protected animal only if the chief executive is satisfied the purpose for which the animal is to be taken is of particular significance under Aboriginal tradition, according

to the views of the people regarded by the members of the group the applicant represents as having authority to state the traditional significance of the animal.

227 Restriction on grant of authority for particular marine animals

- (1) This section applies to an application for the grant of an Aboriginal tradition authority for an endangered, vulnerable or near threatened marine animal in coastal waters of the State adjacent to the Great Barrier Reef Marine Park.
- (2) The chief executive may grant the authority only if the chief executive is satisfied the applicant would be eligible for the grant of a permit or other authority under the *Great Barrier Reef Marine Park Act 1975* (Cwlth) authorising the person to take the animal from within the Great Barrier Reef Marine Park.

Subdivision 4 Activities authorised by authority

228 Taking, keeping and use of particular animals authorised

- (1) A relevant person for the holder of an Aboriginal tradition authority may—
 - (a) take, under Aboriginal tradition, an animal of a species identified on the authority from a place stated on the permit as a place from where the animal may be taken; and
 - (b) keep an animal of a species identified on the authority.
- (2) Also, the relevant person may use and process the animal if the use and processing is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.

[s 229]

Division 2 Island custom authorities

Subdivision 1 Preliminary

229 Application of div 2

This division applies only if, under section 93 of the Act, a person may take, keep or use protected wildlife under Island custom.

Note—

At the commencement of this section, section 93 of the Act had not commenced.

Subdivision 2 Considering application

230 Additional matter to be considered

In considering an application for an Island custom authority for a protected animal, the chief executive must have regard to any advice given by the corporation named in the application on the significance, under Island custom, of the activity the subject of the application.

Note—

See the Administration Regulation, section 25 for other matters the chief executive must have regard to when considering an application for a wildlife authority.

Subdivision 3 Restrictions on grant of authority

231 Restriction about persons to whom authority may be granted

The chief executive may grant an Island custom authority for a protected animal only to a corporation whose members

represent a community or group of Torres Strait Islanders particularly concerned with the land from where the animal is to be taken.

232 Restriction about purpose for which authority may be granted

The chief executive may grant an Island custom authority for a protected animal only if the chief executive is satisfied the purpose for which the animal is to be taken is of particular significance under Island custom, according to the views of the people regarded by the members of the group the applicant represents as having authority to state the customary significance of the animal.

233 Restriction on grant of authority for particular marine animals

- (1) This section applies to an application for the grant of an Island custom authority for a vulnerable or near threatened marine animal in coastal waters of the State adjacent to the Great Barrier Reef Marine Park.
- (2) The chief executive may grant the authority only if the chief executive is satisfied the applicant would be eligible for the grant of a permit or other authority under the *Great Barrier Reef Marine Park Act 1975* (Cwlth) authorising the person to take the animal from within the Great Barrier Reef Marine Park.

Subdivision 4 Activities authorised by authority

234 Taking, keeping and use of particular animals authorised

- (1) A relevant person for the holder of an Island custom authority may—
 - (a) take, under Island custom, an animal of a species identified on the authority from a place stated on the

[s 235]

permit as a place from where the animal may be taken;
and

- (b) keep an animal of a species identified on the authority.
- (2) Also, the relevant person may use and process the animal if the use and processing is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.

Division 3 Collection authorities

Subdivision 1 Restrictions on grant

235 Purposes for which collection authorities may be granted

The chief executive may grant a collection authority for only the following purposes—

- (a) to keep a collection of dead protected animals;
- (b) to take and keep least concern animals.

236 Additional restrictions for collection authority to take and keep least concern animals

- (1) The chief executive may grant a collection authority to take and keep least concern animals only to a member of the Australian Defence Force acting for the defence force.
- (2) Also, the chief executive may grant a collection authority to take and keep least concern animals only if the chief executive is satisfied—
 - (a) the animals will be used only for training members of a part of the Australian Defence Force about survival in the wild; and

- (b) the use of the animals is, or will be, consistent with the military standing order prepared for the part of the defence force.

Subdivision 2 Activities authorised by authority

237 Collection authority to keep a collection of dead animals

The holder of a collection authority to keep a collection of dead protected animals may keep a dead animal of a species identified on the authority at the licensed premises for the authority.

238 Collection authority to take and keep least concern animals

- (1) The holder of a collection authority to take and keep least concern animals, or a relevant person for the holder, may take and keep an animal of a species identified on the authority.
- (2) Also, the holder, or relevant person, may use the animal for training members of a part of the Australian Defence Force about survival in the wild if the use is consistent with the military standing order prepared for the part of the defence force.

239 Moving animals for survival training authorised

- (1) This section applies if an animal is taken under a collection authority to take and keep least concern animals.
- (2) The holder of the authority, or a relevant person for the holder, may, without a wildlife movement permit, move the animal to or from any place within the State if the movement is for training members of the Australian Defence Force about survival in the wild.

[s 240]

Subdivision 3 Carrying out activities under authority

240 Giving return of operations

- (1) The holder of a collection authority to take and keep least concern animals must give the chief executive a return of operations for the authority.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a collection authority to take and keep least concern animals to which the plan relates.

Chapter 4 Using or moving protected plants

Part 1 Preliminary

241 Purpose of ch 4

- (1) The purpose of this chapter is to regulate the use of protected plants to ensure the use of the plants does not adversely affect the conservation of the plants.
- (2) The purpose is achieved by—

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- (a) restricting the use and movement of protected plants; and
 - (b) providing exemptions for using or moving protected plants for legitimate commercial or recreational purposes; and
 - (c) providing for a licensing scheme that allows only particular persons to take or use protected plants and only in particular circumstances; and
 - (d) establishing an approval system for cultivators and propagators.
- (3) The purpose is also achieved by controlling the sale of protected plants through a combination of the matters mentioned in subsection (2) to minimise the potential for illegally taken protected plants to be used for commercial purposes.
- (4) The licensing scheme mentioned in subsection (2)(c) and the approval system mentioned in subsection (2)(d) allows the commercial cultivation and propagation of protected plants to ensure the demand for the taking of whole protected plants and protected plant parts in the wild is reduced.

Part 2 Restrictions about using protected plants

242 Purpose of pt 2

This part states particular restrictions that apply in relation to using or moving protected plants.

Note—

For other restrictions that apply to the taking, use and movement of protected plants, see—

- (a) sections 89 and 90 of the Act; and

[s 244]

(b) part 3 of the Protected Plants Conservation Plan.

244 Restriction on using or moving whole protected plants for commercial purpose

A person must not use or move a whole protected plant for a commercial purpose unless—

- (a) the person holds either or both of the following authorities for the whole protected plant—
 - (i) a commercial wildlife licence;
 - (ii) a commercial wildlife harvesting licence; or

Note—

Section 28(2) includes a requirement to give a movement advice for particular movements of whole protected plants.

- (b) the person is using or moving the plant for the commercial purpose under an exemption under part 3; or
- (c) the Protected Plants Conservation Plan authorises the person to use or move the plant for the commercial purpose.

Note—

For exemptions and authorisations for taking, using and keeping protected plants under the Protected Plants Conservation Plan, see part 4 of that conservation plan.

Maximum penalty—165 penalty units.

245 Restriction on using or moving protected plant parts for commercial purpose

A person must not use or move protected plant parts for a commercial purpose unless—

- (a) the person holds either or both of the following authorities for protected plant parts—
 - (i) a commercial wildlife licence;

(ii) a commercial wildlife harvesting licence; or

Note—

Section 29(2) includes a requirement to give a movement advice for particular movements of protected plant parts.

- (b) the person is using or moving the plant parts for the commercial purpose under an exemption under part 3; or
- (c) the Protected Plants Conservation Plan authorises the person to use or move the protected plant parts for the commercial purpose.

Note—

For exemptions and authorisations for taking, using and keeping protected plants under the Protected Plants Conservation Plan, see part 4 of that conservation plan.

Maximum penalty—165 penalty units.

Part 3 Using protected plants other than under wildlife authority

Division 1 Purpose of part

246 Purpose of pt 3

- (1) The purpose of this part is to provide exemptions for offences for using protected plants under section 90 of the Act and part 2.
- (2) The *Justices Act 1886*, section 76, applies to each exemption in this part.
- (3) This section does not limit another provision of this regulation that creates an exemption to which the *Justices Act 1886*, section 76, applies.

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Division 2 Exemptions for using or moving protected plants generally

247 Using protected plants registered under Plant Breeder's Rights Act 1994 (Cwlth)

- (1) A person may, without a wildlife authority for using protected plants, use a protected plant for which a plant breeder's right has been granted under the *Plant Breeder's Rights Act 1994* (Cwlth).
- (2) However, if asked by a conservation officer, the person must, unless the person has a reasonable excuse, produce evidence that the plant breeder's right has been granted for the plant.

Maximum penalty for subsection (2)—80 penalty units.

248 Landholders may gain benefit

A landholder may, without a wildlife authority for using protected plants, gain a benefit for allowing the holder of a commercial wildlife harvesting licence to take a protected plant from the landholder's land.

249 Using protected plants taken under conservation plan

A person who takes a protected plant under the Protected Plants Conservation Plan, section 51, may use the plant for the educational or scientific purpose for which it was taken.

Note—

The Protected Plants Conservation Plan, section 51 includes an offence for using protected plants taken under that section for a commercial purpose.

249A Use or movement of protected plants authorised under conservation plan

A person may use or move a protected plant if the use or movement is authorised under the Protected Plants Conservation Plan.

Note—

For exemptions and authorisations for taking, using and keeping protected plants under the Protected Plants Conservation Plan, see part 4 of that conservation plan.

250 Retailers may move protected plants

A person (the *retailer*) who sells a protected plant by retail may, without a wildlife movement permit, move the plant to a person who buys the plant from the retailer if the plant—

- (a) was bought or accepted from—
 - (i) an authorised cultivator or propagator (the *grower*); or
 - (ii) the holder of a commercial wildlife licence (the *wholesaler*) for the plant; and
- (b) was moved to the retailer from the grower or wholesaler in a way that is authorised under the Act; and
- (c) if the Act or a law of another State requires a person to attach a tag to the plant—the person has attached the tag to the plant.

251 Moving protected plants being used under exemption

A person may, without a wildlife movement permit, move a protected plant to or from any place within, inside or outside of the State if the person may, under the Act, use the plant without a wildlife authority for the plant.

[s 252]

Division 3 Exemptions for using whole protected plants

252 Definitions for div 3

In this division—

approved way, for propagating a protected plant, means the plant is propagated—

- (a) by using only reproductive or propagative material that was obtained lawfully; and
- (b) under controlled conditions.

controlled conditions, in relation to propagating a protected plant, means the plant's reproduction and growth is actively manipulated by nursery operations, including, for example, potting, bedding, watering and protection from the weather.

253 Whole protected plants propagated by authorised propagator

(1) This section—

- (a) applies only to a whole protected plant that is propagated by an authorised propagator in the approved way; and
- (b) does not apply to a blue tassel fern (*Huperzia dalhousieana*) or a plant of the family Aponogetonaceae.

(2) A person may, without a wildlife authority for using whole protected plants, sell or give away the whole protected plant.

(3) However, if the plant is a whole type A restricted plant, the person may sell or give away the plant only if—

- (a) the plant is moved in an unopened sterile flask; or
- (b) a propagator's tag—

-
- (i) if the plant is sold to the holder of a commercial wildlife licence for the plant—is attached to, or accompanies, the plant; or
 - (ii) if the plant is sold to another person—is attached to the plant.
 - (4) For subsection (1)(a), a stock plant is not propagated if the plant is divided less than 12 months after the day it was taken in the wild.
 - (5) If asked by a conservation officer, an authorised propagator must, unless the propagator has a reasonable excuse, give the officer details about—
 - (a) the source of the reproductive or propagative material used in the propagation; and
 - (b) the date on which the material was obtained.

Note—

For requirements about keeping records applying to authorised propagators, see sections 302, 337 and 338.

Maximum penalty for subsection (5)—165 penalty units.

254 Selling whole protected plants by retail—type A restricted plants

A person may, without a wildlife authority for using whole protected plants, sell a whole type A restricted plant by retail if the plant—

- (a) was bought or accepted from the holder of a commercial wildlife licence for the plant; and
- (b) has attached to it an official tag or propagator’s tag for the plant.

255 Selling whole protected plants by retail—other protected plants

- (1) This section applies to a whole protected plant other than a type A restricted plant.

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- (2) A person may, without a wildlife authority for using whole protected plants, sell the plant by retail if the plant was bought or accepted from the holder of a commercial wildlife licence for the plant.

256 Selling particular whole protected plants propagated for recreational purposes

A person may, without a wildlife authority for using whole protected plants, sell or give away a whole protected plant, other than a type A restricted plant, if—

- (a) the person propagated the plant by using reproductive or propagative material that was obtained lawfully; and
- (b) the person propagated and sold or gave away the plant without reasonable expectation of making a profit from selling or giving away the plant; and
- (c) the person did not employ or engage another person to propagate, or to sell or give away, the plant; and
- (d) the person's activities of propagating and selling or giving away protected plants are not for a business, home occupation or home industry under a local law or a planning scheme.

Division 4 Exemptions for using protected plant parts

257 Definitions for div 4

In this division—

approved way, for cultivating a protected plant, means the plant is cultivated—

- (a) using only reproductive or propagative material that was obtained lawfully; and
- (b) under controlled conditions.

controlled conditions, in relation to cultivating a protected plant, means the plant's reproduction and growth is actively manipulated including, for example, by irrigation, weed and disease control, tillage and fertilising.

258 Using protected plant parts cultivated by authorised cultivator

- (1) This section applies only to protected plant parts taken from a protected plant that was cultivated by an authorised cultivator in the approved way.
- (2) A person may, without a wildlife authority for using protected plant parts, use the protected plant parts.
- (3) If asked by a conservation officer, an authorised cultivator must, unless the cultivator has a reasonable excuse, give the officer details about the source of the reproductive or propagative material used for the cultivation.

Note—

For requirements about keeping records applying to authorised cultivators, see sections 302, 337 and 338.

Maximum penalty for subsection (3)—165 penalty units.

259 Selling protected plant parts by retail

A person may, without a wildlife authority for protected plant parts, sell by retail a protected plant part if the plant part was bought or accepted from the holder of a commercial wildlife licence for the plant part.

260 Particular authority or permit holders using protected plant parts

- (1) This section applies to the holder of—
 - (a) a previous use authority for a protected area who has taken protected plant parts in the protected area under the authority; or

[s 260]

- (b) a cultural or natural resources permit for a protected area who has taken protected plant parts in the protected area under the permit.
- (2) The holder may, without a wildlife authority for protected plant parts, use the protected plant parts for a commercial purpose.
- (3) However, the holder may sell or give the plant parts only to a person acting under a commercial wildlife licence for protected plant parts.
- (4) Also, the holder must not move the plant parts to a place other than—
 - (a) the holders' usual place of residence; or
 - (b) another place where the plant parts are to be stored if the chief executive has authorised the movement in writing; or
 - (c) a place where the plant parts are to be cultivated or propagated by the holder; or
 - (d) if the plant parts are sold or given to a person acting under a commercial wildlife licence for protected plants—to the licensed premises for the commercial wildlife licence.

Maximum penalty—120 penalty units.

- (5) In this section—

cultural or natural resources permit means a permit to take, use, keep or interfere with a cultural or natural resource of a protected area.

previous use authority means an authority granted, by the chief executive, under section 36 of the Act.

protected area means a national park (recovery), conservation park or resources reserve.

261 Using protected plant parts for educational or scientific research purposes

- (1) This section applies to a protected plant part taken under a licence, permit or other authority granted under the Act.
- (2) A person may, without a wildlife authority for protected plants, use the plant part if—
 - (a) the person is a person to whom an educational purposes permit or scientific purposes permit for using the plant part may be granted; and

Notes—

- 1 Section 283 includes a restriction about persons to whom an educational purposes permit for protected plants may be granted.
 - 2 Section 287 includes a restriction about persons to whom a scientific purposes permit for protected plants may be granted.
- (b) the plant part is used for—
 - (i) scientific research at a tertiary or other institution administered by the Commonwealth or a State or an entity that is involved in scientific research; or
 - (ii) teaching at an educational institution or organisation.

[s 262]

Part 4 Licences, permits and other authorities for taking or using protected plants

Division 1 Preliminary

262 Relationship with conservation plan

- (1) This part must be read with, and is subject to, the Protected Plants Conservation Plan.
- (2) Subsection (1) applies even if—
 - (a) a provision of this part states a person is authorised to do an act under a licence, permit or other authority for protected plants; and
 - (b) a provision of the Protected Plants Conservation Plan states that the act—
 - (i) can not be carried out by the person; or
 - (ii) may be carried out by the person in only a particular way or at a particular time; and
 - (c) the provision in the Protected Plants Conservation Plan makes carrying out the act, or carrying out the act other than in the particular way or other than at the particular time, an offence.

Note—

For other provisions about licences for taking, using or moving protected plants, see the Protected Plants Conservation Plan.

Division 2 Licences

Subdivision 1 Commercial wildlife licences

263 Using protected plants for commercial purpose authorised

The holder of a commercial wildlife licence for protected plants, or a relevant person for the holder, may use protected plants for a commercial purpose.

264 Limitation on selling or giving away protected plants generally

A person must not sell or give away a protected plant under a commercial wildlife licence unless—

- (a) the plant was propagated by the holder of the licence, or a relevant person for the holder; or
- (b) the plant was taken by the holder of the licence, or a relevant person for the holder, under a commercial wildlife harvesting licence also held by the holder; or
- (c) the plant was—
 - (i) bought or accepted from a person who is authorised to sell or give away the plant under the Act or a law of another State; and
 - (ii) if the plant was bought or accepted from a person in another State and a law of the other State requires a tag to be attached to the plant when it is sold in the State—the tag is attached to the plant.

Maximum penalty—165 penalty units.

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265 Additional requirement about selling whole type A restricted plants

- (1) This section applies if a person is selling a whole type A restricted plant under a commercial wildlife licence.
- (2) The person must—
 - (a) if the person is selling the plant to the holder of another commercial wildlife licence for the plant—
 - (i) possess an official tag or propagator's tag for each whole type A restricted plant available for sale; and
 - (ii) if the plant has a label attached to it—ensure the plant is correctly identified on the label; or
 - (b) if the person is selling the plant to another person—ensure—
 - (i) each whole type A restricted plant available for sale has an official tag or propagator's tag attached to it; and
 - (ii) if the plant has a label attached to it—the plant is correctly identified on the label.

Maximum penalty—120 penalty units.

- (3) Also, if the person sells the plant to the holder of another commercial wildlife licence for the plant, the person must ensure the correct official tag or propagator's tag is attached to, or accompanies, the whole type A restricted plant when the plant is moved to the holder.

Maximum penalty—120 penalty units.

266 Keeping record

- (1) The holder of a commercial wildlife licence for protected plants must keep a record for the licence.

