Western Australia

Biodiversity Conservation Act 2016

Biodiversity Conservation Regulations 2018

As at 21 Dec 2024 Official Version
[PCO 00-h0-00] Published on www.legislation.wa.gov.au

Western Australia

Biodiversity Conservation Regulations 2018

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Defined terms

Biodiversity Conservation Regulations 2018

Part 1 — Preliminary

1. Citation

These regulations are the *Biodiversity Conservation Regulations 2018*.

2. Commencement

These regulations come into operation as follows —

(a) Part 1 (other than regulations 3 to 7) — on the day on which these regulations are published in the *Gazette*;

(b) the rest of the regulations — on the day on which the *Biodiversity Conservation Act 2016* section 278 comes into operation.

3. Terms used

In these regulations —

aerial device means a remotely piloted aerial vehicle or a drone;

agricultural activity has the meaning given in the *Biosecurity and Agriculture Management Act 2007* section 6;

aircraft does not include an aerial device;

approved form means a form approved by the CEO;

biosecurity has the meaning given in the *Biosecurity and Agriculture Management Act 2007* section 6;

Category A, in relation to fauna, means the category of fauna described in regulation 11(2)(a);

category A firearm means a firearm of category A under the *Firearms Regulations 1974* regulation 6A(1);

Category B, in relation to fauna, means the category of fauna described in regulation 11(2)(b);

category B firearm means a firearm of category B under the *Firearms Regulations 1974* regulation 6A(1);

Category C, in relation to fauna, means the category of fauna described in regulation 11(2)(c);

CEO guidelines means guidelines issued under regulation 10(1);

class of licence — see regulation 13 (in relation to fauna) and regulation 54 (in relation to flora);

commercial licence means —

(a) a fauna taking (commercial products) licence; or

(b) a fauna taking (commercial purposes) licence; or

(c) a fauna taking (biological assessment) licence; or

(d) a fauna disturbing (commercial interaction) licence; or

(e) a fauna possessing (breeding) licence; or

(f) a fauna processing licence; or

(g) a fauna dealing (general dealer's) licence; or

(h) a fauna dealing (pet dealer's) licence; or

(i) a flora taking (commercial purposes) Crown land licence; or

(j) a flora taking (biological assessment) licence; or

(k) a private land supplier's licence; or

(l) a Crown land supplier's licence; or

(m) a flora dealing licence; or

(n) a flora processing licence; or

(o) a flora taking (sandalwood) licence; or

(p) a flora supplying (sandalwood) licence; or

(q) a flora dealing (sandalwood) licence; or

(r) a flora processing (sandalwood) licence; or

(s) a bioprospecting licence;

dangerous fauna means fauna that is, or is reasonably perceived to be, a threat (including on account of having a detrimental effect, or being venomous) to —

(a) public health or safety; or

(b) stock or domesticated animals; or

(c) animals on display or held in captivity or confinement;

deal in means —

(a) in relation to fauna — to conduct a business that involves the purchase or supply of fauna; or

(b) in relation to flora — to conduct a business that involves the purchase or supply of flora;

designated Act means any of the following Acts —

(a) the Act;

(b) the *Animal Welfare Act 2002*;

(c) the *Biosecurity and Agriculture Management Act 2007*;

(d) the CALM Act;

(e) the *Environmental Protection Act 1986*;

(f) the *Forest Products Act 2000*;

(g) a repealed Act;

dolphin means fauna of the family —

(a) Phocoenidae (porpoises); or

(b) Delphinidae (dolphins and related toothed whales), other than killer whales;

dugong means fauna of the species *Dugong dugon*;

economic damage means damage to property, agricultural activity or infrastructure resulting in a financial loss;

fauna product means —

(a) any viable or non-viable progeny, larva, embryo, egg, ovum or sperm of fauna; or

(b) any part, product or genetic material of fauna from which other fauna could be produced; or

(c) any other part of fauna; or

(d) the carcass of any fauna;

feed, in relation to fauna, means to supply matter intending it to be eaten by fauna and includes to offer any such matter to fauna;

invertebrate fauna means any fauna of the animal kingdom, other than fauna in the subphylum Vertebrata of the phylum Chordata;

kangaroo means a kangaroo of 1 of the following species —

(a) Western grey kangaroo (*Macropus fuliginosus*);

(b) Red kangaroo (*Osphranter rufus*);

(c) Euro (*Osphranter robustus*);

killer whale means fauna of the species *Orcinus orca*;

manta ray means fauna of the family Moulidae and includes fauna in the genus *Manta*;

marine fauna means any of the following fauna when not kept in captivity —

(a) a whale, dolphin or killer whale;

(b) a dugong;

(c) a seal;

(d) a sea turtle;

(e) a whale shark;

(f) a manta ray;

officer, in relation to a body corporate, has the same meaning given in the *Corporations Act 2001* (Commonwealth) section 9;

personal watercraft means —

(a) a jet ski; or

(b) an underwater scooter; or

(c) a parasail; or

(d) a remotely operated craft designed to move through the water; or

(e) a wing-in-ground effect craft; or

(f) a hydrofoil or hovercraft designed to carry no more than 2 persons; or

(g) a mermaid line; or

(h) a motorised diving aid; or

(i) any other vessel, craft or thing propelled by any form of motor or engine that is designed to be used on or in water and to carry no more than 2 persons;

possess, in relation to fauna, includes —

(a) to keep the fauna for any period of time (including in any form of captivity or confinement); and

(b) to possess the fauna while transporting or moving the fauna, whether the fauna is alive or dead;

repealed Act means —

(a) the *Sandalwood Act 1929*; or

(b) the *Wildlife Conservation Act 1950*;

sandalwood tracking form means a sandalwood tracking form created under Part 6;

seal means fauna of the family —

(a) Phocidae (true seals); or

(b) Otariidae (eared seals);

sea turtle means fauna of the family —

(a) Cheloniidae; or

(b) Dermochelyidae;

sign, in relation to a sandalwood tracking form in electronic form, means to create a digital signature (as defined in the *Electronic Conveyancing Act 2014* section 3(1)) for the sandalwood tracking form;

specifically controlled sandalwood means —

(a) wood of sandalwood if it has a diameter of greater than 25 mm at the smallest end when stripped of bark; or

(b) roots of sandalwood;

translocate, in relation to flora, means to deliberately transfer a plant, or regenerative plant material, from one place to another (including back to the place where the plant was originally growing) with a view to maintaining or growing a living plant;

vessel means any kind of watercraft —

(a) whether propelled by a motor or engine, sails, paddles or any other means; and

(b) whether underway, drifting or anchored;

veterinarian has the meaning given in the *Veterinary Practice Act 2021* section 3;

watercraft includes a boat, ship, hovercraft, personal watercraft, kayak, surf ski, surfboard, sailboard and unmanned watercraft;

whale means any fauna that is a cetacean, other than a dolphin or a killer whale;

whale shark means fauna of the species *Rhincodon typus*.

[Regulation 3 amended: SL 2022/95 r. 4.]

4. Cultivated flora: excluded classes of flora

The following classes of flora are excluded from the definition of ***cultivated flora*** in section 5(1) of the Act —

(a) sandalwood that is sown or regenerated in connection with sandalwood being lawfully taken (whether at the same place or at another place);

(b) flora cultivated or translocated under an approval under Part 7;

(c) flora that is established for the purposes of meeting a requirement under this Act, the *Environmental Protection Act 1986*, the *Mining Act 1978*, the *Planning and Development Act 2005* or any other written law.

5. Process in relation to flora

For the purposes of paragraph (b) of the definition of ***process*** in section 5(1) of the Act —

(a) things or substances of a prescribed kind are set out in column 2 of the Table; and

(b) prescribed methods for each kind of thing or substance are set out in column 3 of the Table.

Table

Item	Things or substances of a prescribed kind	Prescribed methods
1	Carved wood, craft wood, wood chips or wood dust	Carving, drilling, shaving, sanding, cutting, grinding, turning, chipping or crushing
2	Oil	Extracting (including distillation, using steam, solvents or pressing), or using any separation method
3	Log timber and sawn timber	Sawing

6. Prohibited devices

For the purposes of paragraph (a) of the definition of ***prohibited device*** in section 5(1) of the Act, a thing specified in Schedule 1 is prescribed as a prohibited device.

7. Prohibited methods

For the purposes of paragraph (a) of the definition of ***prohibited method*** in section 5(1) of the Act, a method specified in Schedule 2 is prescribed as a prohibited method.

Part 2 — Listing of native species, ecological communities and threatening processes

8. Nominations in respect of certain listings

(1) For the purposes of section 38(4) of the Act, a notice seeking nominations may be published on the Department's website.

(2) For the purposes of section 38(5) of the Act, a nomination —

(a) must be in the approved form; and

(b) must be supported by information required by the approved form; and

(c) may be made by lodging a completed nomination form electronically, or by sending a completed nomination form to the Department's principal office, in accordance with directions specified by the CEO and published on the Department's website.

(3) Information provided for the purposes of a nomination must meet any standard, and include any details, required by the approved form.

Part 3 — Critical habitat

9. Register of critical habitats

(1) For the purposes of section 57(2) of the Act, the register must be a record management system (whether in written form, electronic form, or a combination of both) kept at the Department's principal office.

(2) The register must include the following information in relation to each critical habitat listed under section 54 of the Act —

(a) the mapped location of the habitat (including the boundaries of the habitat);

(b) the biodiversity conservation values associated with the habitat.

(3) For the purposes of section 57(3) of the Act, the CEO must ensure that the register is available for public inspection during normal office hours at the Department's principal office.

(4) The CEO may, in connection with subregulation (3), keep any information on the register confidential to such extent as the CEO considers reasonably necessary in order to protect a critical habitat from habitat damage (as defined in section 58 of the Act).

(5) The CEO must publish a summary of the register on the Department's website (in such form as the CEO determines appropriate) which sets out or includes —

(a) a description of the general location of each critical habitat; and

(b) the biodiversity habitat values associated with each critical habitat.

Part 4 — Licensing scheme

Division 1 — Preliminary

10. CEO guidelines

(1) The CEO may issue guidelines for the purposes of this Part.

(2) Without limiting subregulation (1), the CEO guidelines may —

(a) specify processes associated with making an application for a licence under this Part, including by specifying periods of the year in relation to which applications for a particular class of licence may be made; and

(b) specify matters that will be taken into account with respect to the assessment of an application for a particular class of licence; and

(c) provide for circumstances under which the CEO may or may not issue a particular class of licence; and

(d) specify or limit the fauna that may be possessed for the purposes of display under a particular class of licence; and

(e) provide for any matter relating to the display of fauna under a licence; and

(f) provide for any matter relating to the release of fauna held under a licence; and

(g) provide for any other matter determined by the CEO to be relevant to the licensing scheme established by this Part.

(3) The CEO must ensure that the CEO guidelines are published on the Department's website.

(4) The CEO may at any time amend or revoke the CEO guidelines by further publication on the Department's website.

11. Categories of pets for licensing purposes

(1) The CEO must issue guidelines under regulation 10(1) relating to fauna that may be possessed as pets under these regulations.

(2) The CEO guidelines must specify the following categories of fauna that may be possessed or dealt in as pets —

(a) fauna in relation to which a licence is not required to keep the fauna as a pet, to deal in or display the fauna if it is being kept as a pet, or to import or export the fauna if it is to be kept as a pet (Category A);

(b) fauna in relation to which a standard fauna possessing (pet keeper's) licence or a standard fauna dealing (pet dealer's) licence is required (Category B);

(c) fauna in relation to which an advanced fauna possessing (pet keeper's) licence or an advanced fauna dealing (pet dealer's) licence is required (Category C).

(3) The CEO may include a species of fauna in Category A if —

(a) the fauna is not threatened fauna or specially protected fauna; and

(b) the fauna is listed in the WA Organisms List published under the *Biosecurity and Agriculture Management Act 2007* as a permitted organism, or a declared pest, in the exempt keeping category; and

(c) the CEO considers that the fauna is readily accessible in the pet trade in the State or elsewhere in Australia; and

(d) the CEO considers that the fauna does not meet the criteria specified in subregulation (4)(d) or (5)(b); and

(e) the CEO considers that the fauna meets all of the following criteria —

(i) it is of a species that is not likely to be the subject of illegal trade and is not likely to be illegally taken from the wild;

(ii) it is resilient to handling and to being kept in captivity;

(iii) it does not have any special feeding or housing requirements;

(iv) it is not dangerous to public health or safety;

(v) it does not represent a biosecurity risk;

and

(f) the CEO considers that there is no other reason to justify placing restrictions on the ability of a person to keep the fauna as a pet.

(4) The CEO may include a species of fauna in Category B if —

(a) the fauna is not threatened fauna or specially protected fauna; and

(b) the CEO considers that the fauna is commonly available in the pet trade in the State or elsewhere in Australia; and

(c) the CEO considers that the fauna does not meet the criteria specified in subregulation (5)(b); and

(d) the CEO considers that the fauna meets 1 or more of the following criteria —

(i) it is of a species that may be the subject of illegal trade and is likely to be at risk of being taken from the wild;

(ii) its keeping requirements are not adequately known or it has special keeping requirements;

(iii) it possesses some risk to public health or safety;

(iv) it has high economic value;

(v) it requires the issue of import or export licences on the basis that its trade or movement may represent a biosecurity risk.

(5) The CEO may include a species of fauna in Category C if —

(a) the CEO considers that the fauna is —

(i) available in the pet trade in the State or elsewhere in Australia; or

(ii) suitable to be kept as a pet;

and

(b) the CEO considers that the fauna meets 1 or more of the following criteria —

(i) it is of a species that is the subject of, or that is highly likely to be the subject of, illegal trade and is of high risk of being taken from the wild;

(ii) it requires specialist keeping facilities or expertise, or is otherwise very difficult to keep in captivity;

(iii) it is venomous or otherwise is dangerous to public health or safety;

(iv) it has very high economic value;

(v) it requires the issue of import or export licences on the basis that its trade or movement represents a high biosecurity risk.

(6) There is no obligation on the CEO to include a particular species of fauna in CEO guidelines issued for the purposes of this regulation.

12. Nature of licences

(1) For the purposes of this Part —

(a) a person may apply for 2 or more licences; and

(b) the CEO may issue a licence which combines 2 or more licences which would otherwise be separate licences if the CEO considers it appropriate to do so (and such a combined licence may have a name determined by the CEO).

(2) A licence that authorises the taking of fauna or flora may only be granted to an individual.

(3) A licence granted to an individual may also authorise the following —

(a) other specified persons to carry out activities under the licence (or to assist in carrying out such activities);

(b) other persons of a specified class to carry out activities under the licence (or to assist in carrying out such activities).

(4) A person must not assist in the taking of fauna or flora (in circumstances requiring a licence) unless the person is authorised under subregulation (3).

Penalty for this subregulation: a fine of $5 000.

(5) The holder of a licence must not allow a person to assist in the taking of fauna or flora (in circumstances requiring a licence) unless the person is authorised under subregulation (3).

Penalty for this subregulation: a fine of $5 000.

(6) If a provision of these regulations specifies more than 1 activity that may be carried out under the authority of a particular class of licence, the CEO may limit the operation of such a licence so that it only applies to 1 or more activities specified in the licence.

Division 2 — Fauna licences

Subdivision 1 — Licence classes and specific terms and conditions

13. Licence classes

For the purposes of the Act, the following classes of licence are prescribed in relation to fauna —

(a) fauna taking (commercial products) licence;

(b) fauna taking (commercial purposes) licence;

(c) fauna taking (scientific or other purposes) licence;
(d) fauna taking (dangerous fauna) licence;
(e) fauna taking (biological assessment) licence;
(f) fauna taking (relocation) licence;
(g) fauna causing damage licence;
(h) fauna disturbing (commercial interaction) licence;
(i) fauna disturbing (other purposes) licence;
(j) fauna disturbing (feeding) licence;
(k) fauna possessing (display) licence;
(l) fauna possessing (breeding) licence;
(m) fauna possessing (other purposes) licence;
(n) fauna possessing (pet keeper's) licence;
(o) fauna processing licence;
(p) fauna dealing (general dealer's) licence;
(q) fauna dealing (pet dealer's) licence;
(r) fauna importing licence;
(s) fauna exporting licence.

14. Provisions relating to taking

Without limiting any other provision of these regulations, a licence authorising the taking of fauna may include terms or conditions that provide for 1 or more of the following —

(a) the species of fauna that may be taken under the licence;
(b) the area or location from where the fauna must be taken;
(c) the maximum quantities of fauna that may be taken;
(d) the skills, qualifications or experience required by a person who takes, manages or releases fauna under the licence;
(e) the manner in which fauna must be taken, the periods of the year when the fauna may be taken, and the time of

the day when the fauna may be taken, including so as not to disturb the fauna, or any other fauna, except to the extent specified under the licence;

(f) the use of food or other substances or lures to attract the fauna (including prohibitions on using live vertebrate animals as food);

(g) a requirement that identifiers must be applied to the fauna, or any fauna product, and the method that must be used to attach any identifier;

(h) where the fauna must be held or, in the case of dead fauna, kept or stored, and the manner in which any such fauna must be held, kept or stored;

(i) the extent to which the fauna may be processed under the terms of the licence;

(j) the portion or part of the fauna that may be supplied (including any fauna product);

(k) a requirement that the fauna must be released (whether after a specified period, on the occurrence of a specified event, or on some other specified basis);

(l) whether or not a requirement under paragraph (k) applies, the place where the fauna may be released, the manner of any release, and a requirement that any release must occur in accordance with any directions given by a wildlife officer;

(m) a requirement for genetic, health or other testing of the fauna or any fauna products;

(n) personnel requirements (including a minimum or maximum number, and the qualifications or experience, of persons who may be engaged in undertaking any activity under the licence, and including the authorisation of personnel under a scheme established by the CEO);

(o) the person, or class of persons, to whom the fauna may be delivered or supplied;

(p) the person, or class of persons, to whom the fauna may be given for release, disposal, management or care;

(q) the manner in which any fauna or fauna product must be transported;

(r) the manner in which any fauna or fauna product must be disposed of, or the person, or class of persons, to whom any fauna or fauna product must be delivered;

(s) a requirement that the holder of the licence must have the licence (or a copy of the licence) in the holder's possession when taking fauna under the licence.

15. Provisions relating to disturbing

Without limiting any other provision of these regulations, a licence authorising the disturbing of fauna may include terms or conditions that provide for 1 or more of the following —

(a) the species of fauna to which the licence relates;

(b) the areas or locations where the fauna may be disturbed;

(c) the activities that may be carried out under the licence;

(d) the maximum number of fauna that may be disturbed under the licence;

(e) the skills, qualifications or experience required by a person who may disturb fauna under the licence;

(f) the manner in which the fauna must be approached, the periods of the year when the fauna may be approached, and the time of the day when the fauna may be approached, including so as not to disturb the fauna, or any other fauna, except to the extent specified under the licence;

(g) any separation distances that must be maintained;

(h) the maximum number of vehicles that may approach the fauna, and the maximum number of people who may approach the fauna (whether as passengers in a vehicle or otherwise);

(i) the use of food or other substances or lures to attract the fauna (including prohibitions on using live vertebrate animals as food);

(j) personnel requirements (including a minimum or maximum number, and the qualifications or experience, of persons who may be engaged in undertaking any activity under the licence, and including the authorisation of personnel under a scheme established by the CEO);

(k) the use of equipment in connection with any activity undertaken under the licence (including prohibitions or restrictions on the use of specified equipment);

(l) a requirement that the holder of the licence must have the licence (or a copy of the licence) in the holder's possession when disturbing fauna under the licence.

16. Provisions relating to possessing or keeping

Without limiting any other provision of these regulations, a licence authorising the possession or keeping of fauna may include terms or conditions that provide for 1 or more of the following —

(a) the species of fauna to which the licence relates;

(b) the maximum quantities of fauna that may be kept;

(c) the skills, qualifications or experience required by a person who may possess or keep fauna under the licence;

(d) the site or sites where the fauna must be kept;

(e) whether the fauna may be displayed to the public and, if so, under what circumstances;

(f) the manner in which the fauna must be kept, including requirements as to accommodation, the use of enclosures, diet (including prohibitions on using live vertebrate animals as food), and handling;

(g) personnel requirements (including a minimum or maximum number, and the qualifications or experience, of persons who may be engaged in undertaking any activity under the licence, and including the authorisation of personnel under a scheme established by the CEO);

(h) the use of equipment in connection with any activity undertaken under the licence (including prohibitions or restrictions on the use of specified equipment);

(i) a requirement that identifiers must be applied to the fauna, or any fauna product, and the method that must be used to attach any identifier;

(j) restrictions or limitations on any breeding that may occur while the fauna is kept under the licence;

(k) a requirement that the fauna must be kept separate from other fauna not held under the licence;

(l) other requirements relating to the care or management of the fauna, including as to the acquisition, transport, sale or disposal of the fauna;

(m) the circumstances under which the fauna may be cared for by other persons on a temporary basis;

(n) a requirement that the fauna must be released (whether after a certain period, on the occurrence of a specified event, or on some other basis specified in the licence);

(o) whether or not a requirement under paragraph (n) applies, the place where the fauna may be released, the manner of any release, and the requirement that any release must occur in accordance with any directions given by a wildlife officer;

(p) a requirement for genetic, health or other testing of the fauna or any fauna products;

(q) a requirement that the holder of the licence must ensure that the licence (or a copy of the licence) is kept on

public display at any premises used for the purposes of the licence.