Note—

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a commercial wildlife licence for protected plants to which the plan relates.

267 Giving return of operations

- (1) The holder of a commercial wildlife licence for protected plants must give the chief executive a return of operations for the licence.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a commercial wildlife licence for protected plants to which the plan relates.

Subdivision 2 Recreational wildlife licences

268 Restriction about persons to whom licence may be granted

The chief executive may grant a recreational wildlife licence for protected plants to a person only if—

- (a) the person is—
 - (i) a recreational plant society; or

[s 269]

- (ii) a member of a recreational plant society; and
- (b) the person does not employ or engage anyone to propagate or sell or give away the plant; and
- (c) the person's activities of propagating and selling or giving away protected plants are not for a business, home occupation or home industry under a local law or a planning scheme.

Note—

See also the Protected Plants Conservation Plan, section 11.

269 Using protected plants for recreational purpose authorised

- (1) The holder of a recreational wildlife licence for protected plants may use protected plants for a purpose other than a commercial purpose.
- (2) Also, if the holder is a recreational plant society, a relevant person for the holder may use protected plants for a purpose other than a commercial purpose.

270 Using particular protected plants for commercial purpose authorised in particular circumstances

- (1) The holder of a recreational wildlife licence for protected plants may sell a whole type A restricted plant for a commercial purpose if the plant was—
 - (a) propagated by the holder; or
 - (b) taken by the holder under a recreational wildlife harvesting licence also held by the holder.
- (2) However, the holder must attach an official tag to the plant.
- (3) Also, if the holder is a recreational plant society—
 - (a) the sale must be made at an annual show or meeting of the society that is open to the public; and

-
- (b) the sale price must not be more than a reasonable amount to meet the costs of propagating or taking the plant.
 - (4) For subsections (1) and (2), a reference to the holder of a recreational wildlife licence includes, for a licence held by a recreational plant society, a relevant person for the holder.

271 Restriction on selling particular plants

- (1) The holder of a recreational wildlife licence must not sell a plant raised from the seed or other propagative material of a type B restricted plant taken in the wild.

Maximum penalty—80 penalty units.

- (2) However, subsection (1) does not apply to a recreational plant society if the plant—
 - (a) was raised from the seed or other propagative material of a type B restricted plant that is not an endangered plant; and
 - (b) is sold at an annual show or meeting of the society that is open to the public.

Subdivision 3 Commercial wildlife harvesting licence

272 Taking and using protected plants authorised

- (1) The holder of a commercial wildlife harvesting licence for protected plants, or a relevant person for the holder, may do the following for a commercial purpose—
 - (a) take protected plants from the place stated on the licence as a place from where the plants may be taken;
 - (b) use protected plants at the licensed premises for the licence.

[s 273]

- (2) However, the holder or relevant person may take protected plants under the licence only during a harvest period declared under a harvest period notice for the plants.
- (3) Also, the holder or relevant person may sell or give the protected plants only to the holder of a commercial wildlife licence for protected plants, or a relevant person for the holder of a commercial wildlife licence for protected plants.

Subdivision 4 Recreational wildlife harvesting licence

273 Taking and using protected plants authorised

- (1) The holder of a recreational wildlife harvesting licence for protected plants, or a relevant person for the holder, may do the following for a purpose other than a commercial purpose—
 - (a) take protected plants from the place stated on the licence as a place from where the plants may be taken;
 - (b) use protected plants at the licensed premises for the licence.
- (2) However, the holder or relevant person may take protected plants under the licence only during a harvest period declared under a harvest period notice for the plants.

Subdivision 5 Herbarium licences

274 Restriction about persons to whom licence may be granted

- (1) The chief executive may grant a herbarium licence for protected plants only to a State herbarium.

Note—

See also the Protected Plants Conservation Plan, section 11.

(2) In this section—

State herbarium means a non-profit institution that—

- (a) is owned or administered by the Commonwealth or a State; and
- (b) has, as its major function, the preservation of information in any branch of the natural sciences about plants.

275 Taking or using protected plants authorised in particular circumstances

- (1) The holder of a herbarium licence, or a relevant person for the holder, may take and use, other than sell, protected plants.
- (2) However, subsection (1) does not authorise the holder or relevant person to take or use the plants for biodiscovery.

Notes—

- 1 The holder of a herbarium licence could also be granted 1 or more licences under the Act authorising the holder to take or use, for biodiscovery, protected plants in or on land other than State land under the *Biodiscovery Act 2004*.
 - 2 The holder of a herbarium licence could also be granted 1 or more collection authorities under the *Biodiscovery Act 2004* for protected plants in or on State land under that Act.
- (3) Also, subsection (1) only authorises the holder or relevant person to use the plants at—
 - (a) the licensed premises for the licence; or
 - (b) another place if—
 - (i) the plants are used at the other place to obtain flowers or propagative material from the plants; and
 - (ii) the holder of the licence has written approval from the chief executive to use the plants at the other place.

[s 276]

Division 3 Permits for taking or using protected plants

Subdivision 1 Clearing permits

276 Taking protected plants authorised

- (1) The holder of a clearing permit, or a relevant person for the holder, may take protected plants, by clearing the plants, from the place stated on the permit as a place from where the plants may be taken.

Note—

See also the Protected Plants Conservation Plan, sections 29 and 30.

- (2) Subsection (1) does not authorise the holder or relevant person to use protected plants under the permit.

Subdivision 2 Damage mitigation permits

277 Restriction about plants for which permit may be granted

The chief executive may grant a damage mitigation permit only for—

- (a) a least concern plant; or
- (b) an endangered, vulnerable or near threatened plant if a conservation plan authorises a damage mitigation permit for the plant to be granted.

Note—

See also the Protected Plants Conservation Plan, sections 11 and 31.

278 Restriction about purposes for which permit may be granted

The chief executive may grant a damage mitigation permit only for 1 or both of the following purposes—

- (a) to prevent damage or loss caused, or likely to be caused, by a protected plant;
- (b) to prevent or minimise a threat, or potential threat, to human health and wellbeing caused by a protected plant.

279 Restriction on grant of permit for damage or loss

The chief executive may grant a damage mitigation permit for damage or loss caused, or likely to be caused, by a protected plant only if the chief executive is satisfied—

- (a) the plant is causing, or may cause, damage; and
- (b) if the damage is not prevented or controlled—
 - (i) persons may suffer significant economic loss; or
 - (ii) the ecological sustainability of nature is likely to be harmed; and
- (c) action under the permit will not adversely affect the survival in the wild of the plant or other wildlife.

280 Restriction on grant of permit for threat to human health and wellbeing

The chief executive may grant a damage mitigation permit for a threat, or potential threat, to human health and wellbeing caused by a protected plant only if the chief executive is satisfied—

- (a) there is, or may be, a threat to a person's health and wellbeing resulting from the presence of the plant; and
- (b) action under a permit will not detrimentally affect the survival in the wild of the plant or other wildlife.

[s 281]

281 Taking protected plants authorised

- (1) The holder of a damage mitigation permit, or a relevant person for the holder, may take protected plants from the place stated on the permit as a place from where the plant may be taken.
- (2) Subsection (1) does not authorise the holder or relevant person to use protected plants under the permit.

282 Giving return of operations

- (1) The holder of a damage mitigation permit for protected plants must give the chief executive a return of operations for the permit.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a damage mitigation permit for protected plants to which the plan relates.

Subdivision 3 Educational purposes permits

283 Restriction about persons to whom permit may be granted

- (1) The chief executive may grant an educational purposes permit for protected plants to an individual only if the chief executive is satisfied the individual—

-
- (a) holds a tertiary qualification relevant to the activities to be carried out under the permit; or
 - (b) has demonstrated experience and knowledge in relation to the activities to be carried out under the permit.
- (2) The chief executive may grant an educational purposes permit for protected plants to a corporation only if the corporation is an educational institution or organisation.

284 Restriction about purpose for which permit may be granted

The chief executive may grant an educational purposes permit for protected plants only if the chief executive is satisfied—

- (a) the purpose for which the plant is proposed to be taken or used under the permit is a genuine educational purpose; and
- (b) the applicant for the permit will not, or does not intend to, make a financial benefit from taking or using the plant under the permit.

Note—

See also the Protected Plants Conservation Plan, sections 11 and 28.

285 Taking and using protected plants authorised

- (1) The holder of an educational purposes permit for protected plants, or a relevant person for the holder, may take and use, other than sell or give away, protected plants for an educational purpose.
- (2) Also, the holder or person may give plant parts from the plants to a person intending to use the plant parts under section 261.
- (3) To remove any doubt, it is declared that subsection (1) does not authorise the holder or relevant person to use the plants for a commercial purpose.

[s 286]

286 Giving return of operations

- (1) The holder of an educational purposes permit for protected plants must give the chief executive a return of operations for the permit.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for an educational purposes permit for protected plants to which the plan relates.

Subdivision 4 Scientific purposes permit

287 Restriction about persons to whom permit may be granted

- (1) The chief executive may grant a scientific purposes permit to a person only if—
 - (a) the person is, or is associated with, any of the following—
 - (i) a tertiary or other institution administered by the Commonwealth or a State;
 - (ii) an entity that is involved in scientific research; and
 - (b) if the person is an individual—the chief executive is satisfied the individual—
 - (i) is receiving, or has completed, postgraduate training in scientific research relevant to the activities the individual proposes to carry out under the permit; or

-
- (ii) has achieved a satisfactory level of competence in scientific research relevant to the activities the individual proposes to carry out under the permit.
- (2) Also, the chief executive may grant a scientific purposes permit to a person associated with an institution or entity only if the chief executive is satisfied the way the scientific purpose is to be achieved is consistent with the requirements of the institution or entity.

Note—

See also the Protected Plants Conservation Plan, sections 11 and 28.

288 Restriction about purposes for which permit may be granted

The chief executive may grant a scientific purposes permit for protected plants only if the chief executive is satisfied—

- (a) the plants are to be taken or used for research that will, or is likely to, make a significant contribution to community knowledge about the matter for which the research is conducted; and
- (b) the plants are not to be taken or used for a commercial purpose; and
- (c) it is necessary to take the plants from the wild, including, for example, because there are no plants of the same species otherwise available for the research.

289 Taking and using protected plants authorised

- (1) The holder of a scientific purposes permit for protected plants, or a relevant person for the holder, may take and use, other than sell or give away, protected plants for a scientific purpose.
- (2) Also, the holder or relevant person may give plant parts from the plants to a person intending to use the plant parts under section 261.

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- (3) To remove any doubt, it is declared that subsection (1) does not authorise the holder or relevant person to use the plants for a commercial purpose.

290 Giving return of operations

- (1) The holder of a scientific purposes permit for protected plants must give the chief executive a return of operations for the permit.

Note—

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a scientific purposes permit for protected plants to which the plan relates.

Division 4 Authorities for taking or using protected plants

Subdivision 1 Aboriginal tradition authorities

291 Additional matter to be considered

In considering an application for an Aboriginal tradition authority for protected plants, the chief executive must have regard to any advice given by the corporation named in the application on the significance, under Aboriginal tradition, of the activity the subject of the application.

Note—

See the Administration Regulation, section 25 for other matters the chief executive must have regard to when considering an application for a wildlife authority.

292 Restriction about persons to whom authority may be granted

The chief executive may grant an Aboriginal tradition authority for protected plants only to a corporation whose members represent a community or group of Aboriginal people particularly concerned with the land from where the protected plants are to be taken.

293 Restriction about purpose for which authority may be granted

The chief executive may grant an Aboriginal tradition authority for protected plants only if the chief executive is satisfied the purpose for which the plants are to be taken is of particular significance under Aboriginal tradition, according to the views of the people regarded by the members of the group the applicant represents as having authority to state the traditional significance of the plants.

294 Taking and using protected plants authorised

- (1) The holder of an Aboriginal tradition authority for protected plants, or a relevant person for the holder, may take, under Aboriginal tradition, protected plants from the place stated on the permit as a place from where the protected plants may be taken.
- (2) Also, the holder or relevant person may use the plants if the use is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.

[s 295]

Subdivision 2 Island custom authorities

295 Additional matter to be considered

In considering an application for an Island custom authority for protected plants, the chief executive must have regard to any advice given by the corporation named in the application on the significance, under Island custom, of the activity the subject of the application.

Note—

See the Administration Regulation, section 25 for other matters the chief executive must have regard to when considering an application for a wildlife authority.

296 Restriction about persons to whom authority may be granted

The chief executive may grant an Island custom authority for protected plants only to a corporation whose members represent a community or group of Torres Strait Islanders particularly concerned with the land from where the protected plants are to be taken.

297 Restriction about purpose for which authority may be granted

The chief executive may grant an Island custom authority for protected plants only if the chief executive is satisfied the purpose for which the plants are to be taken is of particular significance under Island custom, according to the views of the people regarded by the members of the group the applicant represents as having authority to state the customary significance of the plants.

298 Taking and using protected plants authorised

- (1) The holder of an Island custom authority for protected plants, or a relevant person for the holder, may take, under Island

custom, protected plants from the place stated on the permit as a place from where the protected plants may be taken.

- (2) Also, the holder or relevant person may use the plants if the use is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.

Part 5 Provisions about authorised cultivators and propagators

Division 1 Approval of authorised cultivators and propagators

299 Approval of persons as authorised cultivator or propagator

- (1) The chief executive may approve a person to be an authorised cultivator or propagator for protected plants.
- (2) However, the chief executive can not approve a child younger than 18 years to be an authorised cultivator or propagator for protected plants.

300 Restriction about persons who may be approved

The chief executive may approve a person to be an authorised cultivator or propagator for protected plants only if—

- (a) the chief executive is satisfied—
 - (i) the person has the necessary experience, land, facilities, equipment, lawfully obtained stock plants or other propagative material for cultivating or propagating protected plants; and

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- (ii) the person would not, under the Act, be prevented from being granted a wildlife authority if the person made an application for the authority; and
- (b) the person does not hold a commercial wildlife harvesting licence, other than a licence that only authorises the taking of stock plants, for plants of the same genus that the person intends to cultivate or propagate; and
- (c) the person—
 - (i) is a resident of the State; or
 - (ii) if the person is a corporation—has premises in the State at which the plants are to be cultivated or propagated.

Note—

See also the Protected Plants Conservation Plan, section 39.

301 Notice of approval

- (1) This section applies if the chief executive has approved a person to be an authorised cultivator or propagator.
- (2) The chief executive must give the person notice of the approval.
- (3) The notice must state—
 - (a) the place where the person may carry out activities under the approval; and
 - (b) if the person is an individual—the residential address of the person; and
 - (c) if the person is approved as an authorised propagator—the authorisation number for the approval.

Division 2 Carrying out activities under approval

302 Keeping records

An authorised cultivator or propagator must keep, for the record-keeping period, the following for each reproductive or propagative material obtained by the cultivator or propagator for cultivation or propagation—

- (a) if the cultivator or propagator took the material—a written record of the following information—
 - (i) the date the material was taken;
 - (ii) the place from where the material was taken;
- (b) if the cultivator or propagator bought the material—an invoice or receipt from the seller;
- (c) if the cultivator or propagator accepted the material from another person—a written record of the date the cultivator or propagator accepted the material from the other person.

Note—

See sections 337 and 338 for other records that must be kept for protected, international or prohibited wildlife.

Maximum penalty—80 penalty units.

303 Assistance to conservation officers

- (1) A conservation officer may require an authorised cultivator or propagator to give the officer all necessary help to enable the officer—
 - (a) to inspect each plant being cultivated by the cultivator or propagated by the propagator; and
 - (b) to obtain or check any records required, under the Act, to be kept by the cultivator or propagator.

Note—

[s 304]

For the records required to be kept by an authorised cultivator or propagator, see sections 302, 337 and 338.

- (2) When making a requirement under subsection (1), the officer must warn the cultivator or propagator it is an offence to fail to comply with the requirement unless the cultivator or propagator has a reasonable excuse.
- (3) An authorised cultivator or propagator required to give reasonable help under subsection (1) must comply with the requirement, unless the cultivator or propagator has a reasonable excuse.

Maximum penalty for subsection (3)—120 penalty units.

304 Notifying chief executive of new address

- (1) This section applies if—
 - (a) an authorised cultivator or propagator carries out activities, under an approval of the chief executive, at a particular place; and
 - (b) the cultivator or propagator changes the place where the cultivator or propagator intends to carry out the activities under the approval.
- (2) The cultivator or propagator must, within 14 days after changing the place, give notice to the chief executive of the address of the new place.

Maximum penalty—10 penalty units.

Chapter 5 Permit for moving wildlife

Part 1 General provisions

Division 1 Purpose of permit

305 Purpose of permit

The purpose of a wildlife movement permit is to allow a person to move wildlife to or from a place for particular movements that are not otherwise authorised under the Act.

Division 2 Export agreements

306 Minister may enter into agreement

- (1) The Minister may, for the State, enter into an agreement (an *export agreement*) with a person in another country to whom a protected animal in the State is to be sold, given or moved.
- (2) If the animal is being moved from a person other than the Minister or the chief executive, the person from whom the animal is to be moved must also be a party to the export agreement.

307 Only suitable persons may be party to agreement

- (1) The Minister may enter into an export agreement for a protected animal with a person in another country only if the Minister is reasonably satisfied the person is a suitable person to be a party to the agreement.
- (2) In deciding whether a person is a suitable person to be a party to an export agreement for a protected animal, the Minister must have regard to the following—

[s 308]

- (a) the nature of the place where the animal is to be kept in the other country, including whether the place has appropriate facilities for keeping the animal in a way that is consistent with the Act;
- (b) whether the person has been convicted of—
 - (i) an offence against the Act; or
 - (ii) an animal welfare offence under the *Animal Care and Protection Act 2001* or an offence relating to wildlife against another Act; or
 - (iii) an offence, however described, equivalent to an offence mentioned in subparagraph (i) or (ii) in another State or country;
- (c) if the person has previously been a party to an export agreement—whether the person breached a condition of the agreement and, if the person breached a condition of the agreement, the nature of the breach;
- (d) any other matter relevant to the person’s ability to keep and use the animal for which the agreement is sought in a way that is consistent with the Act.

308 Content of agreement

- (1) An export agreement for a protected animal must provide for—
 - (a) the treatment of the animal and any progeny of the animal in the other country, including the way the animal or progeny must be fed and housed; and
 - (b) the disposal of the animal and any progeny of the animal; and
 - (c) if appropriate, the making of financial contributions to the State for the conservation of animals of the same species, including, for example, financial contributions for measures directed at promoting the continued existence of viable populations of the species in the wild.

-
- (2) An export agreement may also provide that a security be given to the State for compliance with a condition of the agreement that is directed at a matter mentioned in subsection (1)(a) or (b).
 - (3) In this section—
security includes bond, deposit of an amount as security, guarantee, indemnity or other surety, insurance, mortgage and undertaking.

Division 3 Conditions of permit

309 Conditions for permits for interstate movements

- (1) This section applies to a wildlife movement permit for the movement of a live protected animal to another State if the person to whom the wildlife is being moved is not the holder of a wildlife authority, or a relevant person for the holder of a wildlife authority.
- (2) Without limiting the conditions the chief executive may impose, the chief executive may impose on the permit—
 - (a) a condition about the purpose for which the animal, or a progeny of the animal, may be used, or the way the animal, or a progeny of the animal, must be kept, in the other State; and
 - (b) a condition of a type mentioned in paragraph (a) that imposes an obligation on the holder of the permit, or a relevant person for the holder, that continues after the permit expires.
- (3) However, the chief executive may impose the condition on the permit only if—
 - (a) the chief executive reasonably believes the imposition is necessary to achieve the object of the Act; and
 - (b) the condition is not inconsistent with the laws of the other State.

[s 310]

(4) In this section—

holder, of a wildlife movement permit that has expired, means the person who held the permit immediately before its expiry.

Part 2 Restrictions on grant of permit

310 **General restrictions about movements for which permit may be granted**

- (1) The chief executive may grant a wildlife movement permit for the movement of wildlife only if—
 - (a) the person from whom the wildlife is to be moved and the person to whom the wildlife is to be moved are authorised to keep the wildlife under the Act or a law of another State or country; and
 - (b) the chief executive is satisfied the movement will not—
 - (i) risk the health or safety of humans or livestock; or
 - (ii) adversely affect the conservation of native wildlife in the State; or
 - (iii) adversely affect the population in the wild of the wildlife being moved.
- (2) Also, the chief executive can not grant a wildlife movement permit for the movement of wildlife if the movement is prohibited under a conservation plan for the wildlife.
- (3) Further, the chief executive can not grant a wildlife movement permit for the movement into the State of a live marine mammal taken from the wild other than under a rehabilitation permit or scientific purposes permit.

311 Additional general restriction for movements out of the State

- (1) This section applies to a movement of wildlife from the State to another State if the approval of an entity is required before the wildlife may be moved into the other State.
- (2) The chief executive may grant a wildlife movement permit for the movement only if—
 - (a) the approval of the entity has been given; or
 - (b) the chief executive is satisfied the approval of the entity will be given.

312 Additional general restriction for movements into the State

The chief executive may grant a wildlife movement permit for the movement of wildlife from another State into the State only if—

- (a) the movement is not prohibited under a law of the other State; and
- (b) if the approval of an entity in the other State is required before the wildlife can be moved out of that State—
 - (i) the approval has been given; or
 - (ii) the chief executive is satisfied the approval will be given.

313 Additional restriction for movement of prescribed protected animal to another State

The chief executive can not grant a wildlife movement permit for the movement of a prescribed protected animal from a place in the State to another State unless—

- (a) the chief executive is reasonably satisfied the person in the other State to whom the animal is to be moved does not intend to—

[s 314]

- (i) move the animal to another country; or
- (ii) sell, give or move the animal to a person in another country; or
- (b) if the chief executive is not satisfied under paragraph (a)—
 - (i) the animal has been bred in captivity or the chief executive reasonably believes the animal, if released into the wild, will not, or is unlikely to, survive because it suffers from the behavioural disorder known as human imprinting; and
 - (ii) the chief executive is satisfied selling, giving or moving the animal to a person in another country will not adversely affect the viability of populations of animals of the same species that are kept in zoos in the State; and
 - (iii) an export agreement with the State has been entered into for the animal; and
 - (iv) if an export permit is required before the animal may be exported to the other country—
 - (A) an export permit has been issued for the export of the animal; or
 - (B) the chief executive is satisfied an export permit will be issued for the export of the animal.

314 Additional restriction for movement of prescribed protected animal within the State for export

The chief executive can not grant a wildlife movement permit for the movement of a prescribed protected animal from a place in the State to another place in the State for exporting the animal unless—

- (a) the animal has been bred in captivity or the chief executive reasonably believes the animal, if released into the wild, will not, or is unlikely to, survive because

Chapter 6 Processed products

316 Purpose of ch 6

The purpose of this chapter is to declare particular products made or derived from particular protected wildlife as processed products that are not included in the definitions under the Act of *protected animal* or *protected plant*.

Note—

For processed products made or derived from macropods, see the Macropod Conservation Plan, section 113 and schedule 1.

317 Processed products made or derived from protected animals

- (1) For the Act, schedule, definition *protected animal*, paragraph (b), the following products are a processed product that is not included in the definition—
 - (a) a processed product mentioned in schedule 1, part 2;
 - (b) a product mentioned in paragraph (a) that has been unpacked;
 - (c) a product made or derived from a product mentioned in paragraph (a).
- (2) However, a processed product that is a natural product of an animal, other than a crocodile, ceases to be a processed product if the animal—
 - (a) is included in the list of threatened species established and maintained under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), chapter 5, part 13, division 1; and
 - (b) is sold or given to a person other than the chief executive or the holder of a museum licence.

318 Processed products made or derived from protected plants

For the Act, schedule, definition *protected plant*, paragraph (b), the following products are a processed product that is not included in the definition—

- (a) a processed product mentioned in schedule 1, part 3;
- (b) a product mentioned in paragraph (a) that has been unpacked;
- (c) a product made or derived from a product mentioned in paragraph (a).

319 Conservation officer may ask for evidence of source used

- (1) This section applies to a person who possesses a processed product.
- (2) If asked by a conservation officer, the person must, unless the person has a reasonable excuse, produce evidence of the source from which the processed product was made or derived.

Maximum penalty—165 penalty units.

Chapter 7 Other offences relating to wildlife

Part 1 Taking, keeping or using animals generally

320 Use of animals to take protected animals

- (1) A person taking a protected animal under the Act must not use a dog or other animal to take the animal.

[s 321]

Maximum penalty—120 penalty units.

- (2) Subsection (1) does not apply if—
 - (a) a conservation plan for the protected animal authorises the person to take the protected animal by using a dog or other animal; and
 - (b) the person complies with the conservation plan when taking the protected animal.

321 Using live protected animals that are not self-sufficient

- (1) This section applies if—
 - (a) a person keeps, or intends to keep, a live protected animal under the Act; and
 - (b) the animal—
 - (i) can not feed itself; or
 - (ii) is a bird that is too young to fly; or
 - (iii) is a mammal that has not been weaned; or
 - (iv) has visible signs of illness or injury.
- (2) The person must not, without the chief executive's written approval, buy or accept, sell or give away, send or move the animal.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply to—
 - (a) a sick, injured or orphaned animal sent or moved to or from a veterinary surgeon for treatment or care; or
 - (b) an animal that is, or is to be, sent or moved with its mother; or
 - (c) a captive bred bird that is, or is to be, sent or moved from the holder of a wildlife authority for the bird to another holder of a wildlife authority for the bird, for hand raising the bird; or

(d) a bird's egg that is, or is to be, sent or moved from the holder of a wildlife authority for the bird to another holder of a wildlife authority for the bird, for artificial incubation or foster parent incubation of the egg.

(4) In this section—

wildlife authority, for a bird, means a licence, permit or other authority authorising the holder of the authority to keep the bird.

322 Procedure for accidental taking of marine mammal

(1) This section applies if—

- (a) a person takes a marine mammal in the course of a lawful activity that was not directed towards taking the mammal; and
- (b) the taking could not have been reasonably avoided.

(2) The person must—

- (a) immediately notify a conservation officer about the marine mammal and the circumstances in which the mammal was taken; and
- (b) if the officer directs the person to deal with the marine mammal in a particular way—deal with the mammal in the way directed.

Maximum penalty—165 penalty units.

(3) A conservation officer may give a direction under subsection (2)(b) only if the direction is reasonable in the circumstances.

(4) In this section—

take, a marine mammal, includes—

- (a) cause the mammal to—
 - (i) go ashore; or
 - (ii) become trapped or entangled; or
- (b) strike the mammal with a boat.

[s 322A]

322A Procedure for accidental taking of marine turtle

- (1) This section applies if—
 - (a) a person takes a marine turtle in the course of a lawful activity that was not directed towards taking the turtle; and
 - (b) the taking could not have been reasonably avoided.
- (2) The person must—
 - (a) if the marine turtle is sick, injured, trapped, entangled or dead, or has been struck by a boat—
 - (i) immediately notify a conservation officer about the turtle and the circumstances in which the turtle was taken; and
 - (ii) if the officer directs the person to deal with the turtle in a particular way—deal with the turtle in the way directed; or
 - (b) otherwise—return the turtle to the waters from which it was taken.

Maximum penalty—120 penalty units.

- (3) A conservation officer may give a direction under subsection (2)(a)(ii) only if the direction is reasonable in the circumstances.
- (4) In this section—

take, a marine turtle, includes—

 - (a) cause the turtle to become trapped or entangled; or
 - (b) strike the turtle with a boat.

323 Procedure for accidental taking of protected shark

- (1) This section applies if—
 - (a) an authorised shark taker takes a protected shark in the course of a lawful activity that was not directed towards taking the shark; and

-
- (b) the taking could not have been reasonably avoided.
 - (2) The person must—
 - (a) if the shark is sick, injured or dead—
 - (i) as soon as practicable, notify a conservation officer about the shark and the circumstances in which the shark was taken; and
 - (ii) if the officer directs the person to deal with the shark in a particular way—deal with the shark in the way directed; or
 - (b) otherwise—return it to the waters from which it was taken.

Maximum penalty—120 penalty units.

- (3) A conservation officer may give a direction under subsection (2)(a)(ii) only if the direction is reasonable in the circumstances.
- (4) In this section—

authorised shark taker means a person who is authorised to take sharks under the *Fisheries Act 1994*.

Part 2 Moving wildlife

Division 1 Moving wildlife generally

324 Moving live protected animals in containers

- (1) This section applies if—
 - (a) a person who, under the Act, keeps a live protected animal sells or gives the animal to another person; and

[s 325]

- (b) either—
 - (i) the person (the *sender*) intends to send the animal in a container to the person who bought or accepted the animal; or
 - (ii) the person, or the person who bought or accepted the animal, (the *mover*) intends to move the animal in a container.
 - (2) The sender or mover must ensure the container in which the animal is sent or moved—
 - (a) will keep the animal stable under ordinary transportation conditions; and
 - (b) will prevent the animal's escape; and
 - (c) will protect the animal from predators; and
 - (d) is locked or otherwise secured.
- Maximum penalty—20 penalty units.

325 Labels for containers used to send protected animals

- (1) This section applies if—
 - (a) a person who keeps a live protected animal under the Act sells or gives the animal to another person, other than a veterinary surgeon for treatment or care of the animal; and
 - (b) the person intends to send the animal in a container.
- (2) The person must attach to the container a written statement including the following information—
 - (a) the following details for the person who sent the animal and the person to whom the animal is sent—
 - (i) name and address;
 - (ii) if the person holds a wildlife authority—the number of the authority;

- (b) the animal's common name or, if the animal does not have a common name, the animal's scientific name;
- (c) if there is more than 1 animal in the container—how many animals are in the container;
- (d) if the animal is dangerous or venomous—that the animal is dangerous or venomous.

Maximum penalty—20 penalty units.

326 Sending or moving wildlife other than protected, international or prohibited wildlife into the State

- (1) This section applies to a live bird, mammal, reptile or amphibian other than a bird, mammal, reptile or amphibian that is a protected, international, prohibited or domestic animal.
- (2) A person must not send or move into the State the bird, mammal, reptile or amphibian unless the person holds a wildlife movement permit authorising the movement.

Maximum penalty—165 penalty units.

- (3) In this section—

move, a bird, mammal, reptile or amphibian, includes attempt to move the bird, mammal, reptile or amphibian.

send, a bird, mammal, reptile or amphibian, includes attempt to send the bird, mammal, reptile or amphibian.

Division 2 Movement advices

327 Only 1 movement under movement advice

A person must not make more than 1 movement under a movement advice.

Maximum penalty—50 penalty units.

[s 328]

328 Dealing with parts of movement advice

- (1) This section applies if a movement advice must be filled in for the movement of wildlife.
- (2) The person who filled in the movement advice must—
 - (a) ensure parts 2 and 3 of the advice are—
 - (i) attached to the wildlife to which the advice relates or the container in which the wildlife is being moved; or
 - (ii) otherwise in the possession of the person moving the wildlife to which the advice relates; and
 - (b) give part 1 of the advice to the chief executive within 7 days after the movement happens.

Maximum penalty—50 penalty units.

- (3) Also, the person to whom the wildlife for which the movement advice has been filled in is moved must give part 3 of the movement advice to the chief executive within 7 days after the person receives the wildlife.

Maximum penalty—50 penalty units.

329 Keeping and producing movement advice

- (1) This section applies if a movement advice must be filled in for the movement of wildlife.
- (2) The following persons are required to keep a copy of the movement advice in a secure place, for the record-keeping period—
 - (a) if the movement is for a sale or giving away of wildlife—the person who sold or gave away the wildlife and the person who bought or accepted the wildlife;
 - (b) otherwise—the person who filled in the movement advice.

Maximum penalty—50 penalty units.

- (3) If asked by a conservation officer, the person must, unless the person has a reasonable excuse, make the advice available for inspection by the officer.

Maximum penalty—50 penalty units.

330 Tampering with movement advice

- (1) A person must not tamper with a movement advice that has been filled in for a movement of wildlife.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person who—
- (a) removes part 1 of the advice to give it to the chief executive; or
 - (b) removes part 2 or part 3 of the advice to—
 - (i) attach it to the wildlife to which the advice relates, or the container in which the wildlife is being moved; or
 - (ii) give it to the person moving the wildlife to which the advice relates.

- (3) In this section—

tamper with, a movement advice, means—

- (a) destroy the advice; or
- (b) remove a part of the advice; or
- (c) cover, erase or modify an entry on the advice.

332 Tampering with animal breeding place

- (1) A person must not, without a reasonable excuse, tamper with an animal breeding place that is being used by a protected animal to incubate or rear the animal's offspring.

Maximum penalty—165 penalty units.

- (2) For subsection (1), an animal breeding place is being used by a protected animal to incubate or rear the animal's offspring if—

- (a) the animal is preparing, or has prepared, the place for incubating or rearing the animal's offspring; or
- (b) the animal is breeding, or is about to breed, and is physically occupying the place; or
- (c) the animal and the animal's offspring are physically occupying the place, even if the occupation is only periodical; or
- (d) the animal has used the place to incubate or rear the animal's offspring and is of a species generally known to return to the same place to incubate or rear offspring in each breeding season for the animal.

- (3) It is a reasonable excuse for a person to tamper with the breeding place if—

- (a) the tampering happened in the course of a lawful activity that was not directed towards the tampering; and
- (b) the tampering could not have been reasonably avoided.

- (4) Also, subsection (1) does not apply to a person removing or otherwise tampering with the breeding place if—

- (a) the removal or tampering is part of an approved species management program for animals of the same species; or
- (b) the person holds a damage mitigation permit for the animal and the permit authorises the removal or tampering.

[s 333]

(5) In this section—

approved species management program, for a species of animal, means a program about managing the population and habitat of the species of animal that is approved by the chief executive.

tamper, with an animal breeding place, means damage, destroy, mark, move or dig up the breeding place.

333 Housing wildlife other than protected wildlife

(1) This section applies to—

(a) a domestic bird other than the following—

(i) an ostrich;

(ii) a peafowl or pheasant of the family Phasianidae, other than quail indigenous to Australia;

(iii) a pigeon (*Columba livia*) or poultry; and

(b) another animal other than a domestic or protected animal.

(2) A person must keep the bird or animal in a secure cage or enclosure that prevents the bird's or animal's escape.

Maximum penalty—20 penalty units.

(3) In this section—

domestic bird means a bird that is a domestic animal.

Part 4 Tags

334 Using tags generally

(1) A person must not attach a tag to wildlife of a species other than the species for which the tag is supplied or approved.

Maximum penalty—165 penalty units.

- (2) A person must not attach a used tag to wildlife.

Maximum penalty—165 penalty units.

- (3) In this section—

used tag means a tag that has been previously attached to wildlife.

335 Tags not to be used by unauthorised person

- (1) A person, other than an authorised person, must not, without the chief executive's written approval—

- (a) possess a tag supplied or approved under chapter 8, part 2; or
(b) attach a tag supplied or approved under chapter 8, part 2, to wildlife.

Maximum penalty—165 penalty units.

- (2) This section is subject to any provision of a conservation plan that provides for the persons that may attach a tag to wildlife to which the plan relates.

Note—

For identification requirements for persons possessing tags for harvest macropods, see the Macropod Conservation Plan, part 5, division 3.

- (3) In this section—

authorised person, in relation to a tag supplied or approved under chapter 8, part 2, means any of the following persons—

- (a) the chief executive;
(b) a conservation officer;
(c) for a tag for animals—
(i) the person to whom the tag was supplied or for whom the tag was approved; or

[s 336]

- (ii) a person authorised to possess or attach the tag by the person mentioned in paragraph (a);
- (d) for a tag for protected plants—the holder of a commercial wildlife licence, recreational wildlife licence or commercial wildlife harvesting licence for protected plants.

336 Tampering with tags

- (1) A person must not, without the chief executive's approval, tamper with a tag attached to wildlife.

Maximum penalty—80 penalty units.

- (2) Subsection (1) does not apply to a person who removes a tag from wildlife if this regulation or a conservation plan states the person may remove the tag from the wildlife.

Notes—

- 1 For the holder of a recreational wildlife harvesting licence removing tags from animals, see section 124.
- 2 For removing tags from harvest macropods, see the Macropod Conservation Plan, part 5, division 2.

- (3) In this section—

tamper, with a tag, means to—

- (a) remove or damage the tag; or
- (b) cover or modify the writing on the tag.

Part 5 Identification and information requirement

337 Record of identification of person selling or giving away protected, international or prohibited wildlife

A person who buys or accepts protected, international or prohibited wildlife under the Act must—

- (a) on receipt of the wildlife—
 - (i) obtain from the person from whom the wildlife is bought or accepted (the *seller*) verification of the seller's identity; and
 - (ii) if the seller is acting under a wildlife authority—inspect the authority or a copy of the authority; and
- (b) keep a record of the following for the record-keeping period—
 - (i) the name and address of the seller;
 - (ii) the source of the identification used to verify the identity of the seller, including the particulars of the type of document produced and any identifying features of the document, including, for example, the number of the document;
 - (iii) if the seller is acting under a wildlife authority—the number of the authority; and
- (c) if asked by a conservation officer, produce the record for inspection by the officer, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

[s 338]

338 Record of identification of person buying or accepting protected, international or prohibited wildlife

A person who sells or gives away protected, international or prohibited wildlife under the Act must—

- (a) before parting with possession of the wildlife—
 - (i) obtain from the person to whom the wildlife is sold or given (the *buyer*) verification of the buyer's identity; and
 - (ii) if the buyer is acting under a wildlife authority—inspect the authority or a copy of the authority; and
- (b) keep a record of the following for the record-keeping period—
 - (i) the name and address of the buyer;
 - (ii) the source of the identification used to verify the identity of the buyer, including the particulars of the type of document produced and any identifying features of the document, including, for example, the number of the document;
 - (iii) if the buyer is acting under a wildlife authority—the number of the authority; and
- (c) if asked by a conservation officer, produce the record for inspection by the officer, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

Part 5A Marine mammals

Division 1 Preliminary

338A Application of pt 5A

- (1) This part applies to marine mammals in the wild.
- (2) However, a provision of this part that applies in relation to a no approach zone, caution zone or prescribed distance for a marine mammal applies to a dugong only if a special management declaration provides for the no approach zone, caution zone or prescribed distance for the dugong.
- (3) This part does not apply to—
 - (a) a person acting under a scientific purposes permit; or
 - (b) a person complying with—
 - (i) a direction given by a conservation officer under section 373(2)(a) or (3); or
 - (ii) a request made by a conservation officer under section 373(2)(b).