17. Provisions relating to processing

Without limiting any other provision of these regulations, a licence authorising the processing of fauna may include terms or conditions that provide for 1 or more of the following —

(a) the species of fauna to which the licence relates;

(b) the maximum quantities of fauna that may be processed;

(c) the portion or part of the fauna that may be processed;

(d) the extent of any processing that may be undertaken, the product that may be produced from the processing, and the method used to produce the product;

(e) the site or sites where the processing must be undertaken (including limits on the amount of processing at a particular site);

(f) the site or sites where the fauna must be stored while waiting for processing (including limits on the amount of fauna that may be stored at a particular site);

(g) the condition in which the fauna must have been supplied for the purposes of processing (including requirements as to how the fauna must have been taken in order to be dealt with under the licence);

(h) a requirement that the holder of the licence must ensure that the licence (or a copy of the licence) is kept on public display at any premises used for the purposes of the licence.

18. Provisions relating to dealing

Without limiting any other provision of these regulations, a licence authorising dealing in fauna may include terms or conditions that provide for 1 or more of the following —

(a) the fauna that may be purchased or supplied under the licence;

(b) the portion or part of the fauna that may be purchased or supplied;

(c) the site or sites where the fauna, or any fauna product, must be stored (including limits on the amount of fauna, or fauna products, that may be stored at a particular site);

(d) the site or sites where the fauna, or any fauna product, may be supplied;

(e) a requirement for genetic, health or other testing of the fauna or any fauna products;

(f) a requirement that the holder of the licence must ensure that the licence (or a copy of the licence) is kept on public display at any premises used for the purposes of the licence.

19. Provisions relating to importing

Without limiting any other provision of these regulations, a licence authorising the importing of fauna may include terms or conditions that provide for 1 or more of the following —

(a) the species of fauna that may be imported under the licence;

(b) the maximum quantities of fauna or fauna products that may be imported;

(c) the site or sites where the fauna or fauna products must be kept after being imported;

(d) the person or persons from whom the fauna or fauna products must be obtained;

(e) the means by which the fauna or fauna products may be imported;

(f) a requirement for genetic, health or other testing of the fauna or any fauna products.

20. Provisions relating to exporting

Without limiting any other provision of these regulations, a licence authorising the exporting of fauna may include terms or conditions that provide for 1 or more of the following —

(a) the species of fauna that may be exported under the licence;

(b) the maximum quantities of fauna or fauna products that may be exported;

(c) the site or sites where the fauna or fauna products must be kept before being exported;

(d) the person or persons to whom the fauna or fauna products may be exported;

(e) the means by which the fauna or fauna products may be exported;

(f) a requirement that identifiers must be applied to the fauna or fauna products and the method that must be used to attach any identifier;

(g) a requirement for genetic, health or other testing of the fauna or any fauna products.

21. Provisions relating to relocation

Without limiting any other provision of these regulations, a licence authorising the removal or relocation of fauna may include terms or conditions that provide for 1 or more of the following —

(a) any matter relating to the taking, disturbing, possession, transportation or release of fauna under this Part

(including the method to be used in connection with the taking or release of fauna);

(b) safety steps or precautions to be taken in relation to the taking, transportation or release of fauna.

22. Related disturbing and possessing

(1) Without limiting any other provision of these regulations, a licence that authorises the taking of fauna may also authorise the disturbing of fauna to any extent specified in the licence.

(2) Without limiting any other provision of these regulations, a licence may authorise the possession of fauna to any extent specified in the licence.

Subdivision 2 — Provisions relating to specific licence classes

23. Fauna taking (commercial products) licence

(1) In this regulation —

Code of Practice for Commercial Purposes means the *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes* endorsed by the Natural Resource Management Ministerial Council on 7 November 2008, as in force from time to time, and if that code has been substituted or replaced by another document, includes that other document.

(2) A fauna taking (commercial products) licence authorises the holder of the licence to do 1 or more of the following for a commercial purpose —

(a) take fauna;

(b) supply fauna;

(c) to the extent specified in the licence — undertake preliminary processing in the field of fauna taken under the licence.

(3) In the case of a dead kangaroo, preliminary processing in the field may include evisceration and the removal of the head, tail, limbs or skin.

(4) A fauna taking (commercial products) licence only authorises the holder of the licence to take fauna that is causing, or reasonably expected to cause, damage to an agricultural activity or related agricultural infrastructure.

(5) Without limiting any other provision of these regulations, it is a condition of a fauna taking (commercial products) licence that any kangaroo shot under the licence must be shot in accordance with the Code of Practice for Commercial Purposes.

(6) Without limiting any other provision of these regulations, it is a condition of a fauna taking (commercial products) licence that any fauna taken under the licence is only to be supplied to the holder of another licence under these regulations.

[Regulation 23 amended: Gazette 21 Dec 2018 p. 4847.]

24. Fauna taking (commercial purposes) licence

(1) A fauna taking (commercial purposes) licence authorises the holder of the licence to do 1 or more of the following for a commercial purpose —

(a) take fauna (as live fauna);

(b) supply live fauna.

(2) Without limiting any other provision of these regulations, it is a condition of a fauna taking (commercial purposes) licence that any fauna taken under the licence is only to be supplied to the holder of another licence under these regulations.

25. Fauna taking (scientific or other purposes) licence

(1) In this regulation —

ABBBS means the Australian Bird and Bat Banding Scheme coordinated by the Department of the Commonwealth principally assisting in the administration of the EPBC Act.

(2) A fauna taking (scientific or other purposes) licence authorises the holder of the licence to take fauna for 1 or more of the following purposes —

(a) in relation to live fauna —

(i) education, research, study or conservation (but not for a bioprospecting activity);

(ii) a purpose approved by the CEO for the purposes of this paragraph;

(b) in relation to dead fauna —

(i) education, research, study or conservation (but not for a bioprospecting activity);

(ii) art;

(iii) a hobby;

(iv) a purpose approved by the CEO for the purposes of this paragraph.

(3) A fauna taking (scientific or other purposes) licence cannot be granted to a person who is seeking to take fauna for commercial purposes.

(4) Without limiting any other provision of these regulations, a fauna taking (scientific or other purposes) licence may include a condition that requires the holder of the licence to be an endorsed participant in the ABBBS and to use bands issued by the Commonwealth as part of the ABBBS.

26. Fauna taking (dangerous fauna) licence

(1) A fauna taking (dangerous fauna) licence authorises the holder of the licence to do 1 or more of the following —

(a) take dangerous fauna;

(b) dispose of, relocate or release dangerous fauna.

(2) Without limiting any other provision of these regulations, the CEO guidelines may establish criteria for, or set out other matters relevant to, the following —

(a) the criteria for determining which species of dangerous fauna may be taken under a fauna taking (dangerous fauna) licence;

(b) how any fauna taken under a fauna taking (dangerous fauna) licence may be disposed of, relocated or released;

(c) the skills, qualifications or experience of persons who may be engaged in undertaking any activity under a fauna taking (dangerous fauna) licence.

(3) Without limiting any other provision of these regulations, the CEO may refuse to grant a fauna taking (dangerous fauna) licence if the CEO considers that —

(a) the applicant is not able to identify all species of fauna relevant to the operation of the licence; or

(b) the manner in which the applicant proposes to take, move, manage or release fauna taken under the licence is not appropriate.

27. Fauna taking (biological assessment) licence

(1) A fauna taking (biological assessment) licence authorises the holder of the licence to take or disturb fauna for —

(a) inventory work conducted in the provision of environmental consulting services; and

(b) obtaining specimens for identification purposes associated with work authorised under paragraph (a).

(2) A fauna taking (biological assessment) licence may authorise the holder of the licence to undertake other activities specified in the licence.

(3) Without limiting any other provision of these regulations, a fauna taking (biological assessment) licence may include conditions that specify 1 or more of the following —

(a) different levels of survey or other work to be undertaken under the licence;

(b) the techniques that must be used to take or disturb any fauna;

(c) the skills, qualifications or experience that must be possessed by a person who acts under the licence.

(4) Without limiting any other provision of these regulations, a fauna taking (biological assessment) licence may include a condition that requires the holder of the licence to release fauna taken under the licence in a manner, and at a time, specified in the licence at the end of any activity undertaken under the licence (and any such release is authorised as part of the licence).

(5) A fauna taking (biological assessment) licence cannot be granted to a person who is seeking to take fauna for supply or a bioprospecting activity.

28. Fauna taking (relocation) licence

(1) A fauna taking (relocation) licence authorises the holder of the licence to do 1 or more of the following —

(a) take or disturb fauna for the purpose specified in the licence;

(b) possess the fauna for a specified period, until the occurrence of a specified event, or on some other basis specified in the licence;

(c) transport and release the fauna as required under the licence.

(2) Without limiting any other provision of these regulations, a fauna taking (relocation) licence may include conditions that provide for 1 or more of the following —

(a) the provision of information to a person specified in the condition;

(b) the manner in which fauna may be transported for relocation.

29. Fauna causing damage licence

(1) In this regulation —

biodiversity damage means a detrimental impact or potential impact on biodiversity or biodiversity components.

(2) A fauna causing damage licence authorises the holder of the licence to take or disturb fauna that is causing, or may reasonably be expected to cause —

(a) an impact, or potential impact, on public health or safety; or

(b) economic damage; or

(c) biodiversity damage; or

(d) an impact, or potential impact, on biosecurity; or

(e) any damage, impact or other effect specified in the licence.

(3) A fauna causing damage licence relating to kangaroos may also authorise the holder of the licence to undertake preliminary processing in the field of kangaroos taken under the licence.

(4) Without limiting any other provision of these regulations, a fauna causing damage licence may include a condition that requires the keeping of records, and the provision of information, about any fauna, other than fauna causing damage, incidentally taken or disturbed in exercising the power to take fauna under the licence.

30. Fauna disturbing (commercial interaction) licence

(1) A fauna disturbing (commercial interaction) licence authorises the holder of the licence to undertake interaction activities involving approaches to fauna for commercial purposes.

(2) A fauna disturbing (commercial interaction) licence does not authorise the holder of the licence to feed fauna.

31. Fauna disturbing (other purposes) licence

(1) A fauna disturbing (other purposes) licence authorises the holder of the licence to undertake —

(a) interaction activities involving approaches to fauna for 1 or more of the following purposes —

(i) non-commercial tours;

(ii) education, research, study or conservation;

or

(b) any other activity approved by the CEO for the purposes of this regulation.

(2) A fauna disturbing (other purposes) licence cannot be granted to a person who is seeking to disturb fauna for commercial purposes.

(3) A fauna disturbing (other purposes) licence does not authorise the holder of the licence to feed fauna.

32. Fauna disturbing (feeding) licence

(1) A fauna disturbing (feeding) licence authorises the holder of the licence to undertake an activity involving the feeding or luring of fauna.

(2) Without limiting any other provision of these regulations, a fauna disturbing (feeding) licence may include conditions that provide for 1 or more of the following —

(a) the type, quality and quantities of food or lures that may be provided or used under the licence (including the method used to produce food or a lure);

(b) the purpose or purposes for which food or lures may be provided or used;

(c) the location or locations where fauna may be provided with food or where lures may be used;

(d) the people who may provide food to fauna or use lures;

(e) the times when food may be provided to fauna or lures used in relation to fauna, and the circumstances under which food may be provided or withdrawn or lures may be used or removed.

33. Fauna possessing (display) licence

(1) A fauna possessing (display) licence authorises the holder of the licence to possess fauna for the purposes of display for conservation or education.

(2) When granting a fauna possessing (display) licence, the CEO must designate the licence as either —

(a) a standard fauna possessing (display) licence; or

(b) an advanced fauna possessing (display) licence.

(3) Without limiting any other provision of these regulations, the CEO guidelines must establish criteria for determining whether fauna is suitable to be held under a standard fauna possessing (display) licence or an advanced fauna possessing (display) licence.

34. Fauna possessing (breeding) licence

A fauna possessing (breeding) licence authorises the holder of the licence to do 1 or more of the following —

(a) possess and breed fauna of a species specified in the licence;

(b) supply fauna authorised to be possessed under the licence;

(c) any other thing specified in the licence.

35. Fauna possessing (other purposes) licence

(1) A fauna possessing (other purposes) licence authorises the holder of the licence to possess fauna for 1 or more of the following purposes —

(a) education, research, study or conservation;

(b) rehabilitating fauna for release into the wild;

(c) any other purpose specified in the licence.

(2) Without limiting any other provision of these regulations, the CEO guidelines may establish criteria for determining whether fauna is suitable to be held under a fauna possessing (other purposes) licence.

(3) A fauna possessing (other purposes) licence may authorise the holder of the licence to place the fauna on display to the extent specified in the licence.

36. Fauna possessing (pet keeper's) licence

(1) A fauna possessing (pet keeper's) licence authorises the holder of the licence to possess fauna in Category B or Category C as a pet.

(2) When granting a fauna possessing (pet keeper's) licence, the CEO must designate the licence as either —

(a) a standard fauna possessing (pet keeper's) licence, relating to fauna in Category B; or

(b) an advanced fauna possessing (pet keeper's) licence, relating to fauna in Category C.

(3) A fauna possessing (pet keeper's) licence may be further limited to a particular category of fauna specified in the licence.

(4) Without limiting any other provision of these regulations, a fauna possessing (pet keeper's) licence may include a condition that provides that any fauna kept under the licence may only be given, transferred or surrendered to —

(a) the holder of another fauna possessing (pet keeper's) licence; or

(b) the holder of a fauna dealing (pet dealer's) licence; or

(c) a wildlife officer or another person specified by a wildlife officer; or

(d) a veterinarian.

(5) A fauna possessing (pet keeper's) licence may authorise the holder of the licence to place the fauna on display to the extent specified in the licence.

[Regulation 36 amended: SL 2022/95 r. 5.]

37. Fauna processing licence

A fauna processing licence authorises the holder of the licence to do 1 or more of the following —

(a) process fauna that has been taken under a fauna taking (commercial products) licence;

(b) operate any fauna processing establishment specified in the licence.

38. Fauna dealing (general dealer's) licence

(1) A fauna dealing (general dealer's) licence authorises the holder of the licence to do 1 or more of the following —

(a) deal in fauna (whether alive or dead);

(b) place fauna on display to the extent specified in the licence.

(2) Without limiting any other provision of these regulations, a fauna dealing (general dealer's) licence may include a condition that requires the fauna to be obtained from a person who holds an appropriate licence —

(a) to take or supply the fauna; or

(b) to import the fauna.

39. Fauna dealing (pet dealer's) licence

(1) A fauna dealing (pet dealer's) licence authorises the holder of the licence to deal in fauna in Category B or Category C that has been, or that is expected to be, kept as a pet.

(2) When granting a fauna dealing (pet dealer's) licence, the CEO must designate the licence as either —

(a) a standard fauna dealing (pet dealer's) licence, relating to fauna in Category B; or

(b) an advanced fauna dealing (pet dealer's) licence, relating to fauna in Category C.

(3) A fauna dealing (pet dealer's) licence may be further limited to a category of fauna specified in the licence.

(4) A fauna dealing (pet dealer's) licence may authorise the holder of the licence to place the fauna on display to the extent specified in the licence.

40. Fauna importing licence

(1) A fauna importing licence authorises the holder of the licence to import —

(a) live fauna; or

(b) fauna products specified in CEO guidelines issued for the purposes of this regulation.

(2) Without limiting any other provision of these regulations, the CEO may refuse to grant a fauna importing licence if the CEO considers that the species of fauna to which the application for a licence relates is likely to be a biosecurity risk to the State.

(3) Without limiting any other provision of these regulations, the CEO may refuse to grant a fauna importing licence if the CEO is not satisfied that fauna to be imported under the licence has been, or will be, lawfully taken or possessed under a law of another State or a Territory.

(4) Without limiting any other provision of these regulations, a fauna importing licence that relates to live fauna may include a condition that requires the fauna to be collected from the place of import into the State by a person who holds an appropriate licence to possess the fauna.

(5) The importing of a fauna product that is not subject to the operation of subregulation (1) is authorised (and does not require a licence).

41. Fauna exporting licence

(1) A fauna exporting licence authorises the holder of the licence to export —

(a) live fauna; or

(b) fauna products specified in CEO guidelines issued for the purposes of this regulation.

(2) The exporting of a fauna product that is not subject to the operation of subregulation (1) is authorised (and does not require a licence).

Subdivision 3 — Related provisions

42. Fauna transfer authority

(1) A ***fauna transfer authority*** is an authority issued by the CEO for the purposes of this regulation.

(2) A fauna transfer authority is required if —

(a) herpetofauna in Category B or Category C held under a fauna possessing (pet keeper's) licence is to be transferred to another holder of a fauna possessing (pet keeper's) licence; or

(b) avian fauna in Category C held under a fauna possessing (pet keeper's) licence is to be transferred to another holder of a fauna possessing (pet keeper's) licence.

(3) The holder of a licence must not transfer fauna in contravention of the requirement in subregulation (2).

Penalty for this subregulation: a fine of $5 000.

(4) An application to the CEO for a fauna transfer authority must —

(a) be made in the manner and form approved by the CEO; and

(b) include all information required by the form approved under paragraph (a); and

(c) be accompanied by the appropriate fee specified in Schedule 7.

43. Temporary care of fauna

(1) This regulation applies to the following classes of licence —

(a) a fauna possessing (display) licence;

(b) a fauna possessing (breeding) licence;

(c) a fauna possessing (other purposes) licence;

(d) a fauna possessing (pet keeper's) licence;

(e) a fauna dealing (pet dealer's) licence.

(2) Fauna held under a licence to which this regulation applies may be cared for on a temporary basis by a person other than the holder of the licence if the person is —

(a) caring for the fauna under the direction of the holder of the licence at any place specified in the licence; or

(b) the holder of a licence of the same class; or

(c) acting under an authorisation given by the CEO for the purposes of this regulation; or

(d) a veterinarian.

(3) If fauna is to be cared for under subregulation (2)(a) or (b) at a place that is different to the place where it is authorised to be held under the licence, the holder of the licence must give the CEO written notice, in accordance with subregulation (4), at least 24 hours before the fauna is transferred to the other place.

Penalty for this subregulation: a fine of $5 000.

(4) A notice given to the CEO for the purposes of subregulation (3) must —

(a) be in the approved form; and

(b) specify the place where the fauna is to be cared for; and

(c) comply with any other requirement determined by the CEO and published on the Department's website; and

(d) be given in a manner determined by the CEO and published on the Department's website.

(5) This regulation applies subject to any specific provision that may be made in a particular licence in relation to the care or management of fauna.

[Regulation 43 amended: SL 2022/95 r. 6.]

44. Releasing fauna

A person must not release from confinement any fauna taken or possessed under a licence unless —

(a) the release is authorised under the conditions of the licence; or

(b) the release —

(i) is authorised by an authorisation given by the CEO or a wildlife officer for the purposes of this regulation; and

(ii) is in accordance with any conditions of that authorisation.

Penalty: a fine of $5 000.

45. Zoological Parks Authority

(1) In this regulation —

Zoological Parks Authority means the body established by the *Zoological Parks Authority Act 2001* section 4(1).

(2) The Zoological Parks Authority is authorised (and does not require a licence) to possess, display, import or export fauna.

46. Category A pets

The following activities in relation to fauna in Category A are authorised (and do not require a licence) —

(a) possessing the fauna as a pet;

(b) displaying the fauna when possessed as a pet;

(c) dealing in the fauna as a pet;

(d) importing the fauna when it is to be possessed as a pet;

(e) exporting the fauna when it has been possessed as a pet.

47. Taking reptiles in certain situations without licence

(1) Taking fauna, including threatened fauna, of the class *Reptilia* is authorised (and does not require a licence) if —

(a) the fauna is located in, or in the immediate vicinity of, residential premises or any other building or structure; and

(b) the fauna —

(i) is venomous; or

(ii) is, or is perceived to be, dangerous to persons at or in the residential premises or other building or structure, or to any pet or stock; or

(iii) is likely to suffer harm if it is not removed.

(2) Subregulation (1) does not authorise the killing of the fauna.

(3) Subregulation (1) does not apply in relation to fauna in the genus *Crocodylus*.

(4) A person who takes fauna under subregulation (1) must release the fauna, and is authorised to release the fauna, within 6 hours from the time that the fauna is taken —

(a) in a place where such fauna is ordinarily found in the wild; or

(b) in a place approved by a wildlife officer.

Penalty for this subregulation: a fine of $5 000.