Division 2 Restrictions and requirements for boats

Subdivision 1 General restrictions

338B Speed limit

- (1) This section applies if a special management declaration states that a person in control of a boat must not bring the boat within a stated distance of a marine mammal at a stated speed.

[s 338C]

- (2) A person in control of a boat must not, without a reasonable excuse, bring the boat within the stated distance of the marine mammal at the stated speed.

Maximum penalty—165 penalty units.

338C Restricting path or causing change in direction of travel of a marine mammal

A person in control of a boat must not, without a reasonable excuse, restrict the path of a marine mammal or cause a marine mammal to change its direction of travel.

Maximum penalty—120 penalty units.

338D Dividing a group of marine mammals

A person in control of a boat must not, without a reasonable excuse, bring the boat between members of a pod of whales or dolphins or a herd of dugongs.

Maximum penalty—120 penalty units.

Subdivision 2 Distance restrictions

338E Entering no approach zone for a marine mammal

A person in control of a boat must not, without a reasonable excuse, bring the boat within the no approach zone for a marine mammal.

Maximum penalty—

- (a) if the no approach zone is provided for by a special management declaration—165 penalty units; or
- (b) otherwise—120 penalty units.

338F Entering caution zone for a marine mammal

- (1) A person in control of a boat must not, without a reasonable excuse, bring the boat within the caution zone for a marine mammal if—
- (a) 3 or more boats are already within the caution zone; or
 - (b) the boat is moving—
 - (i) at a speed of more than 6 knots; or
 - (ii) at a speed that creates a wake.

Maximum penalty—

- (a) if the caution zone is provided for by a special management declaration—165 penalty units; or
 - (b) otherwise—120 penalty units.
- (2) For subsection (1)(a), a boat within the no approach zone for the marine mammal is taken to be within the caution zone for the mammal.

338G Requirement if a whale or dugong comes within no approach zone

- (1) This section applies if—
- (a) a whale or dugong moves towards a boat; and
 - (b) as a result the boat is within the no approach zone for the whale or dugong.
- (2) The person in control of the boat must, unless the person has a reasonable excuse—
- (a) stop the boat and—
 - (i) turn the engines off; or
 - (ii) disengage the gears; or
 - (b) withdraw to an area outside the no approach zone for the whale or dugong at a speed that—
 - (i) is not more than 6 knots; and

[s 338H]

(ii) does not create a wake.

Maximum penalty—

- (a) if the no approach zone is provided for by a special management declaration—165 penalty units; or
- (b) otherwise—120 penalty units.

338H Requirement if a whale or dugong comes within caution zone

- (1) This section applies if—
 - (a) a whale or dugong moves towards a boat; and
 - (b) as a result the boat is within the caution zone for the whale or dugong.
- (2) The person in control of the boat must not, without a reasonable excuse, operate the boat—
 - (a) at a speed of more than 6 knots; or
 - (b) at a speed that creates a wake.

Maximum penalty—

- (a) if the caution zone is provided for by a special management declaration—165 penalty units; or
- (b) otherwise—120 penalty units.

338I Requirement if a dolphin comes within no approach zone or caution zone

- (1) This section applies if a dolphin moves towards a boat and as a result the boat is—
 - (a) within the no approach zone for the dolphin; or
 - (b) within the caution zone for the dolphin.
- (2) The person in control of the boat must not, without a reasonable excuse—

-
- (a) change the direction of travel of the boat in a way that would disturb the dolphin; or

Example of a way of changing direction that is not likely to disturb the dolphin—

gradually changing the direction of travel of the boat to avoid making contact with the dolphin

- (b) change the speed of travel of the boat in a way that would disturb the dolphin.

Maximum penalty—

- (a) in the circumstances mentioned in subsection (1)(a), if the no approach zone is provided for by a special management declaration—165 penalty units; or
- (b) in the circumstances mentioned in subsection (1)(b), if the caution zone is provided for by a special management declaration—165 penalty units; or
- (c) otherwise—120 penalty units.

338J Requirement if a marine mammal in no approach zone or caution zone shows signs of being disturbed

- (1) This section applies to a person in control of a boat within the no approach zone or caution zone for a marine mammal if the mammal shows signs of being disturbed.

Examples of what may be a sign of a marine mammal being disturbed—
a mammal—

- leaving an area or moving away from a boat quickly
- regularly changing its direction or speed of swimming
- changing its breathing patterns
- acting in an aggressive manner such as tail slashing or trumpet blowing
- diving in haste

- (2) The person must, unless the person has a reasonable excuse, withdraw the boat to outside the caution zone for the marine mammal at a speed that—

[s 338K]

- (a) is not more than 6 knots; and
- (b) does not create a wake.

Maximum penalty—

- (a) if the no approach zone or caution zone is provided for by a special management declaration—165 penalty units; or
- (b) otherwise—80 penalty units.

338K Exception for approved filming of marine mammals

- (1) Sections 338E, 338F(1), 338G(2), 338H(2) and 338I(2) do not apply to a person in control of a boat that is at a closer distance to a marine mammal than the no approach zone or caution zone for the mammal if—
 - (a) the person, or another person on the boat, is filming the mammal; and
 - (b) the person has written approval of the chief executive to bring the boat at the closer distance for the filming.
- (2) The chief executive may impose conditions on an approval given under subsection (1), including, for example, conditions about what the person in control of the boat must do if the marine mammal moves towards the boat so that the boat is at a closer distance to the mammal than permitted under the approval.
- (3) A person in control of a boat acting under an approval given under subsection (1) must comply with the conditions of the approval.

Maximum penalty for subsection (3)—

- (a) if the boat is at a closer distance to a marine mammal than permitted by a no approach zone provided for by a special management declaration—165 penalty units; or
- (b) if paragraph (a) does not apply and the boat is at a closer distance to a marine mammal than permitted by a

caution zone provided for by a special management declaration—165 penalty units; or

- (c) otherwise—120 penalty units.

Division 3 Restrictions and requirements for prohibited vessels and aircraft

338L Minimum distance for a prohibited vessel

- (1) A person in control of a prohibited vessel must not, without a reasonable excuse—
- (a) bring the vessel any closer than the prescribed distance to a marine mammal; or
 - (b) bring the vessel to a position that would cause a marine mammal to come closer than the prescribed distance to the vessel if the mammal continued on its direction of travel.

Maximum penalty—

- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or
 - (b) otherwise—120 penalty units.
- (2) In this section—

prescribed distance means—

- (a) for a special management marine mammal, if the special management declaration for the mammal states the prescribed distance for a prohibited vessel—the stated distance; or
- (b) for a marine mammal in a special management area, if the special management declaration for the area states the prescribed distance for a prohibited vessel for the mammal—the stated distance; or

[s 338M]

- (c) for a whale or dolphin other than a whale or dolphin to which paragraph (a) or (b) applies—300m.

338M Minimum distance for a helicopter

- (1) A person in control of a helicopter must not, without a reasonable excuse—
 - (a) bring the helicopter closer than the prescribed distance to a marine mammal; or
 - (b) bring the helicopter to a position that would cause a marine mammal to come closer than the prescribed distance to the helicopter if the mammal continued on its direction of travel.

Maximum penalty—

- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or
 - (b) otherwise—120 penalty units.
- (2) In this section—

prescribed distance means—

- (a) for a special management marine mammal, if the special management declaration for the mammal states the prescribed distance for a helicopter—the stated distance; or
- (b) for a marine mammal in a special management area, if the special management declaration for the area states the prescribed distance for a helicopter for the mammal—the stated distance; or
- (c) for a whale or dolphin other than a whale or dolphin to which paragraph (a) or (b) applies—500m.

338N Hovering helicopter

A person in control of a helicopter must not, without a reasonable excuse, hover above a marine mammal.

Maximum penalty—120 penalty units.

338O Minimum distance for an aircraft

- (1) A person in control of an aircraft must not, without a reasonable excuse—
- (a) operate or land the aircraft closer than the prescribed distance to a marine mammal; or
 - (b) bring the aircraft to a position that would cause a marine mammal to come closer than the prescribed distance to the aircraft if the mammal continued on its direction of travel.

Maximum penalty—

- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or
 - (b) otherwise—120 penalty units.
- (2) In this section—

aircraft does not include a helicopter.

prescribed distance means—

- (a) for a special management marine mammal, if the special management declaration for the mammal states the prescribed distance for an aircraft—the stated distance; or
- (b) for a marine mammal in a special management area, if the special management declaration for the area states the prescribed distance for an aircraft for the mammal—the stated distance; or
- (c) for a whale or dolphin other than a whale or dolphin to which paragraph (a) or (b) applies—300m.

[s 338P]

338P Exception for approved filming of marine mammals

- (1) Sections 338L(1), 338M(1) and 338O(1) do not apply to a person in control of a prohibited vessel or aircraft that is at a closer distance to a marine mammal than the prescribed distance for the mammal if—
 - (a) the person, or another person on the vessel or aircraft, is filming the mammal; and
 - (b) the person has written approval of the chief executive to bring the vessel or aircraft at the closer distance for the filming.
- (2) The chief executive may impose conditions on an approval given under subsection (1), including, for example, conditions about what the person in control of the prohibited vessel or aircraft must do if the marine mammal moves towards the vessel or aircraft so that the vessel or aircraft is at a closer distance to the mammal than permitted under the approval.
- (3) A person in control of a prohibited vessel or aircraft acting under an approval given under subsection (1) must comply with the conditions of the approval.

Maximum penalty for subsection (3)—

- (a) if the prohibited vessel or aircraft is at a closer distance to a marine mammal than permitted by a prescribed distance provided for by a special management declaration—165 penalty units; or
- (b) otherwise—120 penalty units.

Division 4 Other restrictions

338Q Minimum distance for people in water

- (1) A person must not enter water any closer than the prescribed distance to a marine mammal.

Maximum penalty—

-
- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or
 - (b) otherwise—120 penalty units.
- (2) A person in water must not move any closer than the prescribed distance to a marine mammal.

Maximum penalty—

- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or
 - (b) otherwise—120 penalty units.
- (3) Subsections (1) and (2) do not apply to a person—
- (a) feeding a dolphin—
 - (i) under section 60A; or
 - (ii) under a permission granted under the *Marine Parks Act 2004*; or

Note—

See the *Marine Parks Regulation 2006*, section 19 for the restriction on the grant of permissions authorising the feeding of dolphins in a marine park or part of a marine park.

- (b) acting under a commercial wildlife licence (wildlife interaction); or
 - (c) if the person has a reasonable excuse.
- (4) Also, subsections (1) and (2) do not apply to a person entering or in water at a closer distance to a marine mammal than the prescribed distance for the mammal if—
- (a) the person is entering or in the water for the purpose of filming the mammal; and
 - (b) the person has written approval of the chief executive to enter or be in the water at the closer distance for the filming.
- (5) The chief executive may impose conditions on an approval given under subsection (4), including, for example, conditions

[s 338R]

about what the person entering or in water must do if the marine mammal moves towards the person so that the person is at a closer distance to the mammal than permitted under the approval.

- (6) A person acting under an approval given under subsection (4) must comply with the conditions of the approval.

Maximum penalty—

- (a) if the person is at a closer distance to a marine mammal than permitted by a prescribed distance provided for by a special management declaration—165 penalty units; or
(b) otherwise—120 penalty units.

- (7) In this section—

prescribed distance means—

- (a) for a special management marine mammal, if the special management declaration for the mammal states the prescribed distance for a person in water—the stated distance; or
(b) for a marine mammal in a special management area, if the special management declaration for the area states the prescribed distance for a person in water for the mammal—the stated distance; or
(c) for a whale other than a whale to which paragraph (a) or (b) applies—100m; or
(d) for a dolphin other than a dolphin to which paragraph (a) or (b) applies—50m.

338R Conducting prohibited activity in a special management area

- (1) A person in a special management area must not, without a reasonable excuse, carry out a prohibited activity for the area.

Maximum penalty—165 penalty units.

(2) In this section—

prohibited activity, for a special management area, means an activity that the special management declaration for the area states is a prohibited activity for the area.

338S Other restrictions relating to marine mammals

(1) A person must not, without a reasonable excuse, do any of the following—

- (a) deposit rubbish near a marine mammal;
- (b) make a loud or sudden noise within 300m of a marine mammal that may disturb the mammal;

Example of a loud or sudden noise that may disturb a marine mammal—

recordings of whale or dolphin sounds or songs played under water

- (c) touch a marine mammal;
- (d) feed a marine mammal.

Maximum penalty—80 penalty units.

(2) Subsection (1)(d) does not apply to a person feeding a dolphin—

- (a) under section 60A; or
- (b) under a permission granted under the *Marine Parks Act 2004*.

Note—

See the *Marine Parks Regulation 2006*, section 19 for the restriction on the grant of permissions authorising the feeding of dolphins in a marine park or part of a marine park.

[s 339]

Part 6 Other offences

339 Using poison or adhesive substance in a way that may take protected animals

- (1) A person must not use, or direct another person to use, a poison or adhesive substance in a way that may result in the taking of a protected animal.

Maximum penalty—165 penalty units.

- (2) Subsection (1) does not apply to the holder of a wildlife authority for an animal, or a relevant person for the holder, using a poison or adhesive substance to take the animal if—
- (a) the authority authorises the holder to use the poison or substance to take the animal; and
- (b) the holder complies with any conditions of the authority.

Notes—

- 1 Section 115 contains additional requirements about the way an animal may be taken under a commercial wildlife harvesting licence for the animal.
- 2 Section 123 contains additional requirements about the way an animal may be taken under a recreational wildlife harvesting licence for the animal.

- (3) In this section—

adhesive substance includes birdlime or a viscid substance.

condition, of a wildlife authority, includes—

- (a) a condition that the chief executive has written on the authority; and

Note—

Under the Administration Regulation, section 58, it is an offence for a person to fail to comply with a condition of a wildlife authority.

- (b) a requirement under the Act that applies to the carrying out of activities under the authority.

use, in relation to a poison or adhesive substance, includes attempt to use the poison or substance.

340 Feeding native animals in the wild generally

- (1) This section applies to a person even if the person holds a commercial wildlife licence (wildlife interaction) for a protected animal.
- (2) A person must not feed a native animal in the wild in a way that may immediately threaten human health or safety.

Maximum penalty—165 penalty units.

- (3) Without limiting subsection (2), a person feeds an animal in a way that may immediately threaten human health or safety if—
 - (a) the person feeds the animal in a way that causes the animal to move from the place where it is located to the place where the person is providing the food; and
 - (b) the movement of the animal results in danger to human health or safety.

341 Feeding dangerous native animals in the wild

- (1) A person, other than an authorised person, must not feed a native animal in the wild that is dangerous, venomous or capable of injuring a person.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to a person who feeds a native animal under a wildlife authority for the animal.

342 Disturbing dangerous native animals in the wild

- (1) A person, other than an authorised person, must not disturb a native animal in the wild that is dangerous, venomous or capable of injuring a person.

Maximum penalty—40 penalty units.

[s 343]

- (2) Subsection (1) does not apply to a person who disturbs a native animal—
- (a) under a wildlife authority for the animal; or
 - (b) in the course of a lawful activity that was not directed towards the disturbance if the disturbance could not have been reasonably avoided.

343 Release of animals into the wild

- (1) A person must not—
- (a) release into the wild an animal that has been bred or kept in captivity; or
 - (b) release an animal into an area of the wild that is not a prescribed natural habitat for the animal.

Maximum penalty—165 penalty units.

- (2) However, subsection (1) does not apply to a person who releases an animal if—
- (a) the release is authorised under an Act, including a licence, permit or other authority granted under the Act; or
 - (b) the chief executive has given the person a written approval authorising the person to release the animal; or
 - (c) the person releasing the animal reasonably expects to recover the animal after it is released.

344 Spreading or releasing particular parts of non-native plants

- (1) This section applies to a plant other than a native plant.
- (2) A person must not, without the chief executive's approval, spread or release reproductive material of the plant into the wild.

Maximum penalty—165 penalty units.

(3) In this section—

reproductive material, of a plant, means any part of the plant that is capable of asexual or sexual reproduction.

Examples of reproductive material of a plant—

- 1 seed or part of a seed
- 2 bulb, rhizome, root, stolon, tuber or part of a bulb, rhizome, stolon or tuber
- 3 stem or leaf cutting

345 Procedure if wildlife stolen

(1) This section applies if—

- (a) a person keeps wildlife under the Act; and
- (b) the wildlife is stolen.

(2) The person must—

- (a) immediately report the theft to—
 - (i) a police officer; and
 - (ii) a departmental conservation officer; and
- (b) if the person is given a copy of a police report about the theft—
 - (i) keep the copy for the record-keeping period; and
 - (ii) if asked by a departmental conservation officer—produce the copy for inspection by the officer.

Maximum penalty—20 penalty units.

(3) Also, if the person keeps a record under the Act for the wildlife, the person must record the particulars of the theft in the record.

Maximum penalty—20 penalty units.

(4) In this section—

departmental conservation officer means a conservation officer who is an employee of the department.

Chapter 8 Miscellaneous provisions

Part 1 Seizure of property

346 Seizure of particular things for the protection of native wildlife

- (1) This section applies if a conservation officer reasonably believes—
 - (a) a vehicle or an appliance that is on land, other than land in a protected area, is—
 - (i) on the land without the consent of the landholder; or
 - (ii) abandoned; and
 - (b) it is necessary or desirable to remove the vehicle or appliance for the protection of native wildlife.
- (2) The conservation officer may—
 - (a) seize the vehicle or appliance and anything attached to or contained in the vehicle or appliance (each a *seized thing*); and
 - (b) remove the seized thing from the land.
- (3) The seized thing must be dealt with under the Administration Regulation, part 5.
- (4) In this section—

recreational craft includes a hot air balloon, hang-glider, paraglider and an ultralight aircraft.

vehicle includes an aircraft, a boat and a recreational craft.

Part 2 Provisions about tags

347 Chief executive may supply tags for use by person

- (1) The chief executive may supply a tag to a person for use under the Act.
- (2) Without limiting subsection (1), a tag may be supplied for any of the following purposes—
 - (a) to attach to wildlife to allow the wildlife to be identified;
 - (b) to attach to wildlife that is, or will be after the tag is attached, a processed product.
- (3) The chief executive must give the person a notice stating the species of wildlife for which the tag is supplied.