(5) It is a defence to a charge of an offence under subregulation (4) to prove that —

(a) releasing the fauna was impracticable —

(i) because the fauna was ill or injured to such an extent that its survival in the wild would be jeopardised without immediate veterinary treatment; or

(ii) because a suitable release site was not reasonably available; or

(iii) for some other reasonable cause;

and

(b) the person —

(i) delivered the fauna to a wildlife officer at the earliest reasonable opportunity; or

(ii) with the approval of the CEO obtained at the earliest reasonable opportunity, delivered the fauna to a person who held an appropriate licence to possess the fauna.

48. Dangerous snakes

Killing a snake of the family Elapidae (venomous land and sea snakes) is authorised (and does not require a licence) if the snake poses, or is reasonably perceived to pose, an immediate threat to —

(a) public health or safety; or

(b) stock or domesticated animals; or

(c) animals on display or held in captivity or confinement.

49. Invertebrate fauna

(1) In this regulation —

fauna does not include —

(a) threatened fauna; or

(b) specially protected fauna.

(2) Taking, disturbing or possessing invertebrate fauna is authorised (and does not require a licence) in any circumstances except where the taking, disturbing or possessing is for 1 or more of the following purposes —

(a) a bioprospecting activity;

(b) a commercial purpose;

(c) a purpose for which a fauna taking (scientific or other purposes) licence or a fauna taking (biological assessment) licence is issued.

50. Disturbing fauna

(1) Disturbing fauna, including threatened fauna, is authorised (and does not require a licence) if —

(a) the fauna is injured, diseased, exhausted, trapped, stranded or otherwise in need of assistance, care or treatment and the disturbance is reasonably necessary to provide such assistance, care or treatment; or

(b) without limiting paragraph (a), the fauna is entangled in a rope, line, net or debris and the disturbance involves taking reasonable steps to release the fauna; or

(c) the disturbance is reasonably necessary in order to determine whether the fauna is in need of assistance, care or treatment; or

(d) the disturbance is to capture the fauna so that it may be moved and then immediately released in the immediate vicinity, and the disturbance is reasonable in the circumstances; or

(e) the disturbance is caused by a person who is acting under the direct supervision of a wildlife officer; or

(f) the disturbance occurs in the course of releasing the fauna back into the wild; or

(g) the disturbance is —

(i) authorised by an authorisation given by the CEO or a wildlife officer for the purposes of this regulation; and

(ii) in accordance with any conditions of that authorisation (including that any action must be taken under the supervision of a wildlife officer).

(2) However, subregulations (1)(a), (b), (c) and (d) do not apply in relation to marine fauna (but action described in any of those provisions may be taken in relation to marine fauna under an authorisation under subregulation (1)(g)).

51. Authorised feeding

The following feeding of fauna is authorised (and does not require a licence) —

(a) feeding of fauna held under lawful authority;

(b) feeding that is undertaken as part of fishing in accordance with the *Fish Resources Management Act 1994*;

(c) feeding that is undertaken for the purposes of a right under the common law to carry out recreational fishing;

(d) feeding that is undertaken —

(i) by, or under the supervision and control of, a person who holds an authorisation given by the CEO for the purposes of this paragraph; or

(ii) under the supervision and control of a wildlife officer;

(e) feeding that involves planted vegetation that does not naturally occur in the fauna's environment;

(f) feeding that is accidental or incidental to another lawful activity, cannot be avoided, and is not likely to be detrimental to the fauna.

52. Possession of dead fauna

(1) The possession of dead fauna, other than a cetacean, is authorised (and does not require a licence) if —

(a) the fauna died as a result of —

(i) having been lawfully taken in the wild; or

(ii) having been lawfully killed while being lawfully held, or while in the wild; or

(iii) an accidental collision with a vehicle or structure; or

(iv) natural causes while being lawfully held, or while in the wild;

and

(b) the person in possession of the dead fauna does not intend to use the dead fauna for a commercial purpose or as part of a bioprospecting activity; and

(c) the person in possession of the dead fauna intends to supply the dead fauna to another person who has lawful authority to possess or to process the fauna.

(2) A person is authorised (and does not require a licence) to move a carcass of any fauna from one place to another place if it is in the interests of public health or safety to do so.

(3) Subregulation (2) does not limit any requirement for a licence for an activity undertaken after the carcass is moved.

53. Possession of naturally discarded parts of fauna

The possession of a naturally discarded part of fauna, other than a cetacean, is authorised (and does not require a licence) in any circumstances except where the person in possession of the part of fauna intends to —

(a) use it for a commercial purpose; or

(b) exchange it for something else.

Division 3 — Flora licences

Subdivision 1 — Licence classes and specific terms or conditions

54. Licence classes

For the purposes of the Act, the following classes of licence are prescribed in relation to flora —

(a) flora taking (commercial purposes) Crown land licence;

(b) flora taking (other purposes) Crown land licence;

(c) flora taking (biological assessment) licence;

(d) private land supplier's licence;

(e) Crown land supplier's licence;

(f) flora dealing licence;

(g) flora processing licence;

(h) flora taking (sandalwood) licence;

(i) flora supplying (sandalwood) licence;

(j) flora dealing (sandalwood) licence;

(k) flora processing (sandalwood) licence;

(l) flora exporting (sandalwood) licence.

55. Provisions relating to taking

Without limiting any other provision of these regulations, a licence authorising the taking of flora may include terms or conditions that provide for 1 or more of the following —

(a) the species of flora that may be taken;

(b) how the flora must be taken;

(c) the area or location from where the flora must be taken;

(d) the maximum quantities of flora that may be taken;

(e) the times of the year when the flora may be taken;

(f) the portion of the flora that may be taken;

(g) a requirement that identifiers must be applied to the flora, or to any product derived from the flora, and the method that must be used to attach any identifier;

(h) the site or sites where the flora must be stored;

(i) if the flora is to be translocated, where, when and how the translocation must occur;

(j) the extent to which the flora may be processed under the terms of the licence;

(k) if relevant —

(i) the species of flora that may be exported under the licence; and

(ii) the maximum quantities of flora that may be exported; and

(iii) the site or sites where the flora must be stored before being exported; and

(iv) the person or persons to whom the flora may be exported; and

(v) the portion of the flora that may be exported; and

(vi) the means by which the flora may be exported.

56. Provisions relating to supply

Without limiting any other provision of these regulations, a licence authorising the supply of flora may include terms or conditions that provide for 1 or more of the following —

(a) the species of flora that may be supplied;

(b) how live flora must have been taken so as to support its continuing survival;

(c) the area or location from where flora must have been taken;

(d) a requirement that identifiers must be applied to the flora, or to any product derived from the flora, and the method that must be used to attach any identifier;

(e) the site or sites where the flora must be stored;

(f) the site or sites where the flora may be supplied;

(g) if the flora is to be translocated, where, when and how the translocation must occur;

(h) the maximum quantities of flora that may be supplied;

(i) the times of the year when the flora may be supplied;

(j) the portion of the flora that may be supplied;

(k) the extent to which the flora may be processed under the terms of the licence;

(l) if relevant —

(i) the species of flora that may be exported under the licence; and

(ii) the maximum quantities of flora that may be exported; and

(iii) the site or sites where the flora must be stored before being exported; and

(iv) the person or persons to whom the flora may be exported; and

(v) the portion of the flora that may be exported; and

(vi) the means by which the flora may be exported.

57. Provisions relating to dealing

Without limiting any other provision of these regulations, a licence authorising dealing in flora may include terms or conditions that provide for 1 or more of the following —

(a) the species of flora that may be purchased or supplied;

(b) the maximum quantities of flora that may be purchased or supplied;

(c) a requirement that identifiers must be applied to the flora, or to any product derived from the flora, and the method that must be used to attach any identifier;

(d) the site or sites where the flora must be stored;

(e) the site or sites where the flora may be supplied;

(f) the portion of the flora that may be purchased or supplied;

(g) the person or persons to whom the flora may be supplied;

(h) the extent to which the flora may be processed under the terms of the licence;

(i) if relevant —

(i) the species of flora that may be exported under the licence; and

(ii) the maximum quantities of flora that may be exported; and

(iii) the site or sites where the flora must be stored before being exported; and

(iv) the person or persons to whom the flora may be exported; and

(v) the portion of the flora that may be exported; and

(vi) the means by which the flora may be exported.

58. Provisions relating to processing

Without limiting any other provision of these regulations, a licence authorising the processing of flora may include terms or conditions that provide for 1 or more of the following —

(a) the species of flora that may be processed;

(b) the maximum quantities of flora that may be processed;

(c) a requirement that identifiers must be applied to the flora, or to any product derived from the flora, and the method that must be used to attach any identifier;

(d) the site or sites where the flora must be stored;

(e) the site or sites where the processing may occur;

(f) the portion of the flora that may be processed;

(g) the product produced by the processing and the method used to produce it;

(h) if relevant —

(i) the species of flora (as processed) that may be exported under the licence; and

(ii) the maximum quantities of product that may be exported; and

(iii) the site or sites where the product must be stored before being exported; and

(iv) the person or persons to whom the product may be exported; and

(v) the portion of the flora (as processed) that may be exported; and

(vi) the means by which the product may be exported.

59. Provisions relating to exporting sandalwood

Without limiting any other provision of these regulations, a licence authorising the exporting of sandalwood may include terms or conditions that provide for 1 or more of the following —

(a) the maximum quantities of sandalwood that may be exported;

(b) a requirement that identifiers must be applied to the sandalwood, or to any product derived from the sandalwood, and the method that must be used to attach any identifier;

(c) the site or sites where the sandalwood must be stored before exporting;

(d) the person or persons to whom the sandalwood may be exported;

(e) the portion of the sandalwood that may be exported;

(f) the means by which the sandalwood may be exported.

Subdivision 2 — Provisions relating to specific licence classes

60. Flora taking (commercial purposes) Crown land licence

(1) In this regulation —

flora does not include specifically controlled sandalwood.

(2) A flora taking (commercial purposes) Crown land licence authorises the holder of the licence to do 1 or more of the following for a commercial purpose —

(a) take flora on Crown land;

(b) supply flora taken under the licence to a person who holds —

(i) a flora dealing licence; or

(ii) a flora processing licence;

(c) supply flora taken under the licence to another person who does not intend to supply, process or deal in the flora.

61. Flora taking (other purposes) Crown land licence

(1) In this regulation —

flora does not include specifically controlled sandalwood.

(2) A flora taking (other purposes) Crown land licence authorises the holder of the licence to do 1 or more of the following for a purpose other than a commercial purpose —

(a) take flora on Crown land;

(b) supply flora taken from Crown land.

62. Flora taking (biological assessment) licence

(1) In this regulation —

flora does not include cultivated flora.

(2) A flora taking (biological assessment) licence authorises the holder of the licence to take flora for —

(a) inventory work conducted in the provision of environmental consulting services; and

(b) obtaining specimens for identification purposes associated with work authorised under paragraph (a).

(3) A flora taking (biological assessment) licence may authorise the holder of the licence to undertake other activities specified in the licence.

(4) Without limiting any other provision of these regulations, a flora taking (biological assessment) licence may include conditions that specify 1 or more of the following —

(a) different levels of survey to be undertaken under the licence;

(b) the techniques that must be used to take any flora;

(c) the skills, qualifications or experience that must be possessed by a person who acts under the licence.

(5) A flora taking (biological assessment) licence cannot be granted to a person who is seeking to sell any flora taken under the licence.

63. Private land supplier's licence

(1) In this regulation —

flora does not include specifically controlled sandalwood;

not-for-profit organisation means a society, club or association that is not carried on for the purpose of profit or gain to its individual members.

(2) A private land supplier's licence authorises the holder of the licence to supply flora lawfully taken from private land to another person.

(3) A private land supplier's licence may only be granted to —

(a) an owner or occupier of the private land; or

(b) a person who holds an authorisation from an owner or occupier of the private land to take and supply the flora.

(4) A person who possesses any flora taken from private land for the purposes of supply (including a person who is an owner or occupier of the land) must be the holder of a private land

supplier's licence (and must continue to hold such a licence until the flora is supplied to another person).

Penalty for this subregulation: a fine of $5 000.

(5) The following supplying of flora is authorised (and does not require a private land supplier's licence) —

(a) supplying flora —

(i) to a not-for-profit organisation; or

(ii) as a not-for-profit organisation;

(b) supplying flora under an authorisation given by the CEO for the purposes of this subregulation.

64. Crown land supplier's licence

(1) In this regulation —

flora does not include specifically controlled sandalwood.

(2) A Crown land supplier's licence authorises the holder of the licence to supply flora lawfully taken from Crown land to another person.

(3) A person who possesses any flora taken from Crown land for the purposes of supply must be the holder of a Crown land supplier's licence (and must continue to hold such a licence until the flora is supplied to another person).

Penalty for this subregulation: a fine of $5 000.

65. Flora dealing licence

(1) In this regulation —

flora does not include specifically controlled sandalwood.

(2) A flora dealing licence authorises the holder of the licence to deal in flora that has been lawfully taken from private land or Crown land.

[(3) deleted]

[Regulation 65 amended: Gazette 21 Dec 2018 p. 4847.]

66. Flora processing licence

(1) In this regulation —

flora does not include specifically controlled sandalwood.

(2) A flora processing licence authorises the holder of the licence to —

(a) process flora for commercial purposes; and

(b) deal in that flora; and

(c) operate any flora processing establishment specified in the licence.

(3) A flora processing licence may only be granted to a person who is seeking to process flora that has been lawfully taken from private land or Crown land.

(4) Processing oil taken from flora taken under a flora taking (other purposes) Crown land licence issued for a scientific purpose is authorised (and does not require a flora processing licence).

67. Flora taking (sandalwood) licence

(1) A flora taking (sandalwood) licence authorises the holder of the licence to —

(a) take sandalwood from private land or from Crown land; and

(b) undertake preliminary processing in the field of sandalwood taken under the licence in order to prepare the sandalwood for measurement and transportation (including debarking, stripping or cutting the sandalwood into sections for transportation); and

(c) move sandalwood for the purposes of undertaking preliminary processing; and

(d) if specified in the licence — supply sandalwood taken under the licence to a person who holds —

(i) a flora supplying (sandalwood) licence; or

(ii) a flora dealing (sandalwood) licence; or

(iii) a flora processing (sandalwood) licence.

(2) A flora taking (sandalwood) licence does not authorise the taking of sandalwood on any land described in Schedule 3.

(3) Without limiting any other provision of these regulations, a flora taking (sandalwood) licence may include terms or conditions that provide for 1 or more of the following —

(a) the method by which the sandalwood is to be taken under the licence;

(b) in relation to sandalwood on private land — a requirement that the whole tree is to be taken;

(c) in relation to living sandalwood a requirement that —

(i) a sandalwood tree taken under the licence must not be less than 400 mm in circumference when measured over the bark at a point approximately 150 mm above ground level; and

(ii) the trunk of a sandalwood tree taken under the licence must not have a circumference less than 380 mm when stripped of bark and measured at a point approximately 150 mm above ground level;

(d) how the site at which the sandalwood is taken is to be managed after it is taken;

(e) a requirement for the regeneration of sandalwood, in accordance with any specified method, including regeneration at the site at which the sandalwood is taken or at some other place (and including using seed taken from other sandalwood);

(f) limits on the quantity of —

(i) dead sandalwood that may be taken at a particular site; or

(ii) green sandalwood that may be taken at a particular site;

(g) a requirement for the taking of dead sandalwood before the taking of green sandalwood, in accordance with any specified approach or method;

(h) the site or sites where the sandalwood —

(i) must be stored; or

(ii) may be supplied.

(4) A measurement taken for the purposes of a requirement under subregulation (3)(c) must be made over tight bark and so, for that purpose, loose or flaky bark must be removed by hand from the site of measurement before the measurement is undertaken.

(5) Taking sandalwood, other than specifically controlled sandalwood, on private land is authorised (and does not require a flora taking (sandalwood) licence).

[Regulation 67 amended: SL 2022/43 r. 4.]

68. Flora supplying (sandalwood) licence

(1) In this regulation —

sandalwood means specifically controlled sandalwood.

(2) A flora supplying (sandalwood) licence authorises the holder of the licence to store and supply to another person sandalwood that has been lawfully taken.

(3) A person who possesses any sandalwood taken from private land or Crown land for the purposes of supply (including a person who is an owner or occupier of the land) must be the holder of a flora supplying (sandalwood) licence (and must continue to hold such a licence until the sandalwood is supplied to another person).

Penalty for this subregulation: a fine of $5 000.

69. Flora dealing (sandalwood) licence

(1) In this regulation —

sandalwood means specifically controlled sandalwood.

(2) A flora dealing (sandalwood) licence authorises the holder of the licence to deal in sandalwood that has been lawfully taken from private land or Crown land.

70. Flora processing (sandalwood) licence

(1) In this regulation —

sandalwood means specifically controlled sandalwood.

(2) A flora processing (sandalwood) licence authorises the holder of the licence to —

(a) process sandalwood for commercial purposes; and

(b) to the extent specified in the licence — deal in sandalwood obtained under the licence in order to supply the sandalwood to a holder of a flora dealing (sandalwood) licence or to another holder of a flora processing (sandalwood) licence; and

(c) operate any flora processing establishment specified in the licence.

(3) A flora processing (sandalwood) licence may only be granted to a person who is seeking to process sandalwood that has been lawfully taken from private land or Crown land.

71. Flora exporting (sandalwood) licence

A flora exporting (sandalwood) licence authorises the holder of the licence to export specifically controlled sandalwood to another State or a Territory.

Division 4 — Bioprospecting licence

72. Bioprospecting licence

(1) A bioprospecting licence authorises the holder of the licence to take fauna or flora for a bioprospecting activity.

(2) A bioprospecting licence does not authorise a person to take fauna or flora that belongs to a threatened species unless an authorisation relating to the threatened species has been given to the person by the Minister under section 40 of the Act.

(3) A bioprospecting licence does not authorise a person to take flora on private land.

(4) Without limiting any other provision of these regulations, a bioprospecting licence may include a condition that requires the holder of the licence to enter into an arrangement with the CEO for the sharing of profits or for the provision of other benefits to the State.

Division 5 — Common provisions for licences

Subdivision 1 — Applications

73. Application for licence or renewal of licence

(1) A person may apply to the CEO for a licence or for the renewal of a licence.

(2) An application must —

(a) be made in the manner and form approved by the CEO; and

(b) include all information required by the form approved under paragraph (a); and

(c) be accompanied by any other information (including information verified by statutory declaration) that the CEO requires.

74. Further information

(1) The CEO may, in writing, require an applicant for a licence, or for the renewal of a licence, to do 1 or more of the following —

(a) give the CEO any further information relevant to the application that the CEO requires;

(b) verify by statutory declaration any further information;

(c) give the CEO the applicant's written consent to seek from another person specified in the requirement information about the applicant relevant to the application.

(2) The CEO may specify in a requirement under subregulation (1) a reasonable time within which the applicant must comply with the requirement.

(3) The CEO may refuse an application if the applicant does not comply with a requirement under subregulation (1) within the time specified in the requirement or, if no time is specified, within a reasonable time.

75. Timing of application for renewal of licence

(1) In this regulation —

expiry day, in relation to a licence, means the day on which the licence is due to expire.

(2) An application for the renewal of a licence must be made at least 15 business days before the expiry day of the licence.

(3) The CEO may, at the request of the holder of the licence, accept an application made less than 15 business days before the expiry day if the CEO is satisfied that there is sufficient time to determine the application before the expiry day.

(4) If an application has been made in accordance with this regulation then the licence continues to have effect until the application is determined, unless it is sooner cancelled or suspended under this Part.

76. Consideration of application for licence or renewal of licence

(1) In this regulation —

designated offence means an offence against a designated Act, or against any regulations made under a designated Act;

disqualifying event, in relation to an application for a licence or the renewal of a licence, means —

(a) failing to provide adequate or sufficient information in connection with the making of the application; or

(b) making a false or misleading statement in, or in relation to, an application under a designated Act; or

(c) contravening, or failing to comply with, a condition of a licence under the Act or a repealed Act; or

(d) being the holder (or former holder) of a licence that has been suspended or cancelled under the Act or a repealed Act; or

(e) being found guilty of a designated offence.

(2) In considering an application for a licence or the renewal of a licence (an ***application***), the CEO may take into account any matter the CEO considers relevant to the application.

(3) Without limiting subregulation (2), in considering an application, the CEO may take into account —

(a) whether the applicant or, in the case of a body corporate, whether an officer of the body corporate —

(i) has been involved in a disqualifying event; and

(ii) is or is not, in the opinion of the CEO, a fit and proper person or otherwise suitable to hold a licence;

and

(b) the proper conservation, protection and management of fauna and flora; and

(c) the public interest (and especially the extent to which the operation of the licence would not be in the public interest).

(4) Without limiting subregulation (2) or (3), in considering an application under Division 2, the CEO may take into account —

(a) for a licence authorising the taking of fauna —

(i) whether the applicant has the experience, skills or qualifications required to appropriately perform any activities to be carried out under the licence; and

(ii) whether the applicant has the equipment and facilities to appropriately manage the fauna (including dead fauna); and

(iii) in the case of a licence to take fauna for commercial purposes, whether the applicant has a suitable cold storage facility, or has a dealer to whom the applicant will be able to supply the fauna taken under the licence; and

(iv) whether the applicant holds any licence or other authority that may be required under another law in connection with any activity to be carried out under the licence;

and

(b) for a licence authorising the taking or releasing of any species, the impact that the granting of the licence would have on the conservation of that species, or of any other species; and

(c) for a licence authorising the possession of fauna, the impact that the granting of the licence would have on the welfare of any fauna; and

(d) without limiting paragraphs (a) to (c), the suitability of any place, equipment or enclosure that may be used in

connection with the care, possession or management of fauna if the licence were to be granted; and

(e) whether the fauna may be classified as fauna causing damage; and

(f) the extent to which any fauna pose, or could pose, a risk to public health or safety.

(5) The CEO may delay making a decision on an application until —

(a) a person authorised by the CEO has conducted an inspection of any place and provided a report to the CEO for the purposes of assessing the application; and

(b) the applicant has paid the appropriate inspection fee under Schedule 7.

(6) The CEO may refuse an application if the applicant fails to allow an inspection under subregulation (5)(a) to occur within a period specified by the CEO.

77. Licence fees

(1) A licence fee under Schedule 7 is payable at the time that an application is made for a licence or for the renewal of a licence.

(2) If an application for a licence or the renewal of a licence is refused, the CEO must refund the licence fee paid in respect of the application.

78. Notice of decision to refuse application

The CEO must, as soon as practicable after making a decision to refuse an application for a licence or the renewal of a licence, give to the person to whom the decision relates, written notice of the decision (including reasons for the refusal).

79. Form of licence

A licence must be in a form approved by the CEO.

80. Duration of licence

A licence that is granted or renewed has effect for a period, not exceeding 3 years, specified in the licence unless it is sooner cancelled or suspended under this Part.

81. Licence not transferable

A licence is not transferable.

82. Amendment of licence

(1) In this regulation —

amend, in relation to a licence, includes —

(a) to add, substitute or delete a term or condition of the licence; and

(b) to correct —

(i) a clerical mistake, error or unintended consequence; or

(ii) a figure that has been miscalculated; or

(iii) a misdescription of a person, activity or thing.

(2) The CEO may at any time, by written notice given to the holder of a licence, amend a licence.

(3) The CEO may exercise the power in subregulation (2) on the CEO's own initiative or on the application of the holder of the licence.

(4) An application under subregulation (3) must —

(a) be made in the manner and form approved by the CEO; and

(b) be accompanied by the appropriate fee specified in Schedule 7.

(5) Regulation 76 applies in relation to an application under subregulation (3) as if a reference in that regulation to an

application were a reference to an application under subregulation (3).

(6) In considering an application under subregulation (3), the CEO may take into account any matter the CEO considers relevant to the application.

(7) A notice under subregulation (2) takes effect on the day specified in it.

(8) The day specified in a notice under subregulation (2) cannot be before the holder of the licence has had a reasonable opportunity —

(a) in the case of action taken on the CEO's initiative — to make submissions to the CEO in relation to the matter; and

(b) to take any action necessary to comply with the licence as amended.

Subdivision 2 — Conditions

83. CEO may impose conditions

The CEO may, when granting or renewing a licence, impose —

(a) any condition contemplated by these regulations; and

(b) any other condition the CEO thinks fit.

84. Contravention of condition of licence

A person must not contravene a condition of a licence.

Penalty:

(a) if the offence involves a licence that relates to sandalwood — a fine of $25 000;

(b) if the offence involves a commercial licence (other than a licence referred to in paragraph (a)) — a fine of $15 000;

(c) in any other case — a fine of $10 000.

Subdivision 3 — Information and records

85. Keeping of information and records

(1) A licence may include a condition that requires the holder of the licence to —

(a) compile or create information or records relating to the licence (including activities conducted under the licence); and

(b) keep the information or records —

(i) in a form specified in the condition; and

(ii) in a place that complies with any requirements specified in the condition; and

(iii) for a period specified in the condition.

(2) The holder of a licence must, at the request of the CEO or a person acting under the authority of the CEO, produce for inspection any information or record required by a condition under subregulation (1).

Penalty for this subregulation: a fine of $10 000.

(3) The holder of a licence must not include any information, or make any statement, in information or records required by a condition under subregulation (1) that the holder knows to be false or misleading in a material particular.

Penalty for this subregulation:

(a) if the offence involves a licence that relates to sandalwood — a fine of $25 000;

(b) if the offence involves a commercial licence (other than a licence under paragraph (a)) — a fine of $10 000;

(c) in any other case — a fine of $5 000.

86. Returns

(1) A licence may include a condition that requires the holder of the licence to —

(a) give the CEO returns relating to the operation of the licence (including activities conducted under the licence); and

(b) ensure that the returns —

(i) contain the information specified in the condition; and

(ii) are in a form specified in the condition; and

(iii) are provided in a manner specified in the condition; and

(iv) are provided at times specified in the condition.

(2) The holder of a licence must not include any information, or make any statement, in a return required by a condition under subregulation (1) that the holder knows to be false or misleading in a material particular.

Penalty for this subregulation:

(a) if the offence involves a licence that relates to sandalwood — a fine of $25 000;

(b) if the offence involves a commercial licence (other than a licence under paragraph (a)) — a fine of $10 000;

(c) in any other case — a fine of $5 000.

Subdivision 4 — Cancellation or suspension of licence

87. Cancellation or suspension of licence

The CEO may, by written notice given to the holder of a licence, cancel the licence, or suspend the licence for any period the CEO thinks fit, if —

(a) the holder of the licence —

(i) has contravened a provision of a designated Act or a provision of any regulations under a designated Act (including these regulations); or

(ii) has contravened a condition of the licence; or

(iii) is otherwise in the opinion of the CEO no longer a fit and proper person or otherwise suitable to hold the licence;

or

(b) the CEO considers that in the interests of the proper conservation, protection or management of fauna or flora, the licence should be cancelled or suspended.

88. Notice of proposed cancellation or suspension

(1) If the CEO proposes to cancel or suspend a licence, the CEO must give the holder of the licence written notice of the proposal and the CEO's reasons for the proposal.

(2) The notice must state that within a specified period after the notice is given, the person to whom it is given may make written representations to the CEO concerning the proposal.

(3) The CEO must consider any representations made within the period specified in the notice before giving effect to the proposal.

(4) The period specified in the notice must not be less than —

(a) 15 business days in the case of a proposal to cancel a licence; or

(b) 2 business days in the case of a proposal to suspend a licence.

Subdivision 5 — Review of licensing decisions

89. Review of decisions

(1) In this regulation —

person affected means —

(a) in relation to a reviewable decision about an application, the applicant; or

(b) in relation to any other reviewable decision, the holder of the licence to which the decision relates;

reviewable decision means a decision of the CEO under this Part to —

(a) refuse to grant or renew a licence; or

(b) amend a licence, or refuse an application to amend a licence; or

(c) impose a condition on a licence; or

(d) cancel or suspend a licence.

(2) A person affected by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.

Subdivision 6 — Other licensing matters

90. Licence document to be returned

(1) The CEO may require the holder of a licence to return the licence document to the CEO in the following circumstances —

(a) if the licence is amended, so that the CEO may issue a replacement licence document;

(b) if the licence is cancelled or suspended;

(c) if the licence is not renewed.

(2) A person who is required to return a licence document under subregulation (1) must comply with the requirement.

Penalty for this subregulation: a fine of $1 000.

91. Surrender of licence

The holder of a licence may surrender the licence to the CEO.

92. Exclusive rights under licence

The CEO may, in acting under these regulations —

(a) grant or refuse to grant a licence to take fauna in a manner that has the effect of conferring on a person an exclusive or preferential right to take specified fauna from specified land (including private land in circumstances where consent to enter the land is obtained from the occupier of the land); or

(b) grant or refuse to grant a licence to take flora in a manner that has the effect of conferring on a person an exclusive or preferential right to take specified flora from specified land (other than private land).

93. CALM Act licence or permit

The CEO may, if the CEO considers it appropriate to do so, include any licence or permit granted to a person under the CALM Act in a licence document issued to the person under this Part.

Division 6 — Other provisions

94. Importing fauna

The holder of a fauna importing licence must ensure that a consignment of fauna or fauna products dispatched under the licence from another State or a Territory for importing into Western Australia is accompanied by a copy of the fauna importing licence in accordance with any relevant condition of the licence.

Penalty: a fine of $5 000.

95. Exporting fauna

A person must not dispatch for export a consignment of fauna or fauna products unless a copy of the fauna exporting licence authorising the export accompanies the fauna in accordance with any relevant condition of the licence.

Penalty: a fine of $5 000.

96. Exporting sandalwood

(1) A person must not export specifically controlled sandalwood except under the authority of a flora exporting (sandalwood) licence.

Penalty for this subregulation: a fine of $25 000.

(2) A person must not dispatch for export a consignment of specifically controlled sandalwood unless a copy of the flora exporting (sandalwood) licence authorising the export accompanies the sandalwood in accordance with any relevant condition of the licence.

Penalty for this subregulation: a fine of $5 000.

97. Licence holder to provide specimens

A licence may include a condition that requires the holder of the licence to provide specimens of any fauna or flora taken, possessed, supplied or otherwise dealt with under the licence to a person specified in the licence.

98. False or misleading statements

A person must not, in or in connection with making an application under this Part, make a statement that the person knows to be false or misleading in a material particular.

Penalty: a fine of $10 000.

99. Coordination of activities

A licence to take or disturb fauna, or to take flora, on CALM Act land may include a condition that requires the holder of the licence to coordinate activities undertaken under the licence with activities undertaken by officers of the Department based at an office of the Department specified in the licence.

100. Identifiers

(1) This regulation applies to the following licences —

(a) a commercial licence;

(b) a fauna causing damage licence.

(2) A licence to which this regulation applies may include a condition that requires a specified identifier to be fixed, at a specified time, to fauna or flora taken under the licence.

(3) A person must not possess, transport or deal in any fauna or flora that is required by a condition referred to in subregulation (2) to have an identifier fixed to it unless the identifier is so fixed in accordance with any requirements specified in the condition.

Penalty for this subregulation: a fine of $5 000.

(4) A person who is provided with an identifier by the CEO for the purposes of this regulation must not provide the identifier to any other person (unless the identifier has been fixed to fauna or flora in accordance with the requirements of a condition of a licence or the identifier is being returned to the CEO).

Penalty for this subregulation: a fine of $5 000.

(5) If the holder of a licence receives, or takes possession of, any fauna or flora for processing that does not have an identifier fixed to it as required by a condition referred to in subregulation (2), the holder of the licence must immediately —

(a) reject the flora or fauna for processing; and

(b) make a record in accordance with any requirements specified in the CEO guidelines; and

(c) provide a copy of that record to the CEO in accordance with any requirements specified in the CEO guidelines.

Penalty for this subregulation: a fine of $5 000.

(6) If any fauna or flora that requires an identifier to be fixed to it does not have the relevant identifier duly fixed, a wildlife officer may seize and retain the fauna or flora (as the case may be).

(7) A wildlife officer may return any fauna or flora seized under subregulation (6) if or when the relevant identifier is obtained from the CEO by the holder of the relevant licence.

(8) A reference in this regulation to fauna includes a reference to a fauna product.

101. Access to land (licensees)

(1) In this regulation —

designated activity means any of the following activities —

(a) taking, disturbing, releasing, feeding, or processing fauna;

(b) taking, possessing for supply, or processing flora.

(2) A person who is authorised to carry out a designated activity under a licence must not, for the purposes of the designated activity, enter land that is not in the possession or under the control of the holder of the licence without the written authorisation of an owner or occupier of the land to enter the land and to carry out the designated activity.

Penalty for this subregulation: a fine of $5 000.

Part 5 — Protection and management of fauna

Division 1 — Managed fauna

102. Managed fauna

(1) Fauna of a species specified in Schedule 4 is managed fauna for the purposes of sections 149, 152 and 153 of the Act in the local government districts specified opposite the species in that Schedule.

(2) Subregulation (1) does not apply in relation to fauna that is to be taken for a commercial purpose.

103. Birds

A person must not take or disturb a bird of a species specified in Schedule 4 unless —

(a) in the case of a bird specified in Schedule 4 item 1, 2, 3, 5, 6 or 9 — the bird is causing, or is reasonably expected to cause, economic damage; and

(b) in all cases —

(i) the taking or disturbance is by means of a firearm; or

(ii) the disturbance is by means of a noise or light generating device.

Penalty: a fine of $10 000.

104. Kangaroos

(1) In this regulation —

Code of Practice for Non-Commercial Purposes means the *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-Commercial Purposes* endorsed by the Natural Resource Management Ministerial Council on 7 November 2008, as in force from time to time, and

if that code has been substituted or replaced by another document, includes that other document.

(2) A person must not take a kangaroo of a species specified in Schedule 4 unless —

(a) the kangaroo is causing, or is reasonably expected to cause, damage to an agricultural activity or related agricultural infrastructure; and

(b) the taking is by means of a firearm; and

(c) the kangaroo is shot in accordance with the Code of Practice for Non-Commercial Purposes.

Penalty for this subregulation: a fine of $10 000.

[Regulation 104 amended: Gazette 21 Dec 2018 p. 4847.]

105. Access to land for management activity

(1) In this regulation —

management activity means taking or disturbing managed fauna.

(2) A person who is seeking to carry out a management activity must not, for the purposes of the management activity, enter land that is not in the possession or under the control of the person without the written authorisation of an owner or occupier of the land to enter the land and to carry out the management activity.

Penalty for this subregulation: a fine of $5 000.

106. Identification of managed fauna

(1) A person who possesses or transports managed fauna taken in circumstances described in regulation 103 or 104(2) must ensure that the fauna is in a state or condition that allows the fauna to be clearly identified as a species of managed fauna.

Penalty for this subregulation: a fine of $5 000.

(2) If a kangaroo taken in the circumstances described in regulation 104(2) is to be moved from the land where it was taken, the person who took the kangaroo must ensure that an identifier issued by the CEO for the purposes of this subregulation is fixed to the kangaroo before it leaves the land.

Penalty for this subregulation: a fine of $5 000.

(3) A person who transports a kangaroo taken in the circumstances described in regulation 104(2) from the land where it was taken must ensure that an identifier issued by the CEO for the purposes of this subregulation has been fixed to the kangaroo before it leaves the land.

Penalty for this subregulation: a fine of $5 000.

107. Inspection of land

For the purposes of section 198(d) of the Act, a wildlife officer may carry out an inspection for the purpose of inspecting any land where the wildlife officer has reasonable grounds to believe that the control of managed fauna is taking place or has taken place.

108. Power to give direction

(1) This regulation applies to the following fauna —

(a) a bird specified in Schedule 4 item 1, 2, 3, 5, 6 or 9;

(b) a kangaroo.

(2) A wildlife officer may give a direction to a person (not being the holder of a licence) prohibiting the taking or disturbing of fauna to which this regulation applies if the wildlife officer has reasonable grounds to believe that the fauna is not causing, or is not reasonably expected to cause —

(a) in the case of a bird — economic damage; or

(b) in the case of a kangaroo — damage to an agricultural activity or related agricultural infrastructure.

Division 2 — Interactions with marine fauna

Subdivision 1 — Preliminary

109. Terms used

(1) In this Division —

approach zone, for a whale shark, means the area surrounding the whale shark that is more than 30 m from the whale shark but not more than 250 m from the whale shark;

controlled zone, for a whale shark, means the area surrounding the whale shark that is more than 250 m from the whale shark but not more than 400 m from the whale shark;

prescribed fauna means any of the following when not kept in captivity —

(a) a whale;

(b) a dolphin;

(c) a killer whale;

(d) a dugong;

(e) a seal;

(f) a whale shark;

separation distance means —

(a) in relation to prescribed fauna other than a whale shark — the minimum distance specified in Schedule 5 in respect of that fauna;

(b) in relation to a whale shark — the minimum distance specified in the Table in regulation 111.

(2) A separation distance extends to a vertical distance above the surface of water and to a vertical distance below the surface of water.

110. Separation distances: prescribed fauna other than whale sharks

For the purposes of this Division, the distances specified in Schedule 5 in respect of prescribed fauna are the minimum distances that must be kept between that fauna and a person (when in the water), vessel, aircraft or aerial device.

[Regulation 110 amended: Gazette 21 Dec 2018 p. 4847.]

111. Separation distances: whale sharks

For the purposes of this Division, the distances specified in the Table are the minimum distances that must be kept between a whale shark and a person (when in the water), vessel or aerial device.

Table

Person	Vessel	Aerial device
3 m, when measured from the head or side of the whale shark, or 4 m when measured from the tail of the whale shark	30 m	60 m

112. Authorised activities

This Division does not apply in relation to any activity that —

(a) is authorised under a licence; or

(b) is authorised by the CEO for the purposes of this regulation; or

(c) is authorised under another written law; or

(d) relates to the marine environment and involves a vessel that is passing through a shipping lane, or being used by an agency of the Commonwealth or the State, if the

person operating the vessel is not intending to cause or facilitate any interaction with prescribed fauna; or

(e) is undertaken in response to a risk to the health or safety of any person.

Subdivision 2 — Enforcement of separation distances

113. Observing separation distances

(1) A person must not get closer to any prescribed fauna than the separation distance that applies in relation to the fauna.

Penalty for this subregulation: a fine of $5 000.

(2) A person driving, or in charge of, a vessel must not allow the vessel to get closer to any prescribed fauna than the separation distance that applies in relation to the fauna.

Penalty for this subregulation: a fine of $5 000.

(3) A person in charge of an aircraft must not allow the aircraft to get closer to any prescribed fauna than the separation distance that applies in relation to the fauna.

Penalty for this subregulation: a fine of $5 000.

(4) A person in charge of an aerial device must not allow the aerial device to get closer to any prescribed fauna than the separation distance that applies in relation to the fauna.

Penalty for this subregulation: a fine of $5 000.

114. Maintaining separation distances

(1) If prescribed fauna approaches a person (including a person who is in water on a board or other device that allows the person to float on the water) so that it is closer than the separation distance that applies in relation to the fauna, the person must move away from the fauna as soon as reasonably possible until the distance between the person and the fauna is at least the separation distance.

Penalty for this subregulation: a fine of $5 000.

(2) If prescribed fauna approaches a vessel so that it is closer than the separation distance that applies in relation to the fauna, the person in charge of the vessel must ensure that the separation distance is established by —

(a) switching off the vessel, or putting the vessel into neutral, or otherwise disengaging any other means of propulsion, until the distance between the vessel and the fauna is at least the separation distance; or

(b) moving the vessel away from the fauna —

(i) at a speed not exceeding 6 knots; and

(ii) until the distance between the vessel and the fauna is at least the separation distance.

Penalty for this subregulation: a fine of $5 000.

(3) If prescribed fauna approaches an aircraft so that it is closer than the separation distance that applies in relation to the fauna, the person in charge of the aircraft must move the aircraft away from the fauna until the distance between the aircraft and the fauna is at least the separation distance.

Penalty for this subregulation: a fine of $5 000.

(4) If prescribed fauna approaches an aerial device so that it is closer than the separation distance that applies in relation to the fauna, the person in charge of the aerial device must move the aerial device away from the fauna until the distance between the aerial device and the fauna is at least the separation distance.

Penalty for this subregulation: a fine of $5 000.

Subdivision 3 — Approach zones and controlled zones: whale sharks

115. Regulation of approach zones and controlled zones

(1) If a vessel (the ***first vessel***) is in the approach zone for a whale shark, the person in charge of any other vessel must not allow the vessel to enter the approach zone while the first vessel remains in the approach zone.

Penalty for this subregulation: a fine of $5 000.

(2) If a vessel (the ***first vessel***) is in the approach zone for a whale shark and another vessel (the ***second vessel***) is in the controlled zone for that whale shark, the person in charge of any other vessel must not allow the vessel to enter the controlled zone while the second vessel remains in the controlled zone.

Penalty for this subregulation: a fine of $5 000.

(3) The person in charge of a vessel that enters the approach zone for a whale shark must ensure that the vessel does not remain in the approach zone for longer than 90 minutes.

Penalty for this subregulation: a fine of $5 000.

(4) The person in charge of a vessel that has left the approach zone for a whale shark must ensure that the vessel does not re-enter the approach zone, or the controlled zone for that whale shark, within the period of 3 hours after leaving the approach zone.

Penalty for this subregulation: a fine of $5 000.

116. Restrictions on speeds

(1) Subject to subregulation (2), the person in charge of a vessel in the approach zone for a whale shark must ensure that the speed of the vessel does not exceed 6 knots while in the zone.

Penalty for this subregulation: a fine of $5 000.

(2) The speed of a vessel may exceed 6 knots if there is a risk to the safety of the vessel or a risk to the safety of any person.