348 Chief executive may approve tags for use by person

- (1) The chief executive may, upon application by a person, approve a tag for use by the person under the Act.
- (2) Without limiting subsection (1), a tag may be approved for any of the following purposes—
 - (a) to attach to wildlife to allow the wildlife to be identified;
 - (b) to attach to wildlife that is, or will be after the tag is attached, a processed product.
- (3) The chief executive must give the person a notice stating the species of wildlife for which the tag is approved.

349 Nature of tags supplied by the chief executive

- (1) A tag supplied by the chief executive under this part—

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- (a) is the property of the State; and
 - (b) may not be transferred unless the chief executive has given a written approval for the transfer.
- (2) However, subsection (1)(b) is subject to any provision of a conservation plan that provides that a tag supplied for wildlife to which the conservation plan applies may not be transferred in any circumstances.

350 Chief executive may recall tags

- (1) The chief executive may give a person a notice directing the person to return a tag that has been supplied under this part.
- (2) The notice must state—
 - (a) the place where the tag must be returned; and
 - (b) the date and time by which the tag must be returned.
- (3) The person must, unless the person has a reasonable excuse, comply with the notice.

Maximum penalty for subsection (3)—50 penalty units.

Part 3 Conservation value for wildlife

351 Conservation value for protected wildlife

- (1) Subject to this part, for section 95(1) of the Act, the conservation value for protected wildlife is—
 - (a) for extinct in the wild wildlife—\$15108; or
 - (b) for endangered wildlife—\$12086; or
 - (c) for vulnerable wildlife—\$9063; or
 - (d) for near threatened wildlife—\$6040; or
 - (e) for least concern wildlife—\$1505.

- (2) However, subsection (1) does not apply if a conservation plan that applies to the protected wildlife—
- (a) states a different conservation value for the wildlife; or
 - (b) states that no conservation value is payable for the wildlife in stated circumstances.

Notes—

- 1 For the conservation value payable for a harvest macropod, see the Macropod Conservation Plan, section 115.
- 2 For the conservation value payable for a problem crocodile, see the Estuarine Crocodile Conservation Plan, section 31.

352 No conservation value payable for protected wildlife taken under particular authorities

A person who takes protected wildlife under any of the following authorities for the wildlife is exempt from payment of the conservation value for the wildlife—

- (a) a museum licence;
- (b) a damage mitigation permit;
- (c) an educational purposes permit;
- (d) a scientific purposes permit;
- (e) a rehabilitation permit;
- (f) a collection authority to take and keep least concern animals;
- (g) a herbarium licence.

353 No conservation value payable for protected scorpions or spiders

A person who takes a scorpion or spider under a commercial wildlife harvesting licence for the scorpion or spider is exempt from payment of the conservation value for the scorpion or spider.

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354 No conservation value payable for particular reptiles

- (1) This section applies to a person who takes a reptile of the family Elapidae, Hydrophiidae or Laticaudidae—
 - (a) under a commercial wildlife harvesting licence for the reptile; and
 - (b) for extracting venom for the production of antivenene for humans.
- (2) The person is exempt from payment of the conservation value for the reptile.

355 No conservation value payable for particular lizards

- (1) This section applies to a person who takes a racing lizard—
 - (a) under a recreational wildlife harvesting licence held by the secretary of the committee of the Cunnamulla–Eulo Festival of Opals; and
 - (b) for racing the lizard in the festival.
- (2) The person is exempt from payment of the conservation value for the lizard.
- (3) In this section—

racing lizard means—

 - (a) *Trachydosaurus rugosus* (shingle back); or
 - (b) *Pogona vitticeps*.

Part 4 **Amendments of Protected Plants Conservation Plan**

356 **Particular amendments of the Protected Plants Conservation Plan—Act, s 124(2)(c)**

An amendment to make the management of near threatened wildlife consistent with the management of rare wildlife may be made to the Protected Plants Conservation Plan by amendment under section 124(2) of the Act.

Part 5 **Special management declarations for marine mammals**

Division 1 **Preliminary**

357 **Main purposes of pt 5**

The main purposes of this part are to—

- (a) ensure biologically viable populations of marine mammals are conserved or re-established, including, for example, by—
 - (i) conserving critical habitat for marine mammals; or
 - (ii) controlling or removing a threatening process; and
- (b) minimise harm and distress caused directly or indirectly to marine mammals or their habitat by human activity; and
- (c) recognise the interest of Aboriginal people and Torres Strait Islanders in marine mammals, and their involvement in the conservation of marine mammals.

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358 Achieving main purposes—special management areas

- (1) To achieve the main purposes of this part, this part provides for the special management of areas that—
 - (a) include critical habitat for a marine mammal; or
 - (b) are a migratory route or corridor for a marine mammal; or
 - (c) are a mating or calving ground for a marine mammal; or
 - (d) are a feeding ground for a marine mammal; or
 - (e) are otherwise regularly frequented by marine mammals; or
 - (f) are the subject of an activity for which a marine mammal is, or is to be, used under Aboriginal tradition or Island custom; or
 - (g) are the subject of scientific research relevant to the conservation of marine mammals (including, for example, by enhancing the scientific knowledge of marine mammals)—
 - (i) that is carried out by a tertiary institution or other institution administered by the Commonwealth or a State; or
 - (ii) that is carried out by an entity that is involved in scientific research; or
 - (iii) that the chief executive is satisfied is necessary, or will significantly contribute, to achieving the main purposes of this part.
- (2) Without limiting subsection (1), special management of the areas mentioned in the subsection is provided for by regulating activities carried out in the area, including, for example, by—
 - (a) imposing stricter approach distances for marine mammals than otherwise provided in this regulation; and

- (b) imposing speed restrictions for approaching marine mammals; and
- (c) prohibiting—
 - (i) the carrying out of commercial marine mammal watching activities in the area; or
 - (ii) the carrying out of commercial marine mammal watching activities in the area in a particular way.
- (3) In this section—

commercial marine mammal watching activities means activities carried out as part of a business operation involving carrying people in a boat, prohibited vessel or aircraft to watch marine mammals.

359 Achieving main purposes—special management marine mammals

- (1) To achieve the main purposes of this part, this part provides for the special management of a marine mammal that—
 - (a) is at risk of harassment, injury (or further injury) or death because the mammal is—
 - (i) a female marine mammal that has recently given, or is about to give, birth; or
 - (ii) a calf separated from a marine mammal or group of marine mammals; or
 - (iii) a stranded marine mammal or marine mammal at risk of being stranded; or
 - (iv) a morphological-variant or colour-variant marine mammal of its species; or
 - (b) may potentially be at risk of harassment, injury (or further injury) or death because the mammal is in a place readily accessible to members of the public; or
 - (c) is to be used under Aboriginal tradition or Island custom.

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- (2) Without limiting subsection (1), special management of marine mammals mentioned in the subsection is provided for by regulating activities carried out near the mammals, including, for example, by—
- (a) imposing stricter approach distances for the mammals than otherwise provided in this regulation; and
 - (b) imposing speed restrictions for approaching the mammals.

Division 2 Special management areas

Subdivision 1 Special management areas generally

360 Special management area

- (1) The area described in schedule 2, part 1 is a special management area.
- (2) Schedule 2, part 1 states the stated distance for the no approach zone for whales in the special management area.

Subdivision 2 Temporary special management areas

361 Declaration of temporary special management area

- (1) This section applies if the chief executive is satisfied—
 - (a) an area is or will be of a kind mentioned in section 358(1); and
 - (b) it is not appropriate to declare the area to be a special management area under section 360(1) because it will be an area of that kind only for a temporary period.

Example of areas to which this section may apply—

an area that has become a temporary feeding ground for a herd of dugong because the herd's permanent feeding ground has been damaged by a natural disaster

- (2) The chief executive may, in the way stated in subsection (4)—
- (a) declare the area to be a temporary special management area for a period of not more than 60 days; and
 - (b) declare 1 or more of the following for a marine mammal in the special management area—
 - (i) the stated distance for the caution zone;
 - (ii) the stated distance for the no approach zone;
 - (iii) the prescribed distance for a prohibited vessel or aircraft;
 - (iv) the prescribed distance for a person entering or in water;
 - (v) that a person in control of a boat must not bring the boat within a stated distance of the mammal at a stated speed; and

Examples of speeds that may be stated—

a speed of more than 6 knots, a speed that creates a wake

- (c) declare activities that are prohibited activities for the area.
- (3) The chief executive may make a declaration under subsection (2) only if the chief executive is satisfied the declaration is necessary to achieve the main purposes of this part.
- (4) The chief executive may make a declaration under subsection (2) by—
- (a) gazette notice; or
 - (b) subject to subsection (5), a notice published in—
 - (i) a newspaper circulating generally throughout Queensland; and

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- (ii) a newspaper circulating generally in the area in which the temporary special management area the subject of the declaration is located.
- (5) The chief executive need not publish notice of the declaration under subsection (4)(b)(ii) if the chief executive is satisfied that publishing the notice under subsection (4)(b)(i) and (6) will give sufficient notice of the declaration to the people particularly affected by it, having regard to—
 - (a) the area the subject of the declaration; and
 - (b) the activities to be regulated in the area.
- (6) The chief executive—
 - (a) must also publish a copy of the notice on the department's website and, if practicable, on a sign erected—
 - (i) at or near a usual access point to the area the subject of the temporary special management area declaration; or
 - (ii) in a position that would normally be seen by a person accessing the area the subject of the temporary special management area declaration; and
 - (b) may publish the temporary special management declaration in any other way the chief executive considers appropriate.

Examples of other ways—

radio announcements, publication on other websites

362 Form of declaration

A declaration under section 361 must—

- (a) identify the limits of the area the subject of the declaration; and
- (b) state the reasons for the declaration; and

-
- (c) include the declarations under section 361(2)(b) applying to the area the subject of the declaration; and
 - (d) state the nature of the offence against this regulation arising from each declaration mentioned in paragraph (c), and the maximum penalty under this regulation for the offence; and
 - (e) state the period for which the declaration will be in force.

363 Term of declaration

A declaration under section 361—

- (a) takes effect—
 - (i) when the notice for the declaration is published under section 361(4); or
 - (ii) if a later time is stated in the notice—at the later time; and
- (b) applies for the period stated in the notice unless—
 - (i) the period is extended under section 364; or
 - (ii) the declaration is repealed under section 365.

364 Extension of period of declaration

- (1) If the chief executive is satisfied the reasons for making a declaration under section 361 will still exist after the period stated in the notice for the declaration as the period for which the declaration will be in force, the chief executive may extend the period for a further period of not more than 120 days.
- (2) Before extending the period under subsection (1), the chief executive must—
 - (a) publish a notice about the proposed extension—

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- (i) in a newspaper likely to be read by people particularly affected by the proposed extension; and
 - (ii) on the department's website; and
 - (b) have regard to any submissions received under subsection (3)(b).
- (3) The notice must state that—
- (a) consideration is being given to extending the period for which the declaration will be in force; and
 - (b) people are invited to make written submissions in relation to the proposed extension within a period of at least 7 days stated in the notice.

365 Repeal of declaration

If the chief executive is satisfied the reasons for making a declaration under section 361 no longer exist, the chief executive must repeal the declaration as soon as practicable.

Division 3 Special management marine mammals

Subdivision 1 Special management marine mammals generally

366 Special management marine mammals

- (1) The marine mammal described in schedule 2, part 2 is a special management marine mammal.
- (2) Schedule 2, part 2 states the following for the special management marine mammal—
 - (a) the stated distance for the no approach zone;

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- (b) the prescribed distances for a prohibited vessel and an aircraft.

Subdivision 2 Temporary special management marine mammals

367 Declaration of temporary special management marine mammal

- (1) This section applies if the chief executive is satisfied—
- (a) a marine mammal, or 1 or more marine mammals in a group, is of a kind mentioned in section 359(1); and
 - (b) it is not appropriate to declare the mammal or mammals to be a special management marine mammal under section 366(1) because the mammal or mammals will be of that kind only for a temporary period.
- (2) The chief executive may, in the way stated in subsection (4)—
- (a) declare the marine mammal, or all the marine mammals in the group, to be a temporary special management marine mammal for a period of not more than 1 year; and
 - (b) declare 1 or more of the following for the marine mammal or marine mammals—
 - (i) the stated distance for the caution zone;
 - (ii) the stated distance for the no approach zone;
 - (iii) the prescribed distance for a prohibited vessel or aircraft;
 - (iv) the prescribed distance for a person entering or in water;
 - (v) that a person in control of a boat must not bring the boat within a stated distance of the mammal at a stated speed.

Examples of speeds that may be stated—

[s 367]

a speed of more than 6 knots, a speed that creates a wake

- (3) However, the chief executive may make a declaration under subsection (2) only if the chief executive is satisfied the declaration is necessary to—
 - (a) achieve the main purposes of this part; or
 - (b) ensure the safety, health and wellbeing of humans.
- (4) Subject to subsection (5), the chief executive may make a declaration under subsection (2) by—
 - (a) gazette notice; or
 - (b) a notice published in—
 - (i) a newspaper circulating generally throughout Queensland; and
 - (ii) a newspaper circulating generally in the area in which the temporary special management marine mammal the subject of the declaration is or is likely to be located.
- (5) The chief executive need not publish notice of the declaration under subsection (4)(b)(ii) if the chief executive is satisfied that publishing the notice under subsection (4)(b)(i) and (6) will give sufficient notice of the declaration to the people particularly affected by it, having regard to—
 - (a) the nature of the temporary special management marine mammal; and
 - (b) the area in which the mammal is or is likely to be located.
- (6) The chief executive—
 - (a) must also publish a copy of the notice on the department's website and, if practicable, on a sign erected—
 - (i) at or near a usual access point to an area in which the temporary special management marine mammal the subject of the declaration is or is likely to be located; or

- (ii) in a position that would normally be seen by a person accessing an area in which the temporary special management marine mammal the subject of the declaration is or is likely to be located; and
- (b) may publish the temporary special management declaration in any other way the chief executive considers appropriate.

Examples of other ways—

radio announcements, publication on other websites

368 Effect of declaration for a group of marine mammals

- (1) This section applies if all the marine mammals in a group are declared to be a temporary special management marine mammal.
- (2) Each of the marine mammals in the group is a special management marine mammal at all times the mammal is a member of the group.

369 Form of declaration

A declaration under section 367 must—

- (a) identify the marine mammal or marine mammals the subject of the declaration; and

Example of how a marine mammal may be identified—

naming the species of marine mammal and describing the unique characteristics of the mammal

- (b) state the reasons for the declaration; and
- (c) include the declarations under section 367(2)(b) applying to the marine mammal or marine mammals the subject of the declaration; and
- (d) state the nature of the offence against this regulation arising from each declaration mentioned in paragraph (c), and the maximum penalty under this regulation for the offence; and

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- (e) state the period for which the declaration will be in force.

370 Term of declaration

A declaration under section 367—

- (a) takes effect—
 - (i) when the notice for the declaration is published under section 367(4); or
 - (ii) if a later time is stated in the notice—at the later time; and
- (b) applies for the period stated in the notice.

371 Repeal of declaration

If the chief executive is satisfied the reason for making a declaration under section 367 no longer exists, the chief executive must repeal the declaration as soon as practicable.

Part 6 Stranded marine mammals

372 Reference to stranded marine mammal in pt 6

In this part a reference to a stranded marine mammal includes a reference to a marine mammal at risk of being stranded.

373 Powers of conservation officer

- (1) A conservation officer may take the measures the officer considers reasonably necessary to protect or deal with a stranded marine mammal.
- (2) Without limiting subsection (1), a conservation officer may—

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- (a) direct the treatment or, if necessary, the humane killing of a stranded marine mammal; or
 - (b) ask a person to move, or help move, a stranded marine mammal to another place for release or treatment.
- (3) Also, without limiting subsection (1), a conservation officer may direct a person, or a person in control of a boat, prohibited vessel, aircraft or vehicle, at a site where a marine mammal is stranded to—
- (a) keep a stated distance from the mammal; or
 - (b) move the boat, prohibited vessel, aircraft or vehicle in the person's control to a stated place or a stated distance from the mammal.
- (4) A person given a direction under subsection (2)(a) or (3) must comply with the direction unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (4)—165 penalty units.

374 Authorised taking, keeping or use of a stranded marine mammal that is dead or dies

If a stranded marine mammal is dead or dies—

- (a) the chief executive may, in writing, authorise—
 - (i) a person to take, keep or use the mammal to carry out scientific research; or
 - (ii) the Queensland Museum to take, keep or use the mammal to carry out the museum's research; and
- (b) the person or museum may take, keep or use the mammal as mentioned in the authority.

Schedule 1 Processed products

sections 317 and 318

Part 1 Preliminary

1 Definition for sch 1

In this schedule—

approved tag means a tag that the chief executive has supplied or approved, under chapter 8, part 2, for attaching to an animal to identify the animal as a processed product.

Part 2 Processed products made or derived from protected animals

2 Processed products made or derived from particular protected birds

A dried, freeze-dried, skinned, or chemically treated dead controlled, commercial, recreational or restricted bird if the bird was lawfully taken, kept and used and either—

- (a) the holder of a commercial wildlife licence has—
 - (i) mounted the dead bird; and
 - (ii) attached an approved tag to the dead bird; or
- (b) the bird was taken, kept and used in another State and is lawfully moved into the State.

3 Processed products made or derived from particular protected butterflies

- (1) A dead protected butterfly if—

-
- (a) the holder of a commercial wildlife licence or wildlife farming licence has—
 - (i) mounted the dead butterfly; or
 - (ii) placed the dead butterfly in resin or a resin-like substance; or
 - (b) the butterfly was taken, kept and used in another State and is lawfully moved into the State.
- (2) In this section—
- protected butterfly*** means—
- (a) a protected butterfly that—
 - (i) is a farm animal kept by the holder of a wildlife farming licence for the butterfly; and
 - (ii) was lawfully taken or bred from a butterfly that was lawfully taken; and
 - (iii) if the butterfly was taken or bred in another State—was lawfully moved into the State; or
 - (b) a protected butterfly that was lawfully taken, kept and used in a place outside the State.

4 Processed products made or derived from particular protected crocodiles

- (1) The following processed products—
- (a) the skinned carcass, or meat, of a dead protected crocodile lawfully obtained by a person from the holder of a commercial wildlife licence or wildlife farming licence if—
 - (i) the way the carcass or meat is packed complies with the requirements for packing the carcass or meat under the *Food Production (Safety) Act 2000*; and
 - (ii) the carcass or meat was lawfully moved from the holder to the person;
 - (b) the skinned carcass, or meat, of a dead protected

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- crocodile lawfully obtained by a person from a person in another State if—
- (i) the way the carcass or meat is packed complies with any applicable law of the other State; and
 - (ii) the carcass or meat is lawfully moved into the State to the person;
- (c) a fully tanned skin of a dead protected crocodile lawfully obtained by a person from the holder of a commercial wildlife licence or wildlife farming licence;
- (d) a fully tanned skin of a dead protected crocodile lawfully obtained by a person from a person outside the State if the skin has an export permit lawfully attached to it;
- (e) an egg of a dead protected crocodile if the egg—
- (i) has had its contents removed; and
 - (ii) has an export permit lawfully attached to it;
- (f) the whole skin of a dead protected crocodile if the skin—
- (i) is mounted by either of the following persons—
 - (A) the holder of a commercial wildlife licence;
 - (B) a person in another State who is authorised, under a law of that State, to mount the skin; and
 - (ii) is mounted in a way to display the crocodile in whole form; and
 - (iii) has an export permit lawfully attached to it;
- (g) the skull of a dead protected crocodile if the skull—
- (i) is prepared or mounted by 1 of the following persons—
 - (A) the holder of a commercial wildlife licence;
 - (B) a person outside the State who is authorised, under a law of that State, to prepare or mount the skull; and

- (ii) has an export permit lawfully attached to it;
 - (h) another product of a dead protected crocodile if—
 - (i) the product has an export permit lawfully attached to it; or
 - (ii) if the product is packed in a container—the container—
 - (A) is transparent; and
 - (B) has an export permit lawfully attached to it.
- (2) In this section—

protected crocodile means—

- (a) a protected crocodile that—
 - (i) is a farm animal kept by the holder of a wildlife farming licence for the crocodile; and
 - (ii) was lawfully taken or bred from a crocodile that was lawfully taken; and
 - (iii) if the crocodile was taken or bred in another State—was lawfully moved into the State; or
- (b) a protected crocodile that was lawfully taken, kept and used in a place outside the State.

5 Processed products made of or derived from particular protected emus

- (1) The following processed products—
- (a) the skinned carcass, or meat, of a dead protected emu lawfully obtained by a person from the holder of a commercial wildlife licence or wildlife farming licence for the emu if—
 - (i) the way the carcass or meat is packed complies with the requirements about packing the carcass or meat under the *Food Production (Safety) Act 2000*; and
 - (ii) the carcass or meat is lawfully moved from the holder to the person;

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- (b) the skinned carcass, or meat, of a dead protected emu lawfully obtained by a person from a person in another State if—
 - (i) the way the carcass or meat is packed complies with any applicable law of the other State; and
 - (ii) the carcass or meat is lawfully moved into the State;
 - (c) the whole skin of a dead protected emu if the skin is fleshed and tanned at the licensed premises for a commercial wildlife licence or wildlife farming licence for emus;
 - (d) the whole skin of a dead protected emu if the skin—
 - (i) is mounted by the holder of a commercial wildlife licence for a dead protected emu or a person in another State who is authorised, under a law of that other State, to mount the skin; and
 - (ii) is mounted in a way to display the emu in whole form; and
 - (iii) has an approved tag lawfully attached to it;
 - (e) the skin from the leg of a dead protected emu if the skin is fleshed and tanned at the licensed premises for a commercial wildlife licence or wildlife farming licence for emus;
 - (f) an egg of a live or dead protected emu if the egg—
 - (i) has had its contents removed; and
 - (ii) has an approved mark on it;
 - (g) a feather from a live or dead protected emu;
 - (h) oil or fat derived from a dead protected emu;
 - (i) a beak, foot or bone of a protected emu if the beak, foot or bone is in a sealed container with an approved label lawfully attached to it.
- (2) In this section—

approved label means a label that—

- (a) is of a size required for a product label under the emu code; and
- (b) includes all the information required for a product label under the emu code.

approved mark means a mark that—

- (a) is of a size and format approved by the chief executive for marks on emu eggs; and
- (b) includes all the information required under the emu code for marks on emu eggs.

emu code means the document called ‘Code of Practice—Emu Farming’, approved by the chief executive under section 174A of the Act.

Note—

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

protected emu means—

- (a) a protected emu that—
 - (i) is a farm animal kept by the holder of a wildlife farming licence for the emu; and
 - (ii) was lawfully taken or bred from an emu that was lawfully taken; and
 - (iii) if the emu was taken or bred in another State—was lawfully moved into the State; or
- (b) a protected emu that was lawfully taken, kept and used in a place outside the State.

6 Processed products made or derived from other protected animals

- (1) This section applies to a dead protected animal other than—
 - (a) a harvest macropod; and

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(b) an animal to which section 2, 3, 4 or 5 of this schedule applies.

(2) The following processed products—

(a) the skinned carcass, or meat, of a dead protected animal lawfully obtained by a person from the holder of a commercial wildlife licence for the animal if—

(i) the way the carcass or meat is packed complies with the requirements about packing the carcass or meat under the *Food Production (Safety) Act 2000*; and

(ii) the carcass or meat is lawfully moved from the holder to the person;

(b) the skinned carcass, or meat, of a dead protected animal lawfully obtained by the person from a person in another State if—

(i) the animal was lawfully taken, kept and used in the other State; and

(ii) the way the carcass or meat is packed complies with any applicable law of the other State; and

(iii) the carcass or meat is lawfully moved into the State;

(c) the skin of a dead protected animal if the animal was lawfully taken, kept and used and—

(i) the skin was fully tanned by the holder of a commercial wildlife licence or a recreational wildlife harvesting licence for the animal; or

(ii) the skin was lawfully obtained by a person from a place outside the State and the skin—

(A) was fully tanned by a person who is authorised, under a law of the place, to tan the animal; and

(B) is lawfully moved into the State;

(d) a dead protected animal if the animal—

(i) was lawfully taken, kept and used; and

Schedule 2 Special management declarations

sections 360 and 366

Part 1 Special management area

1 Description

The Whitsunday whale protection area described in the *Great Barrier Reef Marine Park Regulations 1983* (Cwlth), schedule 2, part 2.

2 Distance for no approach zone for whales

The stated distance for the no approach zone for a whale in the special management area is 300m.

Part 2 Special management marine mammals

1 Description

A humpback whale with a body pigmentation that is over 90% white in colour.

2 Distance for no approach zone

The stated distance for the no approach zone for the special management marine mammal is 500m.

3 Prescribed distances for prohibited vessel and aircraft

For the special management marine mammal—

- (a) the prescribed distance for a prohibited vessel is 500m;
and
- (b) the prescribed distance for an aircraft is 610m.

Schedule 3 Domestic animal

schedule 4, definition *domestic animal*

- 1 an alpaca, banteng cattle (*Bos banteng*), cattle (*Bos taurus* or *Bos indicus*), deer, llama or sheep
- 2 an apiary bee other than an indigenous bee
- 3 a camel, cat (*Felis catus*), dog (*Canis familiaris*), donkey, goat, guinea pig, horse, mule or pig
- 4 a captive bred domestic chicken, duck, goose or turkey, other than a chicken, duck, goose or turkey that is indigenous to Australia
- 5 the captive bred domestic form of the house mouse (*Mus musculus*) or brown rat (*Rattus norvegicus*)
- 6 the larval stage of *Ambystoma mexicanum*, commonly known as the Mexican walking fish or Axolotl
- 7 an ostrich, a peafowl or pheasant of the family Phasianidae, other than quail indigenous to Australia
- 8 The following birds—

Common name	Scientific name
Abyssinian yellow-rumped seedeater	<i>Serinus xanthopygius</i>
African silverbill	<i>Lonchura cantans</i>
Alexandrine parakeet	<i>Psittacula eupatria</i>
barred parakeet	<i>Bolborhynchus lineola</i>
black-and-white munia	<i>Lonchura bicolor</i>
black-capped lory	<i>Lorius lory</i>
black-capped parakeet	<i>Yrrhura rupicola</i>
black-capped siskin	<i>Carduelis atriceps</i>
black-headed munia	<i>Lonchura malacca</i>
black-headed parrot	<i>Pionites melanocephala</i>

Common name	Scientific name
black-headed siskin	<i>Carduelis notata</i>
black lory	<i>Chalcopsitta atra</i>
black-rumped waxbill	<i>Estrilda troglodytes</i>
black-winged lory	<i>Eos cyanogenia</i>
blossom-headed parakeet	<i>Psittacula roseata</i>
blue-and-yellow macaw	<i>Ara ararauna</i>
blue-black grassquit	<i>Volatinia jacarina</i>
blue-crowned hanging-parrot	<i>Loriculus galgulus</i>
blue-crowned parakeet	<i>Aratinga acuticaudata</i>
blue-fronted parrot	<i>Amazona aestiva</i>
blue-streaked lory	<i>Eos reticulata</i>
blue-throated parakeet	<i>Pyrrhura cruentata</i>
blue-winged macaw	<i>Ara maracana</i>
bronze munia	<i>Lonchura cucullata</i>
burrowing parakeet	<i>Cyanoliseus patagonus</i>
California quail	<i>Callipepla californica</i>
Canada goose	<i>Branta canadensis</i>
cardinal lory	<i>Chalcopsitta cardinalis</i>
chattering lory	<i>Lorius garrulus</i>
chestnut-fronted macaw	<i>Ara severa</i>
chukar	<i>Alectoris chukar</i>
common pheasant	<i>Phasianus colchicus</i>
common quail	<i>Coturnix coturnix</i>
common redpoll	<i>Carduelis flammea</i>
common waxbill	<i>Estrilda astrild</i>

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Common name	Scientific name
cordon bleus	<i>Uraeginthus</i> spp.
crimson-bellied parakeet	<i>Pyrrhura rhodogaster</i>
Cuban grassquit	<i>Tiaris canora</i>
Cuban parrot	<i>Amazona leucocephala</i>
cut-throat	<i>Amadina fasciata</i>
derbyan parakeet	<i>Psittacula derbiana</i>
dove, including ruddy turtle, senegal laughing, harlequin and pink-headed	<i>Streptopelia</i> spp.
dusky-headed parakeet	<i>Aratinga weddellii</i>
dusky lory	<i>Pseudeos fuscata</i>
Dybowski's twinspace	<i>Euschistospiza dybowskii</i>
eastern paradise whydah	<i>Vidua paradisaea</i>
Edwards' pheasant	<i>Lophura edwardsi</i>
Egyptian goose	<i>Alopochen aegyptiacus</i>
Eurasian linnet	<i>Carduelis cannabina</i>
Eurasian siskin	<i>Carduelis spinus</i>
Eurasian skylark	<i>Alauda arvensis</i>
European goldfinch	<i>Carduelis carduelis</i>
European greenfinch	<i>Carduelis chloris</i>
European serin	<i>Serinus serinus</i>
fan-tailed widowbird	<i>Euplectes axillaris</i>
fiery-shouldered parakeet	<i>Pyrrhura egregia</i>
golden-capped parakeet	<i>Aratinga auricapilla</i>
golden parakeet	<i>Aratinga guarouba</i>
goldie's lorikeet	<i>Psitteuteles goldiei</i>

Common name	Scientific name
great green macaw	<i>Ara ambigua</i>
green avadavat	<i>Amandava formosa</i>
green-cheeked parakeet	<i>Pyrrhura molinae</i>
green peafowl	<i>Pavo muticus</i>
green-winged pytilia	<i>Pytilia melba</i>
grey parrot	<i>Psittacus erithacus</i>
grey-capped greenfinch	<i>Carduelis sinica</i>
grey-headed munia	<i>Lonchura caniceps</i>
greylag goose	<i>Anser anser</i>
helmeted guineafowl	<i>Numida meleagris</i>
hooded siskin	<i>Carduelis magellanica</i>
house sparrow	<i>Passer domesticus</i>
hyacinth macaw	<i>Anodorhynchus hyacinthinus</i>
Indian peafowl	<i>Pavo cristatus</i>
island canary	<i>Serinus canaria</i>
jandaya parakeet	<i>Aratinga jandaya</i>
japanese quail	<i>Coturnix japonica</i>
javan munia	<i>Lonchura leucogastroides</i>
java sparrow	<i>Padda oryzivora</i>
Joby Island dove	<i>Gallicolumba jobiensis</i>
kalij pheasant	<i>Lophura leucomelanos</i>
lavender waxbill	<i>Estrilda caerulescens</i>
lilac-crowned parrot	<i>Amazona finschi</i>
love bird	<i>Agapornis spp.</i>
luzon bleeding-heart	<i>Gallicolumba luzonica</i>

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Common name	Scientific name
Madagascar red fody	<i>Foudia madagascariensis</i>
magpie munia	<i>Lonchura fringilloides</i>
malabar parakeet	<i>Psittacula columboides</i>
mallard	<i>Anas platyrhynchos</i>
mandarin duck	<i>Aix galericulata</i>
maroon-bellied parakeet	<i>Pyrrhura frontalis</i>
maroon-tailed parakeet	<i>Pyrrhura melanura</i>
meyer's parrot	<i>Poicephalus meyeri</i>
military macaw	<i>Ara militaris</i>
mindanao lorikeet	<i>Trichoglossus johnstoniae</i>
moluccan king-parrot	<i>Alisterus amboinensis</i>
monk parakeet	<i>Myiopsitta monachus</i>
muscovy duck	<i>Cairina moschata</i>
mute swan	<i>Cygnus olor</i>
namaqua dove	<i>Oena capensis</i>
nanday parakeet	<i>Nandayus nenday</i>
New Zealand scaup	<i>Aythya novaeseelandiae</i>
nicobar pigeon	<i>Caloenas nicobarica</i>
northern bobwhite	<i>Colinus virginianus</i>
olive-headed lorikeet	<i>Trichoglossus euteles</i>
orange-cheeked waxbill	<i>Estrilda melpoda</i>
orange-winged parrot	<i>Amazona amazonica</i>
oriental magpie-robin	<i>Copsychus saularis</i>
ornate lorikeet	<i>Trichoglossus ornatus</i>
Pacific parrotlet	<i>Forpus coelestis</i>

Common name	Scientific name
painted parakeet	<i>Pyrrhura picta</i>
paradise shelduck	<i>Tadorna variegata</i>
peach-fronted parakeet	<i>Aratinga aurea</i>
pearly parakeet	<i>Pyrrhura perlata</i>
pin-tailed parrotfinch	<i>Erythrura prasina</i>
pin-tailed whydah	<i>Vidua macroura</i>
plain-backed sparrow	<i>Passer flaveolus</i>
plum-headed parakeet	<i>Psittacula cyanocephala</i>
purple-naped lory	<i>Lorius domicella</i>
razor-billed curassow	<i>Mitu tuberosa</i>
red-and-blue lory	<i>Eos histrio</i>
red-and-green macaw	<i>Ara chloropterus</i>
red avadavat	<i>Amandava amandava</i>
red-bellied macaw	<i>Ara manilata</i>
red-bellied parrot	<i>Poicephalus rufiventris</i>
red-billed firefinch	<i>Lagonosticta senegala</i>
red-billed leiothrix	<i>Leiothrix lutea</i>
red bishop	<i>Euplectes orix</i>
red-breasted parakeet	<i>Psittacula alexandri</i>
red-crested cardinal	<i>Paroaria coronata</i>
red-crested finch	<i>Coryphospingus cucullatus</i>
red-crowned parrot	<i>Amazona viridigenalis</i>
red-faced pytilia	<i>Pytilia hypogrammica</i>
red-fan parrot	<i>Deropterus accipitrinus</i>
red-fronted macaw	<i>Ara rubrogenys</i>

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Common name	Scientific name
red-fronted parakeet	<i>Cyanoramphus novaezelandiae</i>
red-fronted parrot	<i>Poicephalus gularis</i>
red-headed finch	<i>Amadina erythrocephala</i>
red-headed fody	<i>Foudia eminentissima</i>
red-headed parrotfinch	<i>Erythrura cyaneovirens</i>
red junglefowl	<i>Gallus gallus</i>
red-lored parrot	<i>Amazona autumnalis</i>
red lory	<i>Eos bornea</i>
red-shouldered macaw	<i>Ara nobilis</i>
red siskin	<i>Carduelis cucullata</i>
red-throated parrotfinch	<i>Erythrura psittacea</i>
red-winged pytilia	<i>Pytilia phoenicoptera</i>
rock partridge	<i>Alectoris graeca</i>
rock pigeon	<i>Columba livia</i>
rose-ringed parakeet	<i>Psittacula krameri</i>
ruddy ground-dove	<i>Columbina talpacoti</i>
ruddy shelduck	<i>Tadorna ferruginea</i>
saffron finch	<i>Sicalis flaveola</i>
salmon-crested cockatoo	<i>Cacatua moluccensis</i>
scaly-breasted munia	<i>Lonchura punctulata</i>
scarlet macaw	<i>Ara macao</i>
senegal parrot	<i>Poicephalus senegalus</i>
Siamese fireback	<i>Lophura diardi</i>
silver-eared mesia	<i>Leiothrix argentauris</i>
silver pheasant	<i>Lophura nycthemera</i>

Common name	Scientific name
slaty-headed parakeet	<i>Psittacula himalayana</i>
southern yellow-rumped seedeater	<i>Serinus atrogularis</i>
Sudan golden-sparrow	<i>Passer luteus</i>
sun parakeet	<i>Aratinga solstitialis</i>
swan goose	<i>Anser cygnoides</i>
swinhoe's pheasant	<i>Lophura swinhoii</i>
thick-billed parrot	<i>Rhynchopsitta pachyrhyncha</i>
tricolored parrotfinch	<i>Erythrura tricolor</i>
Victoria crowned-pigeon	<i>Goura victoria</i>
violet-necked lory	<i>Eos squamata</i>
white-bellied canary	<i>Serinus dorsostriatus</i>
white-bellied parrot	<i>Pionites leucogaster</i>
white-bibbed ground-dove	<i>Gallicolumba jobiensis</i>
white cockatoo	<i>Cacatua alba</i>
white-eared parakeet	<i>Pyrrhura leucotis</i>
white-fronted parrot	<i>Amazona albifrons</i>
white-headed munia	<i>Lonchura maja</i>
white-rumped munia	<i>Lonchura striata</i>
white-rumped seedeater	<i>Serinus leucopygius</i>
white-rumped shama	<i>Copsychus malabaricus</i>
white-throated munia	<i>Lonchura malabarica</i>
wild turkey	<i>Meleagris gallopavo</i>
wood duck	<i>Aix sponsa</i>
yellow-bibbed lory	<i>Lorius chlorocercus</i>
yellow-billed cardinal	<i>Paroaria capitata</i>

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Common name	Scientific name
yellow-billed lorikeet	<i>Neopsittacus musschenbroekii</i>
yellow-breasted greenfinch	<i>Carduelis spinoides</i>
yellow canary	<i>Serinus flaviventris</i>
yellow cardinal	<i>Gubernatrix cristata</i>
yellow-collared macaw	<i>Ara auricollis</i>
yellow-crowned bishop	<i>Euplectes afer</i>
yellow-crowned parrot	<i>Amazona ochrocephala</i>
yellow-fronted canary	<i>Serinus mozambicus</i>
yellow-fronted parakeet	<i>Cyanoramphus auriceps</i>
yellow-rumped siskin	<i>Carduelis uropygialis</i>
zebra waxbill	<i>Amandava subflava</i>