(3) If the speed of a vessel exceeds 6 knots because there is a risk described in subregulation (2), the person in charge of the vessel must ensure that the vessel immediately leaves the approach zone.

Penalty for this subregulation: a fine of $5 000.

117. Towing

A person must not operate a vessel so as to —

(a) tow a person on a device in the approach zone for a whale shark; or

(b) tow another vessel in the approach zone for a whale shark.

Penalty: a fine of $5 000.

Subdivision 4 — Other interactions

118. Touching marine fauna

A person must not touch, or attempt to touch, any marine fauna.

Penalty: a fine of $10 000.

119. Diving with marine fauna

(1) In this regulation —

dive means to swim while using an apparatus that provides an artificial air supply.

(2) A person must not dive with any marine fauna, other than a sea turtle or manta ray.

Penalty for this subregulation: a fine of $5 000.

120. Interfering with natural movement of marine fauna

(1) A person who is in water (including a person on a board or other device that allows the person to float on the water) must not obstruct or interfere with the natural movement of marine fauna.

Penalty for this subregulation: a fine of $5 000.

(2) A person who is in charge of a vessel must not allow the vessel to obstruct or interfere with the natural movement of marine fauna.

Penalty for this subregulation: a fine of $5 000.

121. Protection of visibly disturbed marine fauna

(1) If a vessel, aircraft or aerial device is near any marine fauna that exhibits any sign of being disturbed (whether or not the vessel, aircraft or device is the cause of the disturbance), the person in charge of the vessel, aircraft or device must ensure that the vessel, aircraft or device is immediately moved away from the marine fauna to a distance that ensures that it cannot reasonably have any effect on the marine fauna.

Penalty for this subregulation: a fine of $5 000.

(2) It is a defence to a charge of an offence under subregulation (1) to prove that —

(a) to move the vessel, aircraft or device immediately away would have endangered the safety of any person; and

(b) the person in charge of the vessel, aircraft or device moved the vessel, aircraft or device away as soon as it was reasonably practicable to do so without endangering the safety of any person.

(3) This regulation does not apply in relation to a person who is acting under Division 3.

122. Seals on land

A person must not get closer to a seal on land than a distance of 10 m.

Penalty: a fine of $5 000.

Subdivision 5 — Exception

123. Exception

A person does not contravene regulation 113(2) or 114(2) if the person is in charge of a vessel that is underway and the fauna is riding in or on the bow wave of the vessel.

Division 3 — Fauna requiring assistance

Subdivision 1 — Injured or abandoned fauna

124. Notification requirements

(1) This regulation applies to a person who takes possession of injured fauna, or abandoned fauna, that is —

(a) threatened fauna; or

(b) specially protected fauna; or

(c) fauna specified in Schedule 6.

(2) A person to whom this regulation applies must give the CEO written notice, in accordance with subregulation (3), that the person possesses the injured fauna or abandoned fauna within 24 hours after taking possession of the fauna.

Penalty for this subregulation: a fine of $5 000.

(3) A notice given to the CEO for the purposes of subregulation (2) must —

(a) specify the place where the fauna is being kept; and

(b) comply with any other requirement determined by the CEO and published on the Department's website; and

(c) be given in a manner determined by the CEO and published on the Department's website.

125. Requirement to surrender

(1) A wildlife officer may require a person who possesses injured fauna or abandoned fauna to give the fauna to the officer, or to another person specified by the officer, within a period specified by the officer.

(2) A person must not contravene a requirement imposed in relation to the person under subregulation (1).

Penalty for this subregulation: a fine of $5 000.

(3) It is a defence to a charge of an offence under subregulation (2) to prove that the person charged had a reasonable excuse.

126. Requirements to release or take other action

(1) This regulation does not apply in relation to a person who possesses injured fauna or abandoned fauna under a licence.

(2) This regulation does not apply in relation to injured fauna or abandoned fauna that is a declared pest.

(3) A person who possesses injured fauna or abandoned fauna (including fauna to which regulation 124 applies) must, within 72 hours after taking possession of the fauna —

(a) if the fauna is capable of fending for itself — release the fauna at the place from where the fauna was originally taken, or at a place approved by the CEO; or

(b) give the fauna to a wildlife officer or to another person specified by a wildlife officer; or

(c) give the fauna to a person who is authorised under a licence, or who is approved by the CEO, to take possession of fauna for the purposes of rehabilitation; or

(d) give the fauna to a veterinarian; or

(e) apply for an appropriate licence to retain possession of the fauna.

Penalty for this subregulation: a fine of $5 000.

(4) It is a defence to a charge of an offence under subregulation (3) to prove that the person charged had a reasonable excuse.

(5) If a person's application for a licence under subregulation (3)(e) is unsuccessful, the person must immediately give the fauna to a wildlife officer, or to another person specified by the CEO, within a period specified by the CEO.

Penalty for this subregulation: a fine of $5 000.

(6) A person is not required to comply with subregulation (3) if the person, on application to a wildlife officer, is authorised by the wildlife officer to retain the fauna.

(7) A wildlife officer may, when giving an authorisation under subregulation (6), impose any condition the wildlife officer thinks fit (including a condition that the fauna be released or given to the wildlife officer or another person at a later time).

(8) A person must not contravene a condition imposed under subregulation (7).

Penalty for this subregulation: a fine of $5 000.

[Regulation 126 amended: SL 2022/95 r. 7.]

Subdivision 2 — Stranded or distressed fauna

127. Term used: closed area

In this Subdivision —

closed area means an area of land closed under regulation 128.

128. Stranded or distressed fauna

(1) This regulation applies in relation to fauna that is, or appears to be, stranded or distressed.

(2) Fauna to which this regulation applies may be protected by the closure of an area of land by a CALM Act officer, or another person, authorised by the CEO to act under this regulation.

(3) However —

(a) in the case of an area of land that is or includes private land, the area must not be closed without the consent of an owner or occupier of the land; and

(b) in the case of an area of land that is under the care, control and management of a responsible authority —

(i) the CEO must ensure that notification of the closure is given to the responsible authority as soon as practicable after the closure; and

(ii) the notification must provide information about the time at which the closure came into effect and, if known, the period of the closure.

(4) If information about the period of the closure is not provided in a notification under subregulation (3)(b)(ii)), the CEO must ensure that the responsible authority is informed of the period as soon as it is known.

(5) A notification under this regulation may be given in any manner the CEO considers appropriate.

129. Designation of closed areas

A closed area may be designated by means of notices, signs or barriers.

130. Control of closed areas

(1) A person must not enter a closed area without the permission of a CALM Act officer.

Penalty for this subregulation: a fine of $5 000.

(2) A CALM Act officer may direct any person to leave a closed area.

(3) A direction may be given under subregulation (2) orally or in writing.

(4) A person must comply with a direction given to the person under subregulation (2).

Penalty for this subregulation: a fine of $5 000.

(5) It is a defence to a charge of an offence under subregulation (1) or (4) to prove that the person charged had a reasonable excuse.

Division 4 — Display of fauna

131. Display of fauna

A person must not place fauna on display unless the person has lawful authority to do so.

Penalty: a fine of $5 000.

Division 5 — Transport of fauna

132. Transport of fauna without causing injury

(1) A person must not transport fauna in a manner that causes, or is likely to cause, injury or suffering to the fauna.

Penalty for this subregulation: a fine of $20 000.

(2) If, in the opinion of a wildlife officer, action is required under this subregulation in the interests of the wellbeing of any fauna, the wildlife officer may —

(a) direct the recaging of fauna that is being transported; or

(b) direct that fauna that is being transported be —

(i) watered; or

(ii) fed; or

(iii) exercised; or

(iv) released in a suitable place;

or

(c) direct that fauna that is being transported be surrendered to the wildlife officer.

Part 6 — Transportation and storage of sandalwood

133. Sandalwood tracking forms

(1) A ***sandalwood tracking form*** is a form approved by the CEO for the purposes of this regulation.

(2) A sandalwood tracking form may be produced —

(a) in hard copy form by writing in indelible pencil or indelible ink; or

(b) if approved by the CEO for the purposes of this regulation — in electronic form using any procedure approved by the CEO.

(3) A procedure approved under subregulation (2)(b) may be for sandalwood tracking forms created or used by a person or a class of person specified by the CEO.

134. When sandalwood tracking forms required

(1) A sandalwood tracking form, completed in accordance with the requirements of this Part, is required whenever specifically controlled sandalwood (whether taken in the State or brought into the State) is transported as follows —

(a) from the place where sandalwood was taken to another place;

(b) in the case of sandalwood brought into the State — from the place where sandalwood enters the State to another place;

(c) from a place where sandalwood is stored to another place (including another place of storage);

(d) from a place where sandalwood is supplied to another place;

(e) from a place where sandalwood is processed to another place.

(2) Subregulation (1) does not apply in relation to —

(a) the movement of sandalwood from the place where it was taken to another place on the same land before any processing (including preliminary processing) is undertaken; or

(b) the delivery of sandalwood to the holder of a flora processing (sandalwood) licence if —

(i) it is delivered for the purposes of analysis; and

(ii) the quantity of sandalwood does not exceed 10 kg.

[Regulation 134 amended: SL 2022/43 r. 5.]

135. Content of sandalwood tracking forms

A sandalwood tracking form must contain the following information —

(a) details of the place where the sandalwood was taken;

(b) the date on which the sandalwood was taken;

(c) the name of the person who took the sandalwood;

(d) the licence number (or details of another authority) under which the sandalwood was taken;

(e) details of the place from which the sandalwood is to be transported;

(f) the name of the person to whom the sandalwood is to be delivered;

(g) the address of the place to which the sandalwood is to be delivered;

(h) the quantities of both dead and green sandalwood that is to be transported;

(i) the form in which the sandalwood is to be transported;

(ia) the date on which the sandalwood is to be transported;

(j) the registration number of the vehicle on which the sandalwood is to be transported and the registration number of a trailer attached for that purpose (if any);

(k) the signature of the driver of the vehicle on which the sandalwood is to be transported;

(l) any other information required by the sandalwood tracking form.

[Regulation 135 amended: SL 2022/43 r. 6.]

136. Completion of sandalwood tracking forms: general requirements

(1) A person must not include any information or make any statement in a sandalwood tracking form that the person knows to be false or misleading in a material particular.

Penalty for this subregulation: a fine of $25 000.

(2) A person must not alter any information or statement entered in a sandalwood tracking form unless —

(a) the alteration is made in a manner that leaves the entry that is altered legible or recoverable; and

(b) the identity of the person making the alteration is recorded on the form; and

(c) in the case of information required under regulation 135(a) to (g), (k) or (l) — the alteration is made for the purpose of correcting a mistake as soon as practicable after the mistake is discovered.

Penalty for this subregulation: a fine of $25 000.

(3) A person must, when completing a sandalwood tracking form, ensure that all information required under regulation 135 is included in the form.

Penalty for this subregulation: a fine of $25 000.

(4) A person who completes a sandalwood tracking form must —

(a) keep a copy of the form in accordance with any requirements specified by the CEO as part of the approved form; and

(b) ensure that a copy of the form is provided to the CEO in a manner, and within a period, specified by the CEO as part of the approved form.

Penalty for this subregulation: a fine of $25 000.

(5) A person who gives to another person a sandalwood tracking form must —

(a) keep a record of the giving of the form in accordance with any requirements specified by the CEO as part of the approved form; and

(b) ensure that a copy of the record is provided to the CEO in a manner, and within a period, specified by the CEO as part of the approved form.

Penalty for this subregulation: a fine of $25 000.

[Regulation 136 amended: SL 2022/43 r. 7.]

137. Use of sandalwood tracking forms: transportation

(1) A person must not transport sandalwood in a case where a sandalwood tracking form is required under these regulations without being in possession of a sandalwood tracking form that complies with the requirements of this Part.

Penalty for this subregulation: a fine of $5 000.

(2) It is a defence to a charge of an offence under subregulation (1) to prove that the person charged —

(a) was in possession of a form that appeared to be a duly completed sandalwood tracking form; and

(b) had no reason to believe that it was not a sandalwood tracking form that complies with the requirements of this Part.

(3) If a person engages another person (a ***driver***) to transport sandalwood in a case where a sandalwood tracking form is required under this Part, the person must, before the transportation occurs, ensure that the driver is given a sandalwood tracking form that complies with the requirements of this Part.

Penalty for this subregulation: a fine of $25 000.

(4) A person must not deliver sandalwood in a case where a sandalwood tracking form is required under this Part to —

(a) a person other than the person specified in the sandalwood tracking form for that sandalwood as being the person to whom the sandalwood is to be delivered; or

(b) a place other than the place specified in the sandalwood tracking form for that sandalwood as being the place to which the sandalwood is to be delivered.

Penalty for this subregulation: a fine of $5 000.

(5) A person who transports sandalwood in a case where a sandalwood tracking form is required under this Part must give to the person to whom the sandalwood is delivered, at the time of delivery, a sandalwood tracking form that complies with the requirements of this Part.

Penalty for this subregulation: a fine of $5 000.

(6) It is a defence to a charge of an offence under subregulation (5) to prove that the person charged —

(a) gave to the person to whom sandalwood was delivered a form that appeared to be a duly completed sandalwood tracking form; and

(b) had no reason to believe that it was not a sandalwood tracking form that complies with the requirements of this Part.

[Regulation 137 amended: SL 2022/43 r. 8.]

138. Sandalwood tracking forms: obligations of licence holders

(1) This regulation applies to the following licences —

(a) a flora supplying (sandalwood) licence;

(b) a flora dealing (sandalwood) licence;

(c) a flora processing (sandalwood) licence.

(2) The holder of a licence to which this regulation applies must ensure that any specifically controlled sandalwood received by the holder for the purposes of the licence is accompanied by a sandalwood tracking form that complies with the requirements of this Part.

Penalty for this subregulation: a fine of $25 000.

(3) The holder of a licence to which this regulation applies must ensure that when any specifically controlled sandalwood is received by the holder for the purposes of the licence (whether the sandalwood was taken in the State or brought into the State) —

(a) the sandalwood tracking form accompanying the sandalwood is immediately signed by the holder or an employee or other person authorised by the holder; and

(b) the date and time of receipt of the sandalwood is recorded on that form.

Penalty for this subregulation: a fine of $25 000.

(4) The holder of a licence to which this regulation applies who receives a sandalwood tracking form for the purposes of this regulation must —

(a) keep a record of the receipt of the form in accordance with any requirements specified by the CEO as part of the approved form; and

(b) ensure that a copy of the record is provided to the CEO in a manner, and within a period, specified by the CEO as part of the approved form.

Penalty for this subregulation: a fine of $25 000.

[Regulation 138 amended: SL 2022/43 r. 9.]

139. Storage of sandalwood

(1) A person must not store any specifically controlled sandalwood unless —

(a) the person is the holder of a licence that authorises the storage of that sandalwood at the place at which it is being stored; or

(b) the person is acting under an authorisation given by the CEO for the purposes of this regulation.

Penalty for this subregulation: a fine of $25 000.

(2) Subregulation (1) does not apply in relation to specifically controlled sandalwood if it has been processed under a flora processing (sandalwood) licence for commercial purposes.

Part 7 — Translocation of flora

140. Approval to translocate flora

(1) The CEO may approve the cultivation, taking and translocation of flora for conservation purposes.

(2) An approval may be given subject to conditions relating to the propagation, protection or translocation of the flora.

141. Amendment of condition of approval

(1) The CEO may at any time, by written notice given to the holder of an approval under regulation 140(1) —

(a) vary or remove a condition of the approval; or

(b) add a condition to the approval.

(2) The CEO may exercise a power in subregulation (1) on the CEO's own initiative or on the application of the holder of the approval.

(3) An application must be made in the manner and form approved by the CEO.

(4) In considering an application, the CEO may take into account any matter the CEO considers relevant to the application.

(5) A notice under subregulation (1) takes effect on the day specified in it.

(6) The day specified in a notice under subregulation (1) cannot be before the holder of the approval has had a reasonable opportunity —

(a) in the case of action taken on the CEO's initiative — to make submissions to the CEO in relation to the matter; and

(b) in the case of the variation or addition of a condition — to take any action necessary to comply with the

condition as varied or the new condition (as the case may be).

142. Contravention of condition of approval

The holder of an approval under regulation 140(1) must not contravene a condition of the approval.

Penalty: a fine of $1 000.

Part 8 — Taking or disturbance by Aboriginal people

143. Exclusion of operation of s. 182(2) and (3) of Act: threatened or specially protected fauna

The operation of section 182(2) and (3) of the Act is excluded in relation to threatened fauna or specially protected fauna, other than the following —

(a) dugong (*Dugong dugon*);

(b) loggerhead turtle (*Caretta caretta*);

(c) leatherback turtle (*Dermochelys coriacea*);

(d) olive ridley turtle (*Lepidochelys olivacea*);

(e) flatback turtle (*Natator depressus*);

(f) green turtle (*Chelonia mydas*);

(g) hawksbill turtle (*Eretmochelys imbricata*);

(h) saltwater crocodile (*Crocodylus porosus*);

(i) Australian freshwater crocodile (*Crocodylus johnstoni*).

144. Exclusion of operation of s. 182(2) and (3) of Act: fauna in marine park or marine nature reserve

(1) The operation of section 182(2) and (3) of the Act is, subject to subregulation (2), excluded in relation to the taking or disturbance of fauna —

(a) in an area of a marine park classified under the CALM Act section 62(1a) to be a sanctuary area; or

(b) in a marine nature reserve as defined in the CALM Act section 3.

(2) Subregulation (1) does not apply in relation to —

(a) fauna referred to in regulation 143 that is threatened fauna taken or disturbed in accordance with an authorisation under section 40 of the Act; or

(b) fauna referred to in regulation 143 that is specially protected fauna taken or disturbed with the written permission of the CEO; or

(c) fauna taken in accordance with the *Fish Resources Management Act 1994*.

145. Exclusion of operation of s. 182(2) and (3) of Act: use of firearm other than category A or category B firearm

The operation of section 182(2) and (3) of the Act is excluded in relation to the taking or disturbance of fauna with a firearm other than a category A firearm or a category B firearm.

146. Exclusion of operation of s. 182(2) and (3) of Act: fauna on urban land or in townsite

(1) In this regulation —

townsite has the meaning given in the *Land Administration Act 1997* section 26(1);

urban land means land within the metropolitan region as defined in the *Planning and Development Act 2005* section 4(1), the Peel Region described in Schedule 4 to that Act or the local government district of Bunbury.

(2) The operation of section 182(2) and (3) of the Act is, subject to subregulation (3), excluded in relation to the taking or disturbance of fauna (other than threatened fauna) if the fauna is taken or disturbed on urban land or in a townsite.

(3) Subregulation (2) does not apply in relation to fauna (other than threatened fauna) taken or disturbed with the written permission of the CEO.

147. Exclusion of operation of s. 182(2) and (3) of Act: fauna on CALM Act land or near relevant area

(1) In this regulation —

CALM Act land has the meaning given in section 181 of the Act;

relevant area means any of the following —

(a) a car park, including any area where signs direct vehicles to be parked or that is predominantly used for parking vehicles;

(b) a sealed road;

(c) a camping area as defined in the *Conservation and Land Management Regulations 2002* regulation 2;

(d) a visitor area;

visitor area means any of the following —

(a) an area of cultivated lawn;

(b) an area signposted as a picnic area;

(c) an area signposted as an historical, natural or cultural point of interest;

(d) an area where any of the following have been provided for visitors —

(i) tables and seating;

(ii) a lookout or platform;

(iii) a toilet facility;

(iv) a rubbish bin;

(v) interpretive information;

(vi) a building, facility or other erected or constructed thing (excluding a walk trail or unsealed road).

(2) The operation of section 182(2) and (3) of the Act is excluded in relation to the taking or disturbance of fauna (other than threatened fauna) if the fauna is taken or disturbed —

(a) without the written permission of the CEO; and

(b) with a category A firearm or a category B firearm; and

(c) on CALM Act land that is a relevant area or —

(i) if the fauna is taken with a category A firearm — within 1.5 km of a relevant area; or

(ii) if the fauna is taken with a category B firearm — within 3 km of a relevant area.

(3) The operation of section 182(2) and (3) of the Act is excluded in relation to the taking or disturbance of fauna (other than threatened fauna) if the fauna is taken or disturbed —

(a) without the written permission of the CEO; and

(b) by means other than a firearm; and

(c) on CALM Act land that is a relevant area or within 1 km of a relevant area.

148. Exclusion of operation of s. 182(2) of Act: threatened or specially protected flora

(1) The operation of section 182(2) of the Act is, subject to subregulation (2), excluded in relation to the taking or disturbance of flora if the flora is threatened flora or specially protected flora.

(2) Subregulation (1) does not apply in relation to —

(a) flora taken in accordance with an authorisation under section 40 of the Act; or

(b) specially protected flora taken with the written permission of the CEO.

149. Permission of CEO

(1) When giving written permission for the purposes of this Part, the CEO must specify in the permission —

(a) the person or persons or group, body or association of persons to whom the permission applies; and

(b) the conditions, if any, subject to which the permission is given.