Schedule 4 Relevant protected animals

schedule 5, definitions *exempt animal*, *controlled animal*, *commercial animal*, *recreational animal*, *relevant protected animal* and *restricted animal*

Part 1 Exempt animals

1 Birds

The following birds are exempt animals—

Common name	Scientific name
Australian ringneck or twenty-eight parrot	<i>Barnardius zonarius semitorquatus</i>
Bourke's parrot	<i>Neophema bourkii</i>
brown quail	<i>Coturnix ypsilophora</i>
budgerigar	<i>Melopsittacus undulates</i>
cockatiel or quarrion	<i>Nymphicus hollandicus</i>
diamond dove	<i>Geopelia cuneata</i>
elegant parrot	<i>Neophema elegans</i>
galah	<i>Cacatua roseicapilla</i>
Gouldian finch	<i>Erythrura gouldiae</i>
king quail	<i>Coturnix chinensis</i>
little corella	<i>Cacatua sanguinea</i>
long-billed corella	<i>Cacatua tenuirostris</i>
peaceful dove	<i>Geopelia striata</i>
princess parrot or Alexandra's parrot	<i>Polytelis alexandrae</i>
rainbow lorikeet	<i>Trichoglossus haematodus haematodus</i>

Common name	Scientific name
red-rumped parrot	<i>Psephotus haematonotus</i>
scarlet-chested parrot	<i>Neophema splendida</i>
star finch, other than the eastern subspecies	<i>Neochmia ruficauda</i> , other than <i>N. r. ruficauda</i>
stubble quail	<i>Coturnix pectoralis</i>
sulphur-crested cockatoo	<i>Cacatua galerita</i>
western corella	<i>Cacatua pastinator</i>
zebra finch	<i>Taeniopygia guttata</i>

Part 2 Controlled animals

2 Birds

The following birds are controlled animals—

Common name	Scientific name
Adelaide rosella	<i>Platycercus elegans adelaidae</i>
bar-shouldered dove	<i>Geopelia humeralis</i>
black-throated finch	<i>Poephila cincta</i>
blue-faced parrot finch	<i>Erythrura trichroa</i>
chestnut-breasted mannikin	<i>Lonchura castaneothorax</i>
common bronzewing	<i>Phaps chalcoptera</i>
crested pigeon	<i>Ocyphaps (Geophaps) lophotes</i>
crimson rosella	<i>Platycercus elegans elegans</i>
diamond firetail	<i>Stagonopleura guttata</i>
double-barred finch	<i>Taeniopygia bichenovii</i>

Common name	Scientific name
eastern rosella	<i>Latycercus eximius</i>
emerald dove	<i>Chalcophaps indica</i>
hooded parrot	<i>Psephotus dissimilis</i>
little button-quail	<i>Turnix velox</i>
long-tailed finch	<i>Poephila acuticauda</i>
mallee ringneck	<i>Barnardius zonarius barnardi</i>
masked finch	<i>Poephila personata</i>
musk lorikeet	<i>Glossopsitta concinna</i>
painted button-quail	<i>Turnix varia</i>
painted finch	<i>Emblema pictum</i>
pale-headed rosella	<i>Platycercus adscitus</i>
Port Lincoln ringneck	<i>Barnardius zonarius zonarius</i>
rainbow (red-collared) lorikeet	<i>Trichoglossus haematodus rubritorquatus</i>
red-capped parrot	<i>Purpureicephalus spurius</i>
scaly-breasted lorikeet	<i>Trichoglossus chlorolepidotus</i>
turquoise parrot	<i>Neophema pulchella</i>
western rosella	<i>Platycercus icterotis</i>
yellow rosella	<i>Platycercus elegans flaveolus</i>

Part 3 Commercial animals

3 Birds

The following birds are commercial animals—

Common name	Scientific name
Australian ringneck or Cloncurry parrot	<i>Barnardius zonarius macgillivrayi</i>
beautiful firetail	<i>Stagonopleura bellum</i>
black-breasted button-quail	<i>Turnix melanogaster</i>
blue bonnet, other than the narethae subspecies	<i>Northiella haematogaster</i> , other than <i>N.h. narethae</i>
blue-winged parrot	<i>Neophema chrysostoma</i>
brown cuckoo-dove	<i>Macropygia amboinensis</i>
brush bronzewing	<i>Phaps elegans</i>
chestnut quilled rock-pigeon	<i>Petrophassa rufipennis</i>
crimson finch	<i>Neochmia phaeton</i>
flock bronzewing	<i>Phaps histrionica</i>
golden-shouldered parrot	<i>Psephotus chrysopterygius</i>
king parrot	<i>Alisterus scapularis</i>
little lorikeet	<i>Glossopsitta pusilla</i>
mulga parrot	<i>Psephotus varius</i>
northern rosella	<i>Platycercus venustus</i>
pictorella mannikin	<i>Heteromunia pectoralis</i>
pied imperial-pigeon	<i>Ducula bicolor</i>
plum-headed finch	<i>Neochmia modesta</i>
purple-crowned lorikeet	<i>Glossopsitta porphyrocephala</i>
red-backed button-quail	<i>Turnix maculosa</i>

Common name	Scientific name
red-browed finch	<i>Neochmia temporalis</i>
red-chested button-quail	<i>Turnix pyrrhothorax</i>
red-winged parrot	<i>Aprosmictus erythropterus</i>
regent parrot	<i>Polytelis anthopeplus</i>
rock parrot	<i>Neophema petrophila</i>
spinifex pigeon	<i>Geophaps plumifera</i>
squatter pigeon	<i>Geophaps scripta</i>
superb parrot	<i>Polytelis swainsonii</i>
varied lorikeet	<i>Psitteuteles versicolor</i>
white-headed pigeon	<i>Columba leucomela</i>
white-quilled rock-pigeon	<i>Petrophassa albipennis</i>
wonga pigeon	<i>Leucosarcia melanoleuca</i>
yellow-rumped mannikin	<i>Lonchura flaviprymna</i>

4 Invertebrates

The following invertebrates are commercial animals—

- (a) all protected spiders;
- (b) all protected scorpions.

5 Reptiles

The following reptiles are commercial animals—

Common name	Scientific name
The following reptiles of the family Agamidae—	
central netted dragon	<i>Ctenophorus nuchalis</i>
inland bearded dragon	<i>Pogona vitticeps</i>

Common name

Scientific name

[no common name]

Pogona henrylawsoni

The following reptiles of the family Scincidae—

Cunningham's skink

Egernia cunninghami

eastern blue-tongued lizard

Tiliqua scincoides

pink-tongued lizard

Hemisphaeriodon gerrardii

The following reptiles of the family Chelidae—

eastern snake-necked turtle

Chelodina longicollis

Kreffft's river turtle

Emydura krefftii

Murray turtle

Emydura macquarii

saw-shelled turtle

Elseya latisternum

The following reptiles of the family Geckonidae—

[no common name]

Nephrurus amya

[no common name]

Nephrurus levis

thick-tailed gecko

Underwoodisaurus milii

rough knob-tailed gecko

Nephrurus asper

The following reptiles of the family Boidae—

children's python

Liasis childreni

spotted python

Liasis maculosus

Stimpson's python

Liasis stimpsoni

Part 4 Recreational animals

6 Amphibians

A least concern amphibian is a recreational animal.

7 Birds

The following birds are recreational animals—

Common name	Scientific name
Australasian shoveler	<i>Anas rhynchotis</i>
Australian shelduck	<i>Tadorna tadornoides</i>
black duck	<i>Anas superciliosa</i>
black swan	<i>Cygnus atratus</i>
blue-billed duck	<i>Oxyura australis</i>
Cape Barren goose	<i>Cereopsis novaehollandiae</i>
chestnut teal	<i>Anas castanea</i>
green pygmy-goose	<i>Nettapus pulchellus</i>
grey teal	<i>Anas gracilis</i>
hardhead	<i>Aythya australis</i>
magpie goose	<i>Anseranas semipalmata</i>
maned duck or wood duck	<i>Chenonetta jubata</i>
pink-eared duck	<i>Malacorhynchus membranaceus</i>
plumed whistling-duck	<i>Dendrocygna eytoni</i>
radjah shelduck	<i>Tadorna radjah</i>
wandering whistling-duck	<i>Dendrocygna arcuata</i>

8 Reptiles

A least concern reptile, other than a reptile that is a restricted reptile, is a recreational animal.

Part 5 Restricted animals

9 Amphibians

A threatened or near threatened amphibian is a restricted animal.

10 Birds

The following birds are restricted animals—

Common name	Scientific name
Australian magpie (black-backed)	<i>Gymnorhina tibicen tibicen</i>
banded lapwing	<i>Vanellus tricolor</i>
buff-breasted button-quail	<i>Turnix olivii</i>
eclectus parrot (Australian subspecies)	<i>Eclectus roratus macgillivrayi</i>
figbird	<i>Specothes viridis</i>
gang gang cockatoo	<i>Callocephalon fimbriatum</i>
glossy black-cockatoo	<i>Calyptorhynchus lathami</i>
green rosella	<i>Platycercus caledonicus</i>
long-billed black-cockatoo	<i>Calyptorhynchus baudinii</i>
Macleay's fig parrot	<i>Cyclopsita diopthalma macleayana</i>
Major Mitchell's cockatoo (pink cockatoo)	<i>Cacatua leadbeateri</i>
masked lapwing	<i>Vanellus miles</i>
naretha blue bonnet	<i>Northiella haematogaster naretha</i>

Common name	Scientific name
partridge pigeon	<i>Geophaps smithii</i>
red-eared firetail	<i>Tagonopleura oculata</i>
red-tailed black-cockatoo	<i>Calyptorhynchus banksii</i>
red wattlebird	<i>Anthochaera carunculata</i>
rose-crowned fruit-dove	<i>Ptilinopus regina</i>
scarlet honeyeater	<i>Myzomela sanguinolenta</i>
short-billed (white-tailed) black-cockatoo	<i>Calyptorhynchus latirostris</i>
silvereve (grey-backed)	<i>Zosterops lateralis</i>
splendid fairy-wren	<i>Malurus splendens</i>
spotted pardalote	<i>Pardalotus punctatus</i>
superb fairy-wren	<i>Malurus cyaneus</i>
superb fruit-dove	<i>Ptilinopus superbus</i>
swift parrot	<i>Lathamus discolor</i>
topnot pigeon	<i>Lopholaimus antarcticus</i>
variegated fairy-wren	<i>Malurus lamberti</i>
white-winged fairy-wren	<i>Malurus leucopterus</i>
wompoo fruit-dove	<i>Ptilinopus magnificus</i>
yellow-tailed black-cockatoo	<i>Calyptorhynchus funereus</i>

11 Reptiles

The following reptiles are restricted animals—

- (a) a threatened or near threatened reptile other than the following—
 - (i) a reptile of the family Cheloniidae;
 - (ii) a reptile of the family Dermochelyidae;

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- (iii) an estuarine crocodile (*Crocodylus porosus*);
- (iv) a freshwater crocodile (*Crocodylus johnstoni*);
- (b) a reptile of the family Hydrophiidae;
- (c) a reptile of the family Laticaudidae;
- (d) the following reptiles of the family Elapidae—

Common name	Scientific name
black snakes	<i>Pseudechis</i> spp.
broad-headed snakes	<i>Hoplocephalus</i> spp.
brown snakes	<i>Pseudonaja</i> spp.
Collett's snake	<i>Pseudechis colletti</i>
copperheads	<i>Austrelaps</i> spp.
death adders	<i>Acanthopis</i> spp.
eastern small-eyed snake	<i>Rhinoplocephalus nigriscens</i>
rough scaled snake	<i>Tropidechis carinatus</i>
taipans	<i>Oxyuranus</i> spp.
tiger snakes	<i>Notechis</i> spp.

Schedule 5 Dictionary

section 5(1)

Aboriginal people particularly concerned with the land means Aborigines particularly concerned with land within the meaning given by the *Aboriginal Land Act 1991*, section 4.

accept, wildlife, does not include—

- (a) take the wildlife; and
- (b) for the holder of a wildlife authority—accept the wildlife from a relevant person for the holder who has taken the wildlife under the authority.

Administration Regulation means the *Nature Conservation (Administration) Regulation 2006*.

animal breeding place, of an animal, means a bower, burrow, cave, hollow, nest or other thing that is commonly used by the animal to incubate or rear the animal's offspring.

approved display purpose, for a display of an animal, means any of the following—

- (a) to give public information about the ecological role of the animal;
- (b) to promote education about, and the conservation of, the animal;
- (c) to promote an understanding of ecology and the conservation of the animal.

approved interaction plan, for a species of protected animal, means a plan that is—

- (a) about interacting with animals of the species; and
- (b) approved by the chief executive.

approved method, for taking an animal under a commercial wildlife harvesting licence or recreational wildlife harvesting licence, means—

Schedule 5

- (a) if the chief executive has written the way the animal may be taken on the licence—the method written on the licence; or
- (b) otherwise—
 - (i) a method that is mentioned in a relevant code of practice for the animal as a method by which the animal may be taken; or
 - (ii) another method consistent with the *Animal Care and Protection Act 2001*.

approved tag, for schedule 1, see schedule 1, section 1.

approved way—

- (a) for chapter 4, part 3, division 3—see section 252; or
- (b) for chapter 4, part 3, division 4—see section 257.

authorised buyer, for wildlife, means a person who is authorised to keep the wildlife under the Act, including a person authorised, under the Act, to keep the wildlife in another State or country.

authorised cultivator means a person approved under section 299 to be an authorised cultivator.

authorised display means a show or display that—

- (a) is not conducted for a commercial purpose; and
- (b) lasts for not longer than 11 days.

authorised interstate seller, for wildlife, means a person who—

- (a) is authorised to sell or give away the wildlife under a law of another State; and
- (b) does not hold a wildlife authority authorising the person to sell or give away the wildlife.

authorised keeper in another country, for an animal of a species, means—

- (a) a person who is specifically authorised to keep an animal of the species in the other country under a law of that country; and

-
- (b) a person who is not prohibited from keeping an animal of the species in the other country under the laws of that country.

authorised keeper in another State, for an animal of a species, means—

- (a) a person who is specifically authorised to keep an animal of the species in the other State under a law of that State; and
- (b) a person who is not prohibited from keeping an animal of the species in the other State under the laws of that State.

authorised premises, for an animal, means premises where the animal is authorised to be kept under the Act.

authorised propagator means a person approved under section 299 to be an authorised propagator.

biodiscovery see the *Biodiscovery Act 2004*, schedule.

boat does not include a prohibited vessel.

caution zone—

- 1 The *caution zone* for a marine mammal is—
- (a) for a special management marine mammal, if the special management declaration for the mammal includes a stated distance for the caution zone for the mammal—an area outside the no approach zone for the mammal but within the stated distance from the mammal; or
- (b) for a marine mammal in a special management area, if the special management declaration for the area includes a stated distance for the caution zone for the mammal—an area outside the no approach zone for the mammal but within the stated distance from the mammal; or
- (c) for a whale other than a whale to which paragraph (a) or (b) applies—an area outside the no approach zone for the whale but within a distance of 300m from the whale; or

(d) for a dolphin other than a dolphin to which paragraph (a) or (b) applies—an area outside the no approach zone for the dolphin but within a distance of 150m from the dolphin.

2 However, there is no caution zone for a marine mammal mentioned in paragraph 1 if, because of a special management declaration, there is no area that is outside the no approach zone and within the distance mentioned in paragraph 1 for the mammal.

code requirements, for an exhibit for an animal, means the requirements under the exhibition code for the facilities associated with an exhibit for the animal, to the extent the requirements are not inconsistent with the prescribed criteria for the exhibit.

commercial animal means a protected animal mentioned in schedule 4, part 3.

commercial purpose see section 6.

controlled animal means a protected animal mentioned in schedule 4, part 2.

controlled conditions—

- (a) for chapter 4, part 3, division 3—see section 252; or
- (b) for chapter 4, part 3, division 4—see section 257.

disturb, an animal, includes—

- (a) approach, harass, harm, lure, pursue, tease or touch the animal; and
- (b) attempt to do an act mentioned in paragraph (a).

dolphin means a member of the family Delphinidae or the family Phocoenidae.

domestic animal means an animal mentioned in schedule 2.

drive away, a flying-fox from a flying-fox roost, see section 88C(6) of the Act.

dugong means the mammal *Dugong dugon*.

estuarine crocodile means an animal of the species *Crocodylus porosus*.

Estuarine Crocodile Conservation Plan means the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007*.

exempt animal means a protected animal mentioned in schedule 4, part 1.

exhibition code means the document called ‘Code of practice of the Australasian Regional Association of Zoological Parks and Aquaria—Minimum standards for exhibiting wildlife in Queensland’, approved by the chief executive under section 174A of the Act.

Note—

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

exhibit notice, for a person who has applied, or intends to apply, for a wildlife exhibitor licence, means a notice—

- (a) describing the design of the facilities the person has built, or intends to build, for housing or displaying the animal for which the application has been, or will be, made; and
- (b) stating how the exhibit in which the animal will be displayed, and the facilities for housing or displaying the animal, comply, or will comply, with the code requirements for an exhibit for the animal.

export agreement see section 306(1).

export permit means a permit to export issued under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

feed, in relation to an animal, includes—

- (a) use food to tease or lure the animal; and
- (b) attempt to feed the animal.

flying-fox means a protected animal of the genus *Pteropus*.

flying-fox damage mitigation code means the document called ‘Code of practice—Ecologically sustainable lethal take of flying-foxes for crop protection’, approved by the chief executive under section 174A of the Act.

Note—

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

flying-fox roost see section 88C(6) of the Act.

Great Barrier Reef Marine Park means the Great Barrier Reef Marine Park established under the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

helicopter includes a gyrocopter.

interact, with an animal, includes the following—

- (a) approach, pursue or lure an animal for interacting with or feeding the animal;
- (b) gain a benefit from interacting with or feeding the animal;
- (c) attempt to do an act mentioned in paragraph (a) or (b).

Koala Conservation Plan means the *Nature Conservation (Koala) Conservation Plan 2006*.

marine mammal means a dolphin, dugong or whale.

marine turtle means a turtle of the family Cheloniidae or Dermochelyidae.

meat, of an animal, includes the flesh and offal of the animal.

military standing order means a standing order that—

- (a) is a general order under the *Defence Force Discipline Act 1982* (Cwlth); and
- (b) includes provisions relating to training members of a part of the Australian Defence Force about survival in the wild.

Note—

A copy of the relevant military standing orders may be inspected at the department's head office.

motorised diving aid means a vessel that has a motor and is used to aid diving.

Examples—

a diver propulsion vehicle, an underwater scooter

movement, of wildlife, means a continuous journey between 2 places that is broken only for a stop that is necessary or incidental for the journey.