(2) The permission has effect —

(a) for the period specified in the permission, unless it is sooner revoked by the CEO under regulation 150; or

(b) if no period is specified in the permission, until it is revoked by the CEO under regulation 150.

(3) The permission has no effect —

(a) in respect of any person to whom the permission applies who does not comply with a condition to which the permission is subject; and

(b) during any period in which the condition is not complied with by that person.

150. Variation, suspension and revocation of permission

(1) The CEO may at any time, by written notice given to the person or persons or group, body or association of persons to whom a permission applies (the ***permission holder***) —

(a) vary or remove a condition of the permission; or

(b) add a condition of the permission; or

(c) suspend or revoke the permission.

(2) A notice under subregulation (1) takes effect on the day specified in it.

(3) The day specified in a notice under subregulation (1) cannot be before the permission holder has had a reasonable opportunity —

(a) to make submissions to the CEO in relation to the matter; and

(b) in the case of the variation or addition of a condition — to take any action necessary to comply with the condition as varied or the new condition (as the case may be).

Part 9 — Authorisations

151. Authorisations from owners or occupiers of land

(1) This regulation applies to an authorisation required from the owner or occupier of land for the purposes of section 171(2) or 173(2)(a) of the Act.

(2) An authorisation to which this regulation applies must —

(a) be in writing; and

(b) identify the relevant land, and the period during which access to the relevant land is authorised; and

(c) be signed and dated by the owner or occupier of the land providing the authorisation.

Part 10 — Legal proceedings

152. Additional penalty for offence involving sandalwood

For the purposes of section 180(1) of the Act, the prescribed amount is $20 000.

153. Liability of officers of body corporate for offence by body

(1) For the purposes of section 237(2)(d) of the Act but subject to subregulation (2), all provisions of these regulations that create an offence are prescribed for the purposes of section 237 of the Act.

(2) Subregulation (1) does not apply to an offence that relates to a licence that may only be granted to an individual.

[Regulation 153 inserted: SL 2023/165 r. 4.]

154. Applications for remediation orders

(1) An application for a remediation order under section 243 of the Act must be made in accordance with the *Criminal Procedure Regulations 2005* regulation 14 (other than regulation 14(3)).

(2) An application for a remediation order under section 243 of the Act may be served (in accordance with the *Criminal Procedure Act 2004* Schedule 2 clause 2 or 3) —

(a) with the prosecution notice for the relevant offence; or

(b) at the time of conviction; or

(c) after conviction, and in this case the application must be served at least 3 business days before the date on which the application is heard.

155. Enforcement of remediation orders

(1) An application for an order under section 245 of the Act must be made in accordance with the *Criminal Procedure Regulations 2005* regulation 14 (other than regulation 14(3)).

(2) An application for an order under section 245 of the Act must be served (in accordance with the *Criminal Procedure Act 2004* Schedule 2 clause 2 or 3) at least 3 business days before the date on which the application is heard.

Part 11 — Fees and charges

Division 1 — Fees

156. Fees

(1) The fees specified in Schedule 7 are payable in respect of the matters specified in that Schedule.

(2) The CEO may waive payment of, or refund, the whole or a part of a fee in a particular case if the CEO considers in the circumstances that it is appropriate to do so.

Division 2 — Charges

157. Charges for fauna and flora taken for commercial purposes

(1) The charges specified in Schedule 8 are imposed in respect of —

(a) fauna specified in that Schedule taken for a commercial purpose on any land; and

(b) managed fauna specified in that Schedule for which an identifier is required under regulation 106; and

(c) flora specified in that Schedule taken for a commercial purpose on Crown land.

(2) The person who takes the specified fauna or flora is liable to pay the charge.

(3) Subject to subregulation (4), the charge is payable to the CEO within 5 business days after the day on which the specified fauna or flora is taken (unless the CEO approves payment at a later time).

(4) If an identifier is required to be fixed to the fauna or flora under regulation 100 or 106, the charge is payable when the identifier is provided by the CEO.

(5) If the charge is not paid in accordance with subregulation (3), the charge is recoverable as a debt in a court of competent jurisdiction.

(6) The CEO may waive payment of, or refund, the whole or a part of a charge in a particular case if the CEO considers in the circumstances that it is appropriate to do so.

*[**158.** Deleted: Gazette 21 Dec 2018 p. 4847.]*

Part 12 — Miscellaneous

159. Money to be credited to Biodiversity Conservation Account

All charges paid or recovered under Part 11 must be credited to the account referred to in the CALM Act section 68.

160. Entry warrants

For the purposes of section 210(3) of the Act, the following information is prescribed —

(a) the applicant's full name and official details;

(b) the place or vehicle in relation to which the warrant is being sought;

(c) the purpose for which the entry to the place or vehicle is required;

(d) the grounds on which the applicant considers that entry to the place or vehicle is necessary;

(e) a statement to the best of the applicant's knowledge about whether an application for an entry warrant for the same place or vehicle has been made within the previous 72 hours and, if so, whether or not a warrant was issued.

161. Publication of guidelines

For the purposes of section 262(1) and (3) of the Act, guidelines issued under section 260 or 261, and any amendment or revocation of those guidelines, must be published on the Department's website.

162. Giving documents to CEO

(1) For the purposes of section 265(a) of the Act, the prescribed address is Department of Biodiversity, Conservation and Attractions, 17 Dick Perry Avenue, Kensington, Western Australia, 6151.

(2) For the purposes of section 265(b) of the Act, the postal address of the CEO is Locked Bag 104, Bentley Delivery Centre, Western Australia, 6983.

(3) For the purposes of section 265(d) of the Act —

(a) a document required or authorised to be given under the Act to the CEO may be given under that paragraph; and

(b) the prescribed email address is the email address specified on the Department's website as being available for use; and

(c) a document given under that paragraph must be in legible form when reproduced.

163. Giving documents by advertising

For the purposes of section 266(2) of the Act, the prescribed way of advertising a document is by publishing the document in a newspaper circulating generally in the State.

164. Information sharing

For the purposes of the definition of ***information sharing agency*** in section 274 of the Act, the following public authorities and agencies are prescribed —

(a) the Australian Federal Police or the police force of another State or a Territory;

(b) Australia Post;

(c) the agency principally assisting in the administration of the *Biosecurity Act 2015* (Commonwealth);

(d) the agency principally assisting in the administration of the *Biodiversity Conservation Act 2016* (New South Wales);

(e) the agency principally assisting in the administration of the *Territory Parks and Wildlife Conservation Act* (Northern Territory);

(f) the agency principally assisting in the administration of any of the following —

(i) the *Biodiscovery Act 2004* (Queensland);

(ii) the *Nature Conservation Act 1992* (Queensland);

(g) the agency principally assisting in the administration of any of the following —

(i) the *National Parks and Wildlife Act 1972* (South Australia);

(ii) the *Native Vegetation Act 1991* (South Australia);

(iii) the *Wilderness Protection Act 1992* (South Australia);

(h) the agency principally assisting in the administration of any of the following —

(i) the *Nature Conservation Act 2002* (Tasmania);

(ii) the *Threatened Species Protection Act 1995* (Tasmania);

(iii) the *Whales Protection Act 1988* (Tasmania);

(i) the agency principally assisting in the administration of the *Flora and Fauna Guarantee Act 1988* (Victoria).

165. Prescribed offences and modified penalties

(1) The offences specified in Schedule 9 column 1 are prescribed as offences for which an infringement notice may be issued under the *Criminal Procedure Act 2004* Part 2.

(2) For the purposes of the *Criminal Procedure Act 2004* section 5(3) —

(a) the amount specified in Schedule 9 column 2, directly opposite an offence, is the modified penalty for that offence if —

(i) the alleged offender is an individual; and

(ii) the individual has not previously been convicted of an offence of that kind and has not previously paid a modified penalty under that Act in respect of an alleged offence of that kind;

and

(b) the amount specified in Schedule 9 column 3, directly opposite an offence, is the modified penalty for that offence if —

(i) the alleged offender is a body corporate; and

(ii) the body corporate has not previously been convicted of an offence of that kind and has not previously paid a modified penalty under that Act in respect of an alleged offence of that kind;

and

(c) 2 times the amount specified in Schedule 9 column 2, directly opposite an offence, is the modified penalty for that offence if —

(i) the alleged offender is an individual; and

(ii) the individual has previously been convicted of an offence of that kind or has previously paid a modified penalty under that Act in respect of an alleged offence of that kind;

and

(d) 2 times the amount specified in Schedule 9 column 3, directly opposite an offence, is the modified penalty for that offence if —

(i) the alleged offender is a body corporate; and

(ii) the body corporate has previously been convicted of an offence of that kind or has previously paid a modified penalty under that Act in respect of an alleged offence of that kind.

(3) For the purposes of subregulation (2), a prior conviction or payment of a modified penalty in respect of an alleged offence

is not to be taken into account for the purpose of determining whether the alleged offender has previously been convicted of an offence or has previously paid a modified penalty unless —

(a) the prior conviction was recorded within the period of 5 years immediately before the giving of an infringement notice in respect of the present alleged offence; or

(b) the modified penalty was paid within the period of 5 years immediately before the giving of an infringement notice in respect of the present alleged offence.

166. Authorised officers and approved officers

(1) The CEO may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the *Criminal Procedure Act 2004* Part 2.

(2) The CEO must issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.

(3) An authorised officer may, for the purpose of showing that the authorised officer is authorised to issue an infringement notice, show a certificate, badge or identity card issued under subregulation (2) to the alleged offender.

167. Forms

For the purposes of the *Criminal Procedure Act 2004* Part 2, the forms set out in Schedule 10 are prescribed.

Part 13 — Transitional provisions

168. Terms used

In this Part —

commencement day means the day on which section 278 of the Act comes into operation;

corresponding licence, in relation to a wildlife licence, means the licence under these regulations that corresponds to the wildlife licence by virtue of the operation of regulation 176(1);

fauna taking licence means —

(a) a licence to take fauna for educational or public purposes under the *Wildlife Conservation Regulations 1970* regulation 15; or

(b) a licence to take fauna for scientific purposes under the *Wildlife Conservation Regulations 1970* regulation 17;

rare flora notice means the *Wildlife Conservation (Rare Flora) Notice 2018* published in the *Gazette* on 11 September 2018 at pages 3226 to 3232;

sandalwood order means the *Sandalwood (Limitation on Removal of Sandalwood) Order (No. 2) 2015* published in the *Gazette* on 29 December 2015 at page 5200;

specially protected fauna notice means the *Wildlife Conservation (Specially Protected Fauna) Notice 2018* published in the *Gazette* on 11 September 2018 at pages 3232 to 3242;

wildlife licence means a licence under the *Wildlife Conservation Act 1950*, the *Wildlife Conservation Regulations 1970* or the *Wildlife Conservation (Reptiles and Amphibians) Regulations 2002*.

[Regulation 168 amended: Gazette 17 Sep 2018 p. 3507-8.]

169. Application of s. 279(c) of Act to certain notices

Section 279(c) of the Act does not apply to the specially protected fauna notice or the rare flora notice.

170. Listing of specially protected species

The specially protected fauna notice is, in relation to the fauna specified in clause 3(e), (f) and (g) of the notice, taken to be an order made by the Minister under section 13(1) of the Act, subject to the following modifications —

(a) a species of fauna specified in Schedule 5 of the notice is taken to be a specially protected species in the category of migratory species;

(b) a species of fauna specified in Schedule 6 of the notice is taken to be a specially protected species in the category of species of special conservation interest;

(c) a species of fauna specified in Schedule 7 of the notice is taken to be a specially protected species in the category of species otherwise in need of special protection.

171. Listing of threatened species

(1) The specially protected fauna notice is, in relation to the fauna referred to in clause 3(a), (b) and (c) of the notice, taken to be an order made by the Minister under section 19(1) of the Act, subject to the following modifications —

(a) a species of fauna specified in Schedule 1 of the notice is taken to be a threatened species in the category of critically endangered species;

(b) a species of fauna specified in Schedule 2 of the notice is taken to be a threatened species in the category of endangered species;

(c) a species of fauna specified in Schedule 3 of the notice is taken to be a threatened species in the category of vulnerable species.

(2) The rare flora notice is, in relation to the flora referred to in clause 3(a), (b) and (c) of the notice, taken to be an order made by the Minister under section 19(1) of the Act, subject to the following modifications —

(a) a species of flora specified in Schedule 1 of the notice is taken to be a threatened species in the category of critically endangered species;

(b) a species of flora specified in Schedule 2 of the notice is taken to be a threatened species in the category of endangered species;

(c) a species of flora specified in Schedule 3 of the notice is taken to be a threatened species in the category of vulnerable species.

172. Listing of extinct species

(1) The specially protected fauna notice is, in relation to the fauna referred to in clause 3(d) of the notice, taken to be an order made by the Minister under section 23(1) of the Act, subject to the modification that a species of fauna specified in Schedule 4 of the notice is taken to be an extinct species in the category of extinct species.

(2) The rare flora notice is, in relation to the flora referred to in clause 3(d) of the notice, taken to be an order made by the Minister under section 23(1) of the Act, subject to the modification that a species of flora specified in Schedule 4 of the notice is taken to be an extinct species in the category of extinct species.

173. Sandalwood order

The sandalwood order is, in relation to sandalwood other than cultivated sandalwood, taken to be an order made by the Minister under section 187(2) of the Act in relation to the species *Santalum spicatum*.

174. Amendment or repeal of notice or order

(1) The Minister may, by order published in the *Gazette*, amend or repeal the specially protected fauna notice, the rare flora notice or the sandalwood order.

(2) Section 258 of the Act applies to an order made under subregulation (1) as if the order were an order made under a provision of the Act.

175. Fauna taking licences

A fauna taking licence in force immediately before commencement day that authorises the taking of threatened fauna is taken to be an authorisation given under section 40 of the Act to take that fauna.

176. Corresponding licences

(1) For the purposes of this regulation, a licence under these regulations (the ***new licence***) specified in Schedule 11 column 2 corresponds to the wildlife licence specified directly opposite the new licence in Schedule 11 column 1.

(2) A wildlife licence specified in Schedule 11 column 1 and in force immediately before commencement day is taken to be the corresponding licence granted under these regulations on the conditions (if any) applying to the wildlife licence immediately before commencement day and, subject to these regulations, has effect accordingly.

(3) The rates of royalty payable under the *Wildlife Conservation Regulations 1970* immediately before commencement day in respect of fauna taken under a wildlife licence specified in Schedule 11 column 1 continue to apply in relation to the corresponding licence until the licence expires.

(4) An application for a wildlife licence specified in Schedule 11 column 1 that was not determined before commencement day may be dealt with under these regulations as an application for the corresponding licence.

Schedule 1 — Prohibited devices

[r. 6]

1. Weapons, traps and nets

(1) Subject to subclauses (2) and (3), any of the following —

(a) an air rifle, crossbow or bow and arrow;

(b) a snare likely to throttle, or cause suffering to, an ensnared animal;

(c) a leg trap, guillotine trap, opera trap or non-padded jawed trap;

(d) a mist net or other net.

(2) Subclause (1) does not apply to a weapon, snare, trap or net if —

(a) it is used under and in accordance with the terms and conditions of a licence; or

(b) it is being used lawfully under another written law and it results in the accidental taking of fauna.

(3) Subclause (1)(d) does not apply to a net if —

(a) it is placed on or over a crop or plant to protect it from a disruptive feeding activity; or

(b) it is a fishing net being used under or in accordance with the *Fish Resources Management Act 1994*.

2. Interaction zones

(1) A personal watercraft if it is within an approach zone or controlled zone for a whale shark under Part 5 Division 2.

(2) Subclause (1) does not apply if the watercraft is used under and in accordance with the terms and conditions of a licence.

Schedule 2 — Prohibited methods

[r. 7]

1. Distributing bird lime and other viscid substances

Using, laying or spreading bird lime or any similar viscid substance.

2. Using dangerous and other substances

(1) Subject to subclause (2), using, laying or spreading any explosive, poisonous, noxious or narcotising substance.

(2) Subclause (1) does not apply if —

(a) the method is used under and in accordance with the provisions of a written law; or

(b) the method is used under and in accordance with the terms and conditions of a licence; or

(c) in the case of a poisonous, noxious or narcotising substance — the substance is being used for the taking of invertebrate fauna.

3. Interaction zones

(1) Subject to subclause (2), using any form of flash photography, strobe or continuous lights, or cameras on extension poles, within an approach zone or a controlled zone under Part 5 Division 2.

(2) Subclause (1) does not apply if the method is used under and in accordance with the terms and conditions of a licence.

Schedule 3 — Sandalwood: protected land

[r. 67(2)]

Sandalwood Reserve No. 1921, Calooli
Sandalwood Reserve No. 19640, Coonana
Sandalwood Reserve No. 19645, Emu Rock
Sandalwood Reserve No. 19764, Wallaby Rock
Sandalwood Reserve No. 19825, Bullock Holes
Timber Reserve No. 194/25, Randell
Timber Reserve No. 198/25, Kangaroo Hills
Crown land within the area bounded by a line commencing from the intersection of Hannan Street and the Goldfields Highway at latitude -30.742741 and longitude 121.478199 and extending along the abandoned railway line to Coolgardie and then along the abandoned railway line from Coolgardie to Widgiemooltha, then across Lake Lefroy in a northeasterly direction to the Curtin railway siding on the Trans-Australian railway line, then along the Trans-Australian railway line to the point at latitude -30.742741 and longitude 121.478199
Crown land not referred to in the item immediately above that is within a 20 km radius of the point at latitude -30.742741 and longitude 121.478199

[Schedule 3 amended: SL 2022/43 r. 10.]

Schedule 4 — Managed fauna

[r. 102(1)]

Division 1 — Birds

Item	Species	Local government districts
1.	Australian raven (*Corvus coronoides*)	Albany, Armadale, Augusta-Margaret River, Bassendean, Bayswater, Belmont, Beverley, Boddington, Boyup Brook, Bridgetown-Greenbushes, Brookton, Broomehill-Tambellup, Bruce Rock, Bunbury, Busselton, Cambridge, Canning, Capel, Carnamah, Chapman Valley, Chittering, Claremont, Cockburn, Collie, Coorow, Corrigin, Cottesloe, Cranbrook, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Denmark, Donnybrook-Balingup, Dowerin, Dumbleyung, East Fremantle, Fremantle, Gingin, Gnowangerup, Goomalling, Gosnells, Greater Geraldton, Harvey, Irwin, Jerramungup, Joondalup, Kalamunda, Katanning, Kellerberrin, Kent, Kojonup, Kondinin, Koorda, Kulin, Kwinana, Lake Grace, Mandurah, Manjimup, Melville, Merredin, Mingenew, Moora, Morawa, Mosman Park, Mount Marshall, Mukinbudin, Mundaring, Murray, Nannup, Narembeen, Narrogin, Nedlands, Northam, Northampton, Nungarin, Peppermint Grove, Perenjori, Perth, Pingelly, Plantagenet, Quairading, Ravensthorpe, Rockingham, Serpentine-Jarrahdale, South Perth, Stirling, Subiaco, Swan, Tammin, Three Springs, Toodyay, Trayning, Victoria Park, Victoria Plains, Vincent, Wagin, Wandering, Wanneroo, Waroona, West Arthur, Wickepin, Williams, Wongan-Ballidu, Woodanilling, Wyalkatchem, York

Item	Species	Local government districts
2.	Australian ringneck (*Barnardius zonarius (Platycercus zonarius)*)	Albany, Armadale, Augusta-Margaret River, Bassendean, Bayswater, Belmont, Beverley, Boddington, Boyup Brook, Bridgetown-Greenbushes, Brookton, Broomehill-Tambellup, Bruce Rock, Bunbury, Busselton, Cambridge, Canning, Capel, Carnamah, Chapman Valley, Chittering, Claremont, Cockburn, Collie, Coorow, Corrigin, Cottesloe, Cranbrook, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Denmark, Donnybrook-Balingup, Dowerin, Dumbleyung, East Fremantle, Fremantle, Gingin, Gnowangerup, Goomalling, Gosnells, Greater Geraldton, Harvey, Irwin, Jerramungup, Joondalup, Kalamunda, Katanning, Kellerberrin, Kent, Kojonup, Kondinin, Koorda, Kulin, Kwinana, Lake Grace, Mandurah, Manjimup, Melville, Merredin, Mingenew, Moora, Morawa, Mosman Park, Mount Marshall, Mukinbudin, Mundaring, Murray, Nannup, Narembeen, Narrogin, Nedlands, Northam, Northampton, Nungarin, Peppermint Grove, Perenjori, Perth, Pingelly, Plantagenet, Quairading, Ravensthorpe, Rockingham, Serpentine-Jarrahdale, South Perth, Stirling, Subiaco, Swan, Tammin, Three Springs, Toodyay, Trayning, Victoria Park, Victoria Plains, Vincent, Wagin, Wandering, Wanneroo, Waroona, West Arthur, Wickepin, Williams, Wongan-Ballidu, Woodanilling, Wyalkatchem, York