Examples of stops necessary or incidental for a journey—

- 1 a stop ordinarily made by persons in transit for food, rest, bathing or using toilet facilities
- 2 a stop for feeding, cleaning or resting an animal being transported
- 3 a stop for placing wildlife to be moved to another country in quarantine
- 4 a stop for placing a live animal to be moved to another country in facilities to acclimatise the animal for the other country's conditions

movement advice means a movement advice in the approved form under the Administration Regulation, section 165.

native animal means any taxon or species of animal indigenous to Australia, including, for example, a dingo (*Canis familiaris dingo*).

natural product, of an animal, means a product that is shed, lost or excreted by the animal without any human inducement or other human intervention.

Examples of natural products—

- feathers of a bird that the bird naturally sheds or loses
- skin of a snake that is naturally shed by the snake
- teeth of a snake that are naturally passed in the faeces of the snake

no approach zone means—

- (a) for a special management marine mammal, if the special management declaration for the mammal includes a stated distance for the no approach zone for the mammal—the stated distance; or

Schedule 5

- (b) for a marine mammal in a special management area, if the special management declaration for the area includes a stated distance for the no approach zone for the mammal—the stated distance; or
- (c) for a whale other than a whale to which paragraph (a) or (b) applies—
 - (i) 100m from the whale; or
 - (ii) 300m from any point within an arc of 30 degrees from either side of the front or rear of the whale; or
- (d) for a dolphin other than a dolphin to which paragraph (a) or (b) applies—
 - (i) 50m from the dolphin; or
 - (ii) 150m from any point within an arc of 30 degrees from either side of the front or rear of the dolphin.

person in control, of a boat, prohibited vessel, or aircraft, includes—

- (a) the person in command of the boat, vessel, or aircraft; or
- (b) the person who appears to be in control or command of the boat, vessel, or aircraft.

prescribed criteria, for an exhibit for an animal, means each of the following—

- (a) the exhibit is, or will be, used to display the animal only for an approved display purpose for the animal;
- (b) the exhibit is, or will be, located at a place that is appropriate for the approved display purpose;
- (c) the exhibit is, or will be, of a size and design that will allow the animal to behave in a way reasonably similar to which the animal would behave in the wild in normal environmental conditions;
- (d) the exhibit is, or will be, located in a place, and is, or will be, built in a way, that—
 - (i) will allow the animal to experience environmental conditions similar to the conditions the animal would experience in the wild; and

- (ii) will not expose the animal to excessive noise or vibration or otherwise cause the animal to experience unreasonable stress levels;
- (e) the exhibit will be at an appropriate temperature and humidity level to ensure the health and wellbeing of the animal is maintained;
- (f) the exhibit has, or will have, a part that may be used to house the animal for long periods away from the part of the exhibit used to display animals.

prescribed natural habitat, for an animal, means—

- (a) if a conservation plan includes a definition of a ‘prescribed natural habitat’ for the animal—a habitat within the meaning of the definition; or

Note—

For koalas, see the Koala Conservation Plan, schedule 2.

- (b) if paragraph (a) does not apply—an appropriate natural habitat for the animal.

prescribed protected animal means—

- (a) a live mammal that is a protected animal; and
- (b) a fertilised egg of a mammal that is a protected animal.

problem crocodile see the Estuarine Crocodile Conservation Plan, section 6.

prohibited vessel means a hovercraft, hydrofoil, jet ski, motorised diving aid, parasail or wing in ground effect craft.

propagator’s tag, for a whole protected plant, means a tag supplied by the authorised propagator who propagated the plant that—

- (a) is of a design approved by the chief executive; and
- (b) is a minimum of 100mm by 10mm in size; and
- (c) includes the following information—
 - (i) the scientific name and, if the plant has a common name, the common name of the plant;
 - (ii) the propagator’s authorisation number;

(iii) the year in which the plant was propagated.

public place means—

- (a) a place, or part of a place, that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or
- (b) a place, or part of a place, other than a place of residence or part of a place of residence, the occupier of which allows members of the public to enter, whether or not on payment of money.

rail government entity see the *Transport Infrastructure Act 1994*, schedule 6.

record means a record in a form complying with the Administration Regulation, section 121.

record-keeping period, for a record or other document, means the period for which the record or document is required to be kept under the Administration Regulation, section 162.

recreational animal means a protected animal mentioned in schedule 4, part 4.

relevant code of practice, for an animal, means a code of practice that—

- (a) relates to animals of the same species as the animal, to the extent the code of practice provides for the way in which the animals must be kept or used; and
- (b) has been approved or made by the chief executive under section 174A of the Act.

relevant protected animal means an animal mentioned in schedule 4.

reptile and amphibian code means the document called ‘Code of Practice—Captive Reptile and Amphibian Husbandry’, approved by the chief executive under section 174A of the Act.

Note—

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

restricted animal means a protected animal mentioned in schedule 4, part 5.

return of operations means a return of operations in a form complying with the Administration Regulation, section 131.

scientific purpose includes an archaeological, anthropological or sociological purpose.

shark means a cartilaginous fish of the superorder Euselachii.

skinned carcass, of an animal, means the carcass of the animal with the skin removed.

special management area means—

- (a) an area declared to be a special management area under section 360(1); or
- (b) an area declared to be a temporary special management area under section 361.

special management declaration means—

- (a) for a special management area—a declaration under section 360(1) or 361; or
- (b) for a special management marine mammal—a declaration under section 366(1) or 367.

special management marine mammal means—

- (a) a marine mammal declared to be a special management marine mammal under section 366(1); or
- (b) a marine mammal declared to be a temporary special management marine mammal under section 367.

special native animal means—

- (a) echidna (*Tachyglossus aculeatus*); and
- (b) koala (*Phascolarctos cinereus*); and
- (c) platypus (*Ornithorhynchus anatinus*); and
- (d) wombat (Family Vombatidae).

State museum means a non-profit institution that—

Schedule 5

- (a) is owned or administered by the Commonwealth or a State; and
- (b) has, as a function, the preservation of information in any branch of the natural sciences about animals.

stock plant means a plant taken in the wild—

- (a) under a commercial wildlife harvesting licence; and
- (b) for providing propagative material by—
 - (i) dividing the plant; or
 - (ii) removing the seed, cuttings or propagative material from the plant.

stranded, for a marine mammal, means the mammal is—

- (a) aground on a shore; or
- (b) in a helpless state; or

Examples of a marine mammal in a helpless state—

- an entangled marine mammal
- an incapacitated marine mammal

- (c) sick, injured or dead.

temporary display means a display that lasts for not more than 14 days.

Torres Strait Islanders particularly concerned with land means Torres Strait Islanders particularly concerned with land within the meaning given by the *Torres Strait Islander Land Act 1991*, section 4.

unauthorised interaction see section 7.

unpack, in relation to a product, does not include removing a mark, label, tag or other thing that has been directly placed on, or attached to, the product.

use—

- (a) for an animal—does not include the following—
 - (i) process the animal;
 - (ii) move the animal;

(iii) for a protected animal in the wild—engage in an unauthorised interaction for the animal; and

(b) for a protected plant—does not include move the plant.

veterinary surgeon means a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1936*.

voluntary wildlife care association means a corporation whose objects include—

(a) the voluntary rehabilitation of sick, injured or orphaned protected animals and, if possible, the return of the animals to the wild; and

(b) the conservation of native animals.

wake means a breaking wave created in water by a moving boat or prohibited vessel.

weapon see the *Weapons Act 1990*, schedule 2.

whale means a cetacean of the family Balaenidae, Balaenopteridae, Kogiidae, Physeteridae or Ziphiidae.

wing in ground effect craft means a vessel constructed to move above the surface of the water using ground effect to lift off, land and maintain a limited altitude.

wildlife authority does not include—

(a) a commercial wildlife licence (wildlife interaction); and

(b) a wildlife movement permit.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the *Reprints Act 1992*, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 10 May 2013. Future amendments of the *Nature Conservation (Wildlife Management) Regulation 2006* may be made in accordance with this reprint under the *Reprints Act 1992*, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised version
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3237 0466 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments included	Effective	Notes
0A	none	21 August 2006	
1	2006 SL No. 223	31 August 2006	
1A	2006 SL No. 209	2 October 2006	
1B	2007 SL No. 159	1 July 2007	
1C	2008 SL No. 21	8 February 2008	

Endnotes

Reprint No.	Amendments included	Effective	Notes
1D	2007 SL No. 301	1 March 2008	
1E	2008 SL No. 207	1 July 2008	R1E withdrawn, see R2
2	—	1 July 2008	
2A	2008 SL No. 282	1 September 2008	
2B	2009 SL No. 98	1 July 2009	
2C	2010 SL No. 93	21 May 2010	
2D	2010 Act No. 19	23 May 2010	
2E	2010 SL No. 162	1 August 2010	R2E withdrawn, see R3
3	—	1 August 2010	
3A	2011 SL No. 135	1 August 2011	
3B	2011 Act No. 18	1 January 2012	
3C	2012 Act No. 116	1 August 2012	
3D	2012 SL No. 153	7 September 2012	

Current as at	Amendments included	Notes
3 May 2013	2013 Act No. 19	
10 May 2013	2013 SL No. 61	

5 List of legislation

Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

Nature Conservation (Wildlife Management) Regulation 2006 SL No. 205

made by the Governor in Council on 10 August 2006

notfd gaz 11 August 2006 pp 1725–8

ss 1–2 commenced on date of notification

remaining provisions commenced 21 August 2006 (see s 2)

exp 1 September 2016 (see SIA s 54)

- Notes—
- (1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.
 - (2) A regulatory impact statement and explanatory note were prepared.
 - (3) The regulatory impact statement applies to 2006 SL Nos. 203, 204, 205 and 206.

amending legislation—

Nature Conservation and Other Legislation Amendment Regulation (No. 1) 2006 SL No. 209 pts 1, 4

notfd gaz 11 August 2006 pp 1725–8

ss 1–2 commenced on date of notification
remaining provisions commenced 2 October 2006 (see s 2)

Marine Parks Regulation 2006 SL No. 223 ss 1–2, pt 12 div 4

notfd gaz 18 August 2006 pp 1821–5
ss 1–2 commenced on date of notification
remaining provisions commenced 31 August 2006 (see s 2)

Environmental Protection Legislation Amendment Regulation (No. 1) 2007 SL No. 159 pts 1, 8

notfd gaz 29 June 2007 pp 1157–65
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2007 (see s 2)

Nature Conservation Legislation Amendment Regulation (No. 2) 2007 SL No. 301 pts 1, 3

notfd gaz 30 November 2007 pp 1824–6
ss 1–2 commenced on date of notification
s 9 (amdt of s 182) commenced 1 March 2008 (amdt could not be given effect)
remaining provisions commenced 1 March 2008 (see s 2)

Environmental Protection Legislation Amendment Regulation (No. 1) 2008 SL No. 21 pts 1, 4

notfd gaz 8 February 2008 pp 588–9
commenced on date of notification

Environmental Protection Legislation Amendment Regulation (No. 2) 2008 SL No. 207 pts 1, 9

notfd gaz 27 June 2008 pp 1268–78
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2008 (see s 2)

Transport and Other Legislation Amendment Regulation (No. 1) 2008 SL No. 282 ss 1–2(1), pt 4

notfd gaz 29 August 2008 pp 2831–5
ss 1–2 commenced on date of notification
remaining provisions commenced 1 September 2008 (see s 2(1))

Environmental Protection Legislation Amendment Regulation (No. 1) 2009 SL No. 98 ss 1, 2(1), 17–18

notfd gaz 19 June 2009 pp 707–11
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2009 (see s 2(1))

Nature Conservation Legislation Amendment Regulation (No. 1) 2010 SL No. 93 pts 1, 5

notfd gaz 21 May 2010 pp 185–6
commenced on date of notification

Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 s 1, ch 2 pt 13

date of assent 23 May 2010
commenced on date of assent

Endnotes

**Environment and Resource Management Legislation Amendment Regulation (No. 2)
2010 SL No. 162 pts 1, 15**

notfd gaz 2 July 2010 pp 1033–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 August 2010 (see s 2)

Work Health and Safety Act 2011 No. 18 ss 1–2, 404 sch 4 pt 2 div 1

date of assent 6 June 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2012 (2011 SL No. 238)

**Environment and Resource Management Legislation Amendment Regulation (No. 1)
2011 SL No. 135 pts 1, 15**

notfd gaz 8 July 2011 pp 632–5

ss 1–2 commenced on date of notification

remaining provisions commenced 1 August 2011 (see s 2)

**National Parks, Recreation, Sport and Racing Legislation Amendment Regulation
(No. 1) 2012 SL No. 116 pts 1, 7**

notfd gaz 27 July 2012 pp 927–9

ss 1–2 commenced on date of notification

remaining provisions commenced 1 August 2012 (see s 2)

**Nature Conservation (Wildlife Management) Amendment Regulation (No. 1) 2012
SL No. 153**

notfd gaz 7 September 2012 pp 17–18

commenced on date of notification

Queensland Rail Transit Authority Act 2013 No. 19 ss 1, 120 sch 1

date of assent 3 May 2013

commenced on date of assent

**Nature Conservation and Other Legislation Amendment and Repeal Regulation
(No. 1) 2013 SL No. 61 pts 1–2**

notfd gaz 10 May 2013 pp 49–50

commenced on date of notification

6 List of annotations

Interpretation generally

s 5 amd 2013 SL No. 61 s 3

Purpose of pt 1

s 9 amd 2006 SL No. 209 s 12; 2013 SL No. 61 s 4

General restriction on grant of wildlife authorities in dugong protection areas

s 11A ins 2013 SL No. 61 s 5

Conservation plan may limit or extend activities authorised by wildlife authority

s 15 amd 2007 SL No. 301 s 6

CHAPTER 3—TAKING, KEEPING, USING OR MOVING ANIMALS**Particular government officers or employees**

s 40 amd 2008 SL No. 282 s 9; 2010 Act No. 19 s 52; 2013 Act No. 19 s 120 sch 1

Exemptions for railway managers

s 40A ins 2010 Act No. 19 s 53
amd 2013 Act No. 19 s 120 sch 1

Marine turtle or dugong taken under Aboriginal tradition or Island custom

s 43 amd 2006 SL No. 223 s 177

Keeping and use of dead marine mammals

s 43A ins 2013 SL No. 61 s 6

Sick or injured protected marine mammals and turtles

s 58 amd 2013 SL No. 61 s 7

Interacting with animals in the wild

s 60 amd 2006 SL No. 223 s 178

Interacting with dolphins as part of Tin Can Bay dolphin feeding program

s 60A ins 2013 SL No. 61 s 8

Purpose of licence and div 1

s 70 hdg amd 2013 SL No. 61 s 9

Engaging in unauthorised interaction authorised for particular animals

s 73 amd 2006 SL No. 223 s 178; 2007 SL No. 301 s 7

Using animals for training authorised for particular animals

s 74 amd 2011 Act No. 18 s 404 sch 4 pt 2 div 1

Purpose of licence and div 2

s 77 hdg amd 2013 SL No. 61 s 9

Purpose of licence and div 3

s 92 hdg amd 2013 SL No. 61 s 9

Purpose of licence and div 4

s 97 hdg amd 2013 SL No. 61 s 9

Purpose of licence and div 5

s 110 hdg amd 2013 SL No. 61 s 9

Restriction about animals for which licence may be granted

s 111 amd 2010 SL No. 93 s 13

Purpose of licence and div 6

s 119 hdg amd 2013 SL No. 61 s 9

Restriction about animals for which licence may be granted

s 120 amd 2010 SL No. 93 s 14

Purpose of licence and div 7

prov hdg amd 2013 SL No. 61 s 9

s 126 amd 2007 SL No. 301 s 8

Purpose of licence and div 8

prov hdg amd 2013 SL No. 61 s 9
s 136 amd 2006 SL No. 209 s 13

PART 4—PERMITS FOR TAKING, KEEPING OR USING ANIMALS

Division 2—Damage mitigation permits

Subdivision 1—Purposes

sdiv hdg sub 2012 SL No. 153 s 3

Purpose of licence and div 9

s 152 hdg amd 2013 SL No. 61 s 9

Purpose of licence and div 10

s 166 hdg amd 2013 SL No. 61 s 9

Purpose of permit and div 2

prov hdg amd 2012 SL No. 153 s 4(1)
s 181 sub 2008 SL No. 21 s 12
amd 2012 SL No. 153 s 4(2)–(3)

General restriction about animals for which permit may be granted

s 182 sub 2008 SL No. 21 s 13
amd 2010 SL No. 93 s 15

Additional restriction about permits for near threatened animals

s 183 om 2010 SL No. 93 s 16

Restriction about purposes for which permit may be granted

s 184 amd 2007 SL No. 301 s 10

Restriction on grant of permit for damage or loss

s 185 amd 2012 SL No. 153 s 5

Taking particular animals authorised

s 187 amd 2012 SL No. 153 s 6

Particular activities affecting flying-foxes authorised

s 187A ins 2008 SL No. 21 s 14

Killing dependent flying-fox authorised for particular permits

s 187B ins 2012 SL No. 153 s 7

Restriction about persons to whom permit may be granted

s 208 amd 2013 SL No. 61 s 10

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s 210 amd 2006 SL No. 209 s 14

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prov hdg amd 2006 SL No. 209 s 15(1)
s 220 amd 2006 SL No. 209 s 15(2); 2013 SL No. 61 s 11

Restriction on grant of authority for particular marine animals

s 227 amd 2010 SL No. 93 s 17

Restriction on grant of authority for particular marine animals

s 233 amd 2010 SL No. 93 s 18

Restriction on using or moving least concern plants

s 243 om 2008 SL No. 21 s 15

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s 249A ins 2008 SL No. 21 s 16

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s 310 amd 2013 SL No. 61 s 14

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s 322 sub 2013 SL No. 61 s 15

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s 322A ins 2013 SL No. 61 s 15

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def *drive away* ins 2008 SL No. 21 s 17
def *dugong* ins 2013 SL No. 61 s 22(2)
def *Dugong Conservation Plan* om 2013 SL No. 61 s 22(1)
def *estuarine crocodile* ins 2007 SL No. 301 s 12
def *Estuarine Crocodile Conservation Plan* ins 2007 SL No. 301 s 12
def *exempt animal* amd 2013 SL No. 61 s 22(5)
def *flying-fox* ins 2008 SL No. 21 s 17
def *flying-fox damage mitigation code* ins 2012 SL No. 153 s 8
def *flying-fox roost* ins 2008 SL No. 21 s 17
def *helicopter* ins 2013 SL No. 61 s 22(2)
def *Koala Conservation Plan* ins 2006 SL No. 209 s 16(1)
def *motorised diving aid* ins 2013 SL No. 61 s 22(2)
def *no approach zone* ins 2013 SL No. 61 s 22(2)
def *person in control* ins 2013 SL No. 61 s 22(2)
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om 2013 Act No. 19 s 120 sch 1
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def *recreational animal* amd 2013 SL No. 61 s 22(6)
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def *wake* ins 2013 SL No. 61 s 22(2)
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def *wing in ground effect craft* ins 2013 SL No. 61 s 22(2)

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