Item	Species	Local government districts
3.	Butler's corella (western corella (northern and central Wheatbelt subspecies)) (*Cacatua pastinator derbyi (Cacatua pastinator butleri)*)	Armadale, Augusta-Margaret River, Bassendean, Bayswater, Belmont, Beverley, Boddington, Brookton, Bruce Rock, Bunbury, Busselton, Cambridge, Canning, Capel, Carnamah, Chittering, Claremont, Cockburn, Coorow, Corrigin, Cottesloe, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Dowerin, Dumbleyung, East Fremantle, Fremantle, Gingin, Goomalling, Gosnells, Greater Geraldton, Harvey, Irwin, Joondalup, Kalamunda, Katanning, Kellerberrin, Kent, Kondinin, Koorda, Kulin, Kwinana, Lake Grace, Mandurah, Melville, Merredin, Mingenew, Moora, Morawa, Mosman Park, Mount Marshall, Mukinbudin, Mundaring, Murray, Narembeen, Narrogin, Nedlands, Northam, Nungarin, Peppermint Grove, Perenjori, Perth, Pingelly, Quairading, Rockingham, Serpentine-Jarrahdale, South Perth, Stirling, Subiaco, Swan, Tammin, Three Springs, Toodyay, Trayning, Victoria Park, Victoria Plains, Vincent, Wagin, Wandering, Wanneroo, Waroona, Westonia, Wickepin, Williams, Wongan-Ballidu, Woodanilling, Wyalkatchem, Yilgarn, York
4.	Eastern longbilled corella (*Cacatua tenuirostris*)	All local government districts throughout the State

Item	Species	Local government districts
5.	Galah (*Eolophus roseicapilla (Cacatua roseicapilla)*)	Albany, Armadale, Augusta-Margaret River, Bassendean, Bayswater, Belmont, Beverley, Boddington, Boyup Brook, Bridgetown-Greenbushes, Brookton, Broomehill-Tambellup, Bruce Rock, Bunbury, Busselton, Cambridge, Canning, Capel, Carnamah, Chapman Valley, Chittering, Claremont, Cockburn, Collie, Coorow, Corrigin, Cottesloe, Cranbrook, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Denmark, Donnybrook-Balingup, Dowerin, Dumbleyung, East Fremantle, Fremantle, Gingin, Gnowangerup, Goomalling, Gosnells, Greater Geraldton, Harvey, Irwin, Jerramungup, Joondalup, Kalamunda, Katanning, Kellerberrin, Kent, Kojonup, Kondinin, Koorda, Kulin, Kwinana, Lake Grace, Mandurah, Manjimup, Melville, Merredin, Mingenew, Moora, Morawa, Mosman Park, Mount Marshall, Mukinbudin, Mundaring, Murray, Nannup, Narembeen, Narrogin, Nedlands, Northam, Northampton, Nungarin, Peppermint Grove, Perenjori, Perth, Pingelly, Plantagenet, Quairading, Ravensthorpe, Rockingham, Serpentine-Jarrahdale, South Perth, Stirling, Subiaco, Swan, Tammin, Three Springs, Toodyay, Trayning, Victoria Park, Victoria Plains, Vincent, Wagin, Wandering, Wanneroo, Waroona, West Arthur, Westonia, Wickepin, Williams, Wongan-Ballidu, Woodanilling, Wyalkatchem, Yilgarn, York

Item	Species	Local government districts
6.	Little corella (*Cacatua sanguinea*)	Albany, Armadale, Augusta-Margaret River, Bassendean, Bayswater, Belmont, Beverley, Boddington, Brookton, Bruce Rock, Bunbury, Busselton, Cambridge, Canning, Capel, Carnamah, Carnarvon, Chapman Valley, Chittering, Claremont, Cockburn, Coorow, Corrigin, Cottesloe, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Derby-West Kimberley, Dowerin, Dumbleyung, East Fremantle, Fremantle, Gingin, Goomalling, Gosnells, Greater Geraldton, Harvey, Irwin, Jerramungup, Joondalup, Kalamunda, Katanning, Kellerberrin, Kent, Kondinin, Koorda, Kulin, Kwinana, Lake Grace, Mandurah, Melville, Merredin, Mingenew, Moora, Morawa, Mosman Park, Mount Marshall, Mukinbudin, Mundaring, Murray, Narembeen, Narrogin, Nedlands, Northam, Northampton, Nungarin, Peppermint Grove, Perenjori, Perth, Pingelly, Quairading, Ravensthorpe, Rockingham, Serpentine-Jarrahdale, South Perth, Stirling, Subiaco, Swan, Tammin, Three Springs, Toodyay, Trayning, Victoria Park, Victoria Plains, Vincent, Wagin, Wandering, Wanneroo, Waroona, Westonia, Wickepin, Williams, Wongan-Ballidu, Woodanilling, Wyalkatchem, Wyndham-East Kimberley, Yilgarn, York
7.	Rainbow lorikeet (*Trichoglossus haematodus (Trichoglossus moluccanus)*)	All local government districts throughout the State

Item	Species	Local government districts
8.	Sulphur-crested cockatoo (*Cacatua galerita*)	Albany, Armadale, Ashburton, Augusta-Margaret River, Bassendean, Bayswater, Belmont, Beverley, Boddington, Boyup Brook, Bridgetown-Greenbushes, Brookton, Broomehill-Tambellup, Bruce Rock, Bunbury, Busselton, Cambridge, Canning, Capel, Carnamah, Carnarvon, Chapman Valley, Chittering, Claremont, Cockburn, Collie, Coolgardie, Coorow, Corrigin, Cottesloe, Cranbrook, Cuballing, Cue, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Denmark, Donnybrook-Balingup, Dowerin, Dumbleyung, Dundas, East Fremantle, East Pilbara, Esperance, Exmouth, Fremantle, Gingin, Gnowangerup, Goomalling, Gosnells, Greater Geraldton, Harvey, Irwin, Jerramungup, Joondalup, Kalamunda, Kalgoorlie-Boulder, Karratha, Katanning, Kellerberrin, Kent, Kojonup, Kondinin, Koorda, Kulin, Kwinana, Lake Grace, Laverton, Leonora, Mandurah, Manjimup, Meekatharra, Melville, Menzies, Merredin, Mingenew, Moora, Morawa, Mosman Park, Mount Magnet, Mount Marshall, Mukinbudin, Mundaring, Murchison, Murray, Nannup, Narembeen, Narrogin, Nedlands, Ngaanyatjarraku, Northam, Northampton, Nungarin, Peppermint Grove, Perenjori, Perth, Pingelly, Plantagenet, Port Hedland, Quairading, Ravensthorpe, Rockingham, Sandstone, Serpentine-Jarrahdale, Shark Bay, South Perth, Stirling, Subiaco, Swan, Tammin, Three Springs, Toodyay, Trayning, Upper Gascoyne, Victoria Park, Victoria Plains, Vincent, Wagin, Wandering, Wanneroo, Waroona, West Arthur, Westonia, Wickepin, Williams, Wiluna, Wongan-Ballidu, Woodanilling, Wyalkatchem, Yalgoo, Yilgarn, York

Item	Species	Local government districts
9.	Western silvereye (*Zosterops lateralis chloronotus*)	Albany, Armadale, Augusta-Margaret River, Bassendean, Bayswater, Belmont, Beverley, Boddington, Boyup Brook, Bridgetown-Greenbushes, Brookton, Broomehill-Tambellup, Bruce Rock, Bunbury, Busselton, Cambridge, Canning, Capel, Carnamah, Chapman Valley, Chittering, Claremont, Cockburn, Collie, Coorow, Corrigin, Cottesloe, Cranbrook, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Dardanup, Denmark, Donnybrook-Balingup, Dowerin, Dumbleyung, East Fremantle, Fremantle, Gingin, Gnowangerup, Goomalling, Gosnells, Greater Geraldton, Harvey, Irwin, Jerramungup, Joondalup, Kalamunda, Katanning, Kellerberrin, Kent, Kojonup, Kondinin, Koorda, Kulin, Kwinana, Lake Grace, Mandurah, Manjimup, Melville, Merredin, Mingenew, Moora, Morawa, Mosman Park, Mount Marshall, Mukinbudin, Mundaring, Murray, Nannup, Narembeen, Narrogin, Nedlands, Northam, Northampton, Nungarin, Peppermint Grove, Perenjori, Perth, Pingelly, Plantagenet, Quairading, Ravensthorpe, Rockingham, Serpentine-Jarrahdale, South Perth, Stirling, Subiaco, Swan, Tammin, Three Springs, Toodyay, Trayning, Victoria Park, Victoria Plains, Vincent, Wagin, Wandering, Wanneroo, Waroona, West Arthur, Wickepin, Williams, Wongan-Ballidu, Woodanilling, Wyalkatchem, York

Division 2 — Kangaroos

Item	Species	Local government districts
1.	Euro (*Osphranter robustus*)	Ashburton, Broome, Carnarvon, Chapman Valley, Coolgardie, Cue, Derby-West Kimberley, East Pilbara, Exmouth, Greater Geraldton, Halls Creek, Kalgoorlie-Boulder, Karratha, Laverton, Leonora, Meekatharra, Menzies, Mount Magnet, Mount Marshall, Murchison, Northampton, Port Hedland, Sandstone, Shark Bay, Upper Gascoyne, Wiluna, Wyndham-East Kimberley, Yalgoo
2.	Red kangaroo (*Osphranter rufus*)	Ashburton, Broome, Carnarvon, Chapman Valley, Coolgardie, Cue, Derby-West Kimberley, East Pilbara, Exmouth, Greater Geraldton, Halls Creek, Kalgoorlie-Boulder, Karratha, Laverton, Leonora, Meekatharra, Menzies, Mount Magnet, Mount Marshall, Murchison, Northampton, Port Hedland, Sandstone, Shark Bay, Upper Gascoyne, Wiluna, Wyndham-East Kimberley, Yalgoo
3.	Western grey kangaroo (*Macropus fuliginosus*)	Albany, Augusta-Margaret River, Beverley, Boddington, Boyup Brook, Bridgetown-Greenbushes, Brookton, Broomehill-Tambellup, Bruce Rock, Busselton, Carnamah, Chapman Valley, Chittering, Collie, Coolgardie, Coorow, Corrigin, Cranbrook, Cuballing, Cunderdin, Dalwallinu, Dandaragan, Denmark, Donnybrook-Balingup, Dowerin, Dumbleyung, Dundas, Esperance, Gingin, Gnowangerup, Goomalling, Greater Geraldton, Irwin, Jerramungup, Katanning, Kellerberrin, Kent, Kojonup, Kondinin, Koorda, Kulin, Lake Grace, Manjimup, Merredin, Mingenew, Moora, Morawa, Mount Marshall, Mukinbudin, Nannup, Narembeen, Narrogin, Northam, Northampton, Nungarin, Perenjori, Pingelly, Plantagenet, Quairading, Ravensthorpe, Tammin, Three Springs, Toodyay, Trayning, Victoria Plains, Wagin, Wandering, West Arthur, Westonia, Wickepin, Williams, Wongan-Ballidu, Woodanilling, Wyalkatchem, Yilgarn, York

Schedule 5 — Separation distances

[r. 110]

Division 1 — Whales

Person	Vessel	Aircraft (other than helicopter)	Helicopter	Aerial device
100 m	300 m within a 60° arc to the front or rear of the whale, and 100 m to the side of the whale	300 m	500 m	60 m

Division 2 — Killer whales

Person	Vessel	Aircraft (other than helicopter)	Helicopter	Aerial device
100 m	100 m	300 m	500 m	60 m

Division 3 — Dolphins

Person	Vessel	Aircraft (other than helicopter)	Helicopter	Aerial device
50 m	100 m	300 m	500 m	60 m

Division 4 — Dugongs

Person	Vessel	Aircraft (other than helicopter)	Helicopter	Aerial device
50 m	100 m	300 m	500 m	60 m

Division 5 — Seals

Person	Vessel	Aircraft (other than helicopter)	Helicopter	Aerial device
50 m	100 m	300 m	500 m	60 m

Schedule 6 — Injured or abandoned fauna

[r. 124(1)(c)]

Item	Species
1.	King Penguin (*Aptenodytes atagonicus*)
2.	Fiordland Penguin (*Eudyptes pachyrhynchus*)
3.	Snares Penguin (*Eudyptes robustus*)
4.	Erect-crested Penguin (*Eudyptes sclateri*)
5.	Southern Rockhopper Penguin (*Eudyptes chrysocome*)
6.	Northern Rockhopper Penguin (*Eudyptes moseleyi*)
7.	Macaroni Penguin (*Eudyptes chrysolophus*)
8.	Little Penguin (*Eudyptula minor*)

Schedule 7 — Fees

[r. 156(1)]

Division 1 — Application fees for licences

Item	Category of licence	Fee
1.	Fauna taking (commercial products) licence	$55
2.	Fauna taking (commercial purposes) licence	$200
3.	Fauna taking (scientific or other purposes) licence, other than where the licence only relates to bird banding	$145
4.	Fauna taking (scientific or other purposes) licence, where the licence only relates to bird banding	$15
5.	Fauna taking (dangerous fauna) licence	$65
6.	Fauna taking (biological assessment) licence	$145
7.	Fauna taking (relocation) licence	$145
8.	Fauna causing damage licence	$65
9.	Fauna disturbing (commercial interaction) licence	$65
10.	Fauna disturbing (other purposes) licence	$100
11.	Fauna disturbing (feeding) licence	$215
12.	Standard fauna possessing (display) licence	$170
13.	Advanced fauna possessing (display) licence	$245
14.	Fauna possessing (breeding) licence	$245
15.	Fauna possessing (other purposes) licence	$170
16.	Standard fauna possessing (pet keeper’s) licence	$30
17.	Advanced fauna possessing (pet keeper’s) licence	$40

Item	Category of licence	Fee
18.	Fauna processing licence, other than where the licence only relates to taxidermy	$130
19.	Fauna processing licence, where the licence only relates to taxidermy	$30
20.	Fauna dealing (general dealer's) licence	$90
21.	Standard fauna dealing (pet dealer's) licence	$130
22.	Advanced fauna dealing (pet dealer's) licence	$200
23.	Fauna importing licence	$30
24.	Fauna exporting licence	$30
25.	Flora taking (commercial purposes) Crown land licence	$90
26.	Flora taking (other purposes) Crown land licence, other than where the licence relates to research	$30
27.	Flora taking (other purposes) Crown land licence, where the licence relates to research	$55
28.	Flora taking (biological assessment) licence	$95
29.	Private land supplier's licence	$30
30.	Crown land supplier's licence	$30
31.	Flora dealing licence	$100
32.	Flora processing licence	$100
33.	Flora taking (sandalwood) licence	$285
34.	Flora supplying (sandalwood) licence	$30
35.	Flora dealing (sandalwood) licence	$145
36.	Flora processing (sandalwood) licence	$145
37.	Bioprospecting licence	$525

Division 2 — Application fees for renewal of licences

Item	Category of licence	Fee
1.	Fauna taking (commercial products) licence	$30
2.	Fauna taking (scientific or other purposes) licence, other than where the licence only relates to bird banding	$50
3.	Fauna taking (scientific or other purposes) licence, where the licence only relates to bird banding	$15
4.	Fauna taking (dangerous fauna) licence	$30
5.	Fauna taking (biological assessment) licence	$55
6.	Fauna taking (relocation) licence	$50
7.	Fauna causing damage licence	$30
8.	Fauna disturbing (commercial interaction) licence	$30
9.	Fauna disturbing (other purposes) licence	$50
10.	Fauna disturbing (feeding) licence	$110
11.	Standard fauna possessing (display) licence	$40
12.	Advanced fauna possessing (display) licence	$40
13.	Fauna possessing (breeding) licence	$40
14.	Fauna possessing (other purposes) licence	$40
15.	Standard fauna possessing (pet keeper's) licence	$30
16.	Advanced fauna possessing (pet keeper's) licence	$40
17.	Fauna processing licence, other than where the licence only relates to taxidermy	$40
18.	Fauna processing licence, where the licence only relates to taxidermy	$15
19.	Fauna dealing (general dealer's) licence	$30

Item	Category of licence	Fee
20.	Standard fauna dealing (pet dealer's) licence	$65
21.	Advanced fauna dealing (pet dealer's) licence	$90
22.	Flora taking (commercial purposes) Crown land licence	$65
23.	Flora taking (other purposes) Crown land licence, other than where the licence relates to research	$15
24.	Flora taking (other purposes) Crown land licence, where the licence relates to research	$25
25.	Flora taking (biological assessment) licence	$45
26.	Private land supplier's licence	$15
27.	Crown land supplier's licence	$30
28.	Flora dealing licence	$65
29.	Flora processing licence	$65
30.	Flora supplying (sandalwood) licence	$15
31.	Flora dealing (sandalwood) licence	$70
32.	Flora processing (sandalwood) licence	$70
33.	Bioprospecting licence	$150

Division 3 — Licence fees

Item	Category of licence	Fee
1.	Fauna taking (commercial products) licence	$75
2.	Fauna taking (commercial purposes) licence	$130
3.	Fauna taking (scientific or other purposes) licence, other than where the licence only relates to bird banding	$30
4.	Fauna taking (dangerous fauna) licence	$30
5.	Fauna taking (biological assessment) licence	$55

Item	Category of licence	Fee
6.	Fauna taking (relocation) licence	$30
7.	Fauna causing damage licence	$30
8.	Fauna disturbing (commercial interaction) licence	$30
9.	Fauna disturbing (other purposes) licence	$30
10.	Fauna disturbing (feeding) licence	$35
11.	Standard fauna possessing (display) licence	$70
12.	Advanced fauna possessing (display) licence	$110
13.	Fauna possessing (breeding) licence	$110
14.	Fauna possessing (other purposes) licence	$70
15.	Fauna processing licence	$70
16.	Fauna dealing (general dealer's) licence	$70
17.	Standard fauna dealing (pet dealer's) licence	$145
18.	Advanced fauna dealing (pet dealer's) licence	$145
19.	Flora taking (commercial purposes) Crown land licence	$55
20.	Flora taking (other purposes) Crown land licence, other than where the licence relates to research	$15
21.	Flora taking (other purposes) Crown land licence, where the licence relates to research	$35
22.	Flora taking (biological assessment) licence	$55
23.	Private land supplier's licence	$15
24.	Crown land supplier's licence	$30
25.	Flora dealing licence	$115
26.	Flora processing licence	$115
27.	Flora taking (sandalwood) licence	$130

Item	Category of licence	Fee
28.	Flora supplying (sandalwood) licence	$15
29.	Flora dealing (sandalwood) licence	$145
30.	Flora processing (sandalwood) licence	$145
31.	Bioprospecting licence	$55

Division 4 — Other fees

Item		Fee
1.	Application for fauna transfer authority (r. 42)	$10
2.	Inspection fee — not more than 1 hour (r. 76(5)(b))	$65
3.	Inspection fee — more than 1 hour but not more than 3 hours (r. 76(5)(b))	$130
4.	Inspection fee — more than 3 hours but not more than 5 hours (r. 76(5)(b))	$260
5.	Inspection fee — more than 5 hours (r. 76(5)(b))	$520
6.	Application to amend licence	$35

Schedule 8 — Charges

[r. 157(1)]

Division 1 — Fauna

Item	Species	Category	Charge
1.	Euro (*Osphranter robustus*)	Carcasses or skins	$0.30 each
2.	Red kangaroo (*Osphranter rufus*)	Carcasses or skins	$0.30 each
3.	Western grey kangaroo (*Macropus fuliginosus*)	Carcasses or skins	$0.30 each
4.	Emu (*Dromaius novaehollandiae*)	Carcasses	$1.25 each
5.	Australian freshwater crocodile (*Crocodylus johnstoni*)	Carcasses	$3.00 each
6.	Saltwater crocodile (*Crocodylus porosus*)	Carcasses	$10.00 each
7.	Category A herpetofauna	Live fauna	$5.00 each
8.	Category B herpetofauna	Live fauna	$100.00 each
9.	Category C herpetofauna	Live fauna	$200.00 each
10.	All other species	Carcasses	$0.75 each

Division 2 — Flora

Item	Species	Category	Charge
1.	Grasstree (*Xanthorrhoea* and *Kingia* spp.)	Whole, live plants	$12.00 (per plant)
		Dead plants	$100.00 (per tonne) (minimum charge $10.00)
2.	Pineapple bush (*Dasypogon hookeri*)	Whole, live plants	$12.00 (per plant)
		Dead plants	$100.00 (per tonne) (minimum charge $10.00)
3.	Zamia palm (*Macrozamia* spp.)	Whole, live plants	$12.00 (per plant)
		Dead plants	$100.00 (per tonne) (minimum charge $10.00)
4.	Boab (*Adansonia gregorii*)	Whole live plants	
		maximum girth less than 1 m	$50.00 (per plant)
		maximum girth 1 m or more but less than 2 m	$100.00 (per plant)
		maximum girth 2 m or more but less than 4 m	$400.00 (per plant)
		maximum girth 4 m or more	$1200.00 (per plant)
		Boab nuts (fruits)	$10.00 (per 100 nuts) (minimum charge $5.00)

Item	Species	Category	Charge
5.	Fan palm (*Livistona* spp.)	Whole live plants	
		height less than 2 m	$30.00 (per plant)
		height 2 m or more but less than 6 m	$50.00 (per plant)
		height 6 m or more	$70.00 (per plant)
6.	*Agonis* spp. *Kunzea* spp. *Leptospermum* spp. *Melaleuca* spp. *Eucalyptus* spp.	Wood	$50.00 (per tonne) (minimum charge $10.00)
		Sticks	$5.00 (per 100 sticks) (minimum charge $5.00)
7.	Snakewood (*Acacia xiphophylla*)	Lateral branches	$50.00 (per tonne) (minimum charge $10.00)
8.	Banksia species (*Banksia* spp.)	Cones	$5.00 (per 100 cones) (minimum charge $5.00)
9.	Brown or scented boronia (*Boronia megastigma*)	Stripped blossom (for oil extraction)	$1.50 (per kg)
		Flower sprays (stems)	$1.00 (per kg)
		Seed (including unprocessed material)	$7.50 (per kg)

Item	Species	Category	Charge
		Cuttings (for propagation)	$0.01 (per cutting) (minimum charge $5.00)
10.	*Banksia hookeriana*	Flowering stems	$0.02 (per stem)
11.	*Eucalyptus* spp. *Corymbia* spp. *Allocasuarina* spp. *Banksia* spp.	Didgeridoo blanks	$2.00 (per blank)
		Craftwood (any timber)	$20.00 (per tonne) (minimum charge $10.00)
		Firewood (any timber)	$10.00 (per tonne)

Schedule 9 — Prescribed offences and modified penalties

[r. 165(1) and (2)]

	Offence under the Act	Modified penalty (individual)	Modified penalty (body corporate)
		$	$
s. 43(2)	Failure to report presence of threatened species while carrying out field work	2 500	12 500
s. 49(2)	Failure to report presence of threatened ecological community while carrying out field work	2 500	12 500
s. 52(1)	Failure to give CEO notice of change in ownership or occupation	1 000	5 000
s. 53(3)	Failure to inform visitor of presence of threatened species or threatened ecological community	1 000	5 000
s. 66(1)	Failure to give CEO notice of change in ownership or occupation	1 000	5 000
s. 130	Contravention of biodiversity covenant	2 500	12 500
s. 131(1)	Failure to give CEO notice of change in ownership or occupation	2 500	12 500
s. 149(1)	Taking fauna without lawful authority (unless offence involves cetacean or specially protected fauna)	2 500	12 500
s. 152(1)	Possessing fauna without lawful authority (unless offence involves cetacean, critically endangered species, endangered species, vulnerable species or specially protected fauna)	2 500	12 500

	Offence under the Act	Modified penalty (individual) $	Modified penalty (body corporate) $
s. 153(1)	Disturbing fauna without lawful authority (unless offence involves cetacean, critically endangered species, endangered species, vulnerable species or specially protected fauna)	2 500	12 500
s. 155	Feeding fauna	400	2 000
s. 156(1)	Use of prohibited device or prohibited method in taking or disturbance of fauna	2 500	12 500
s. 156(2)	Allowing prohibited device or prohibited method to be used	2 500	12 500
s. 156(3)	Allowing prohibited device on land	2 500	12 500
s. 157(1)	Dealing in fauna without lawful authority (unless offence involves cetacean, critically endangered species, endangered species, vulnerable species or specially protected fauna)	2 500	12 500
s. 158(2)	Processing fauna for commercial purpose without licence (unless offence involves cetacean, critically endangered species, endangered species, vulnerable species or specially protected fauna)	2 500	12 500
s. 158(3)	Operating unlicensed fauna processing establishment	2 500	12 500
s. 159	Importing fauna without lawful authority (unless offence involves cetacean, critically endangered species, endangered species, vulnerable species or specially protected fauna)	2 500	12 500

	Offence under the Act	Modified penalty (individual) $	Modified penalty (body corporate) $
s. 160	Exporting fauna without lawful authority (unless offence involves a cetacean, critically endangered species, endangered species, vulnerable species or specially protected fauna)	2 500	12 500
s. 171(1)	Taking flora on Crown land unlawfully (unless offence involves specially protected flora)	2 500	12 500
s. 171(2)	Taking flora on private land without authority of owner or occupier (unless offence involves specially protected flora)	2 500	12 500
s. 172(1)	Taking sandalwood (unless offence involves specifically controlled sandalwood)	2 500	12 500
s. 176(1)	Supplying flora without licence (unless offence involves critically endangered species, endangered species, vulnerable species, specially protected flora or sandalwood)	2 500	12 500
s. 177(1)	Dealing in flora without licence (unless offence involves critically endangered species, endangered species, vulnerable species, specially protected flora or sandalwood)	2 500	12 500
s. 178(2)	Processing flora for commercial purpose without licence (unless offence involves critically endangered species, endangered species, vulnerable species, specially protected flora or sandalwood)	2 500	12 500

	Offence under the Act	Modified penalty (individual) $	Modified penalty (body corporate) $
s. 179	Exporting flora without lawful authority (unless offence involves critically endangered species, endangered species, vulnerable species, specially protected flora or sandalwood)	2 500	12 500
s. 184	Selling fauna or flora taken for Aboriginal customary purposes	500	2 500
s. 271(8)	Contravention of condition of exemption	2 500	12 500

	Offence under these regulations	Modified penalty (individual) $	Modified penalty (body corporate) $
r. 12(4)	Assisting in taking of fauna or flora without authorisation	250	n/a
r. 12(5)	Allowing person to assist in taking of fauna or flora without authorisation	250	n/a
r. 42(3)	Failure to obtain fauna transfer authority	250	1 250
r. 43(3)	Failure to give CEO notice of change of location	250	1 250
r. 44	Unauthorised release of fauna	250	1 250
r. 47(4)	Failure to release reptile within 6 hours	250	n/a
r. 63(4)	Failure to hold private land supplier's licence	250	1 250
r. 64(3)	Failure to hold Crown land supplier's licence	250	1 250

Offence under these regulations		Modified penalty (individual) $	Modified penalty (body corporate) $
r. 68(3)	Failure to hold flora supplying (sandalwood) licence	250	1 250
r. 84	Contravention of condition of licence	500	2 500
r. 85(2)	Failure to produce information or record	500	2 500
r. 90(2)	Failure to return licence document	50	250
r. 94	Failure to ensure that fauna dispatched for import is accompanied by copy of licence	250	1 250
r. 95	Dispatching fauna for export without copy of licence	250	1 250
r. 96(1)	Exporting sandalwood without licence	1 250	6 250
r. 96(2)	Dispatching sandalwood without copy of licence	250	1 250
r. 100(3)	Failure to fix identifier	250	n/a
r. 100(4)	Providing identifier to another person	250	n/a
r. 100(5)	Failure to reject fauna or flora and make a record if fauna or flora does not have identifier fixed	250	1 250
r. 101(2)	Entering land without authorisation	250	n/a
r. 103	Taking or disturbing birds in contravention of requirements	500	n/a
r. 104(2)	Taking kangaroos in contravention of requirements	500	n/a
r. 105(2)	Entering land without authorisation	250	n/a
r. 106(1)	Ensuring fauna can be identified	250	n/a
r. 106(2)	Failure to fix identifier	250	n/a

Offence under these regulations		Modified penalty (individual) $	Modified penalty (body corporate) $
r. 106(3)	Failure to ensure identifier fixed	250	n/a
r. 113(1)	Breach of separation distance (person)	250	n/a
r. 113(2)	Breach of separation distance (vessel)	250	n/a
r. 113(3)	Breach of separation distance (aircraft)	250	n/a
r. 113(4)	Breach of separation distance (aerial device)	250	n/a
r. 114(1)	Failing to move away (person)	250	n/a
r. 114(2)	Failing to re-establish separation distance or to move away as required (vessel)	250	n/a
r. 114(3)	Failing to move aircraft to re-establish separation distance	250	n/a
r. 114(4)	Failing to move aerial device to re-establish separation distance	250	n/a
r. 115(1)	Exceeding permitted number of vessels in approach zone	250	n/a
r. 115(2)	Exceeding permitted number of vessels in controlled zone	250	n/a
r. 115(3)	Failing to leave approach zone	250	n/a
r. 115(4)	Re-entering approach zone or controlled zone	250	n/a
r. 116(1)	Exceeding speed limit	250	n/a
r. 116(3)	Failing to leave approach zone	250	n/a
r. 117	Unlawful towing	250	n/a
r. 118	Touching marine fauna	500	n/a
r. 119(2)	Diving with marine fauna	250	n/a

Offence under these regulations		Modified penalty (individual) $	Modified penalty (body corporate) $
r. 120(1)	Interfering with natural movement of marine fauna (person)	250	n/a
r. 120(2)	Interfering with natural movement of marine fauna (vessel)	250	n/a
r. 121(1)	Failure to protect marine fauna by moving vessel, aircraft or aerial device	250	n/a
r. 122	Breach of required distance (seals on land)	250	n/a
r. 124(2)	Failure to notify CEO of possession of injured or abandoned fauna	250	n/a
r. 125(2)	Failure to comply with requirement	250	1 250
r. 126(3)	Failure to take required action	250	n/a
r. 126(5)	Failure to give fauna to wildlife officer or other person	250	n/a
r. 126(8)	Contravention of condition of authorisation	250	n/a
r. 130(1)	Entering closed area without permission	250	n/a
r. 131	Placing fauna on display without lawful authority	250	1 250
r. 132(1)	Transporting fauna in breach of requirements	1 000	n/a
r. 136(2)	Making unauthorised alteration to sandalwood tracking form	1 250	6 250
r. 136(3)	Failure to include all required information in sandalwood tracking form	1 250	6 250

Offence under these regulations		Modified penalty (individual) $	Modified penalty (body corporate) $
r. 136(4)	Failure to keep or provide copy of sandalwood tracking form	1 250	6 250
r. 136(5)	Failure to keep record of giving of sandalwood tracking form or ensure copy of record is provided	1 250	6 250
r. 137(1)	Transporting sandalwood without sandalwood tracking form	250	n/a
r. 137(3)	Failure to give sandalwood tracking form to driver	1 250	6 250
r. 137(4)	Failure to deliver sandalwood as specified in sandalwood tracking form	250	n/a
r. 137(5)	Failure to provide sandalwood tracking form at time of delivery	250	n/a
r. 138(2)	Failure to ensure that sandalwood tracking form accompanies sandalwood	1 250	6 250
r. 138(3)	Failure to ensure that sandalwood tracking form is signed and record made	1 250	6 250
r. 138(4)	Failure to keep record of receipt of sandalwood tracking form or ensure copy of record is provided	1 250	6 250
r. 139(1)	Storing sandalwood unlawfully	1 250	6 250
r. 142	Contravention of condition of approval	50	250

Schedule 10 — Forms

[r. 167]

Form 1 — Infringement notice

Biodiversity Conservation Act 2016 **Infringement notice**		Infringement notice no.
Alleged offender	Name: Family name	
	Given names	
	or Body corporate name _____	
	Address _____ Postcode	
Alleged offence	Description of offence _____	
	Biodiversity Conservation Act 2016 s. or *Biodiversity Conservation Regulations 2018* r.	
	Date / /20 Time am/pm	
	Modified penalty $	
Officer issuing notice	Name	
	Signature	
	Office	
Date	Date of notice / /20	
Notice to alleged offender	It is alleged that you have committed the above offence. If you do not want to be prosecuted in court for the offence, pay the modified penalty within 28 days after the date of this notice. **How to pay** **By post:** Send a cheque or money order (payable to 'Approved Officer — *Biodiversity Conservation Act 2016*') to: Approved Officer — *Biodiversity Conservation Act 2016* Department of Biodiversity, Conservation and Attractions Locked Bag 104 Bentley Delivery Centre WA 6983	

	In person: Pay the cashier at any office of the Department of Biodiversity, Conservation and Attractions, or pay over the telephone by credit card by calling the general telephone number of any office of the Department of Biodiversity, Conservation and Attractions.
	If you do not pay the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. Under that Act, some or all of the following action may be taken — your driver's licence may be suspended, your vehicle licence may be suspended or cancelled, you may be disqualified from holding or obtaining a driver's licence or vehicle licence, your vehicle may be immobilised or have its number plates removed, your details may be published on a website, your earnings or bank accounts may be garnished, and your property may be seized and sold. **If you need more time** to pay the modified penalty, you can apply for an extension of time by writing to the Approved Officer at the above postal address.
	If you want this matter to be dealt with by prosecution in court, sign here _____ and post this notice to the Approved Officer at the above postal address within 28 days after the date of this notice.

[Form 1 amended: SL 2020/166 r. 4.]

Form 2 — Withdrawal of infringement notice

Biodiversity Conservation Act 2016 **Withdrawal of infringement notice**	Withdrawal no.

Alleged offender	Name: Family name
	Given names
	or Body corporate name _____
	Address _____ Postcode
Infringement notice	Infringement notice no.
	Date of issue / /20

Alleged offence	Description of offence _____
	Biodiversity Conservation Act 2016 s. or *Biodiversity Conservation Regulations 2018* r.
	Date / /20 Time am/pm
Officer withdrawing notice	Name
	Signature
	Office
Date	Date of withdrawal / /20
Withdrawal of infringement notice *[*delete whichever is not applicable]*	The above infringement notice issued against you has been withdrawn. If you have already paid the modified penalty for the alleged offence you are entitled to a refund. * Your refund is enclosed. *or* * If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to: Approved Officer — *Biodiversity Conservation Act 2016* Department of Biodiversity, Conservation and Attractions Locked Bag 104 Bentley Delivery Centre WA 6983 Signature / /20

Schedule 11 — Corresponding licences

[r. 176]

Division 1 — Licences under *Wildlife Conservation Act 1950*

Wildlife licence	**Corresponding licence**
Licence to take protected flora on Crown land for commercial purposes (other than sandalwood) (s. 23C(1)(a))	Flora taking (commercial purposes) Crown land licence
Licence to take protected flora on Crown land for commercial purposes (sandalwood) (s. 23C(1)(a))	Flora taking (sandalwood) licence
Licence to take protected flora on Crown land for commercial purposes (bioprospecting) (s. 23C(1)(a))	Bioprospecting licence
Licence to take protected flora on Crown land for scientific purposes or any prescribed purpose (other than biological survey) (s. 23C(1)(b))	Flora taking (other purposes) Crown land licence
Licence to take protected flora on Crown land for scientific purposes or any prescribed purpose (biological survey) (s. 23C(1)(b))	Flora taking (biological assessment) licence
Commercial producer's licence or nurseryman's licence (other than sandalwood) (s. 23D(2))	Private land supplier's licence
Commercial producer's licence or nurseryman's licence (sandalwood) (s. 23D(2))	Flora supplying (sandalwood) licence

Division 2 — Licences under *Wildlife Conservation Regulations 1970*

Wildlife licence	**Corresponding licence**
Licence to take dangerous fauna (r. 4)	Fauna taking (dangerous fauna) licence
Damage licence (r. 5)	Fauna causing damage licence
Professional shooter's licence (r. 6)	Fauna taking (commercial products) licence
Licence to process kangaroos or other fauna (r. 7)	Fauna processing licence
Direct dealer's licence (r. 8)	Fauna dealing (general dealer's) licence
Skin dealer's licence (r. 10)	Fauna dealing (general dealer's) licence
Trapper's licence (r. 11)	Fauna taking (commercial purposes) licence
Avicultural licence (r. 12(3))	Standard fauna possessing (pet keeper's) licence or advanced fauna possessing (pet keeper's) licence (depending on the category of fauna)
Advanced avicultural licence (r. 12(3a))	Standard fauna possessing (pet keeper's) licence or advanced fauna possessing (pet keeper's) licence (depending on the category of fauna)
Advanced avicultural licence (species other than those listed in *Wildlife Conservation Regulations 1970* Appendix C)	Fauna possessing (other purposes) licence
Wildlife licence (r. 12A)	Fauna possessing (other purposes) licence
Oological licence (r. 12B)	Fauna taking (other purposes) licence

Wildlife licence	**Corresponding licence**
Bird dealer's licence (Basic Licence) (r. 13)	Standard fauna dealing (pet dealer's) licence or advanced fauna dealing (pet dealer's) licence (depending on the category of fauna)
Bird dealer's licence (Advanced Licence) (r. 13)	Standard fauna dealing (pet dealer's) licence or advanced fauna dealing (pet dealer's) licence (depending on the category of fauna)
Bird dealer's licence (Special Licence) (r. 13)	Standard fauna dealing (pet dealer's) licence or advanced fauna dealing (pet dealer's) licence (depending on the category of fauna)
Fauna farm licence (r. 14)	Fauna possessing (breeding) licence
Licence to take fauna for educational or public purposes (issued for purpose of education) (r. 15)	Fauna taking (other purposes) licence
Licence to take fauna for educational or public purposes (fauna interaction licence) (r. 15)	Fauna disturbing (commercial interaction) licence
Licence to take fauna for educational or public purposes (issued for purpose of relocation) (r. 15)	Fauna taking (relocation) licence
Licence to keep fauna for educational or public purposes (issued for purpose other than display) (r. 16)	Fauna possessing (other purposes) licence

Wildlife licence	Corresponding licence
Licence to keep fauna for educational or public purposes (issued for purpose of display) (r. 16)	Standard fauna possessing (display) licence or advanced fauna possessing (display) licence (depending on the category of fauna)
Licence to take fauna for scientific purposes (issued for purpose of taking fauna) (r. 17)	Fauna taking (other purposes) licence
Licence to take fauna for scientific purposes (issued for purpose of disturbing fauna) (r. 17)	Fauna disturbing (other purposes) licence
Licence to take fauna for scientific purposes (issued for purpose of possessing fauna) (r. 17)	Fauna possessing (other purposes) licence
Licence to take fauna for scientific purposes (issued for purpose of biological survey) (r. 17)	Fauna taking (biological assessment) licence
Licence to export fauna (r. 18)	Fauna exporting licence
Licence to import fauna (r. 19)	Fauna importing licence
Licence to take and mark fauna for research purposes (r. 23)	Fauna taking (other purposes) licence
Licence to take emu eggs (r. 40A)	Fauna taking (commercial products) licence

Division 3 — Licences under *Wildlife Conservation (Reptiles and Amphibians) Regulations 2002*

Wildlife licence	Corresponding licence
Herpetofauna keeper's licence (category 2) (r. 5)	Standard fauna possessing (pet keeper's) licence

Wildlife licence	**Corresponding licence**
Herpetofauna keeper's licence (category 3) (r. 5)	Standard fauna possessing (pet keeper's) licence
Herpetofauna keeper's licence (category 4) (r. 5)	Standard fauna possessing (pet keeper's) licence
Herpetofauna keeper's licence (category 5) (r. 5)	Advanced fauna possessing (pet keeper's) licence
Herpetofauna dealer's licence (category 3) (r. 5)	Standard fauna dealing (pet dealer's) licence
Herpetofauna dealer's licence (category 4) (r. 5)	Standard fauna dealing (pet dealer's) licence
Herpetofauna dealer's licence (category 5) (r. 5)	Advanced fauna dealing (pet dealer's) licence
Herpetofauna taker's licence (r. 5)	Fauna taking (commercial purposes) licence
Herpetofauna farmer's licence (r. 5)	Fauna possessing (breeding) licence
Herpetofauna importer's licence (r. 5)	Fauna importing licence
Herpetofauna exporter's licence (r. 5)	Fauna exporting licence
Reptile removalist's licence (r. 17)	Fauna taking (dangerous fauna) licence

Notes

This is a compilation of the *Biodiversity Conservation Regulations 2018* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Citation	Published	Commencement
Biodiversity Conservation Regulations 2018	14 Sep 2018 p. 3337-505	Pt. 1 (other than r. 3 to 7): 14 Sep 2018 (see r. 2(a)) r. 3-7, Pt. 2-13 and Sch. 1-11: 1 Jan 2019 (see r. 2(b) and *Gazette* 14 Sep 2018 p. 3305)
Biodiversity Conservation Amendment Regulations 2018	17 Sep 2018 p. 3507-8	r. 1 and 2: 17 Sep 2018 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2019 (see r. 2(b) and *Gazette* 14 Sep 2018 p. 3305)
Biodiversity Conservation Amendment Regulations (No. 2) 2018	21 Dec 2018 p. 4846-7	r. 1 and 2: 21 Dec 2018 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2019 (see r. 2(b) and *Gazette* 14 Sep 2018 p. 3305 and 3349)
Environment Regulations Amendment (Infringement Notices) Regulations 2020 Pt. 2	SL 2020/166 25 Sep 2020	29 Sep 2020 (see r. 2(b) and SL 2020/159 cl. 2(a))
Biodiversity Conservation Amendment Regulations 2022	SL 2022/43 25 Mar 2022	r. 1 and 2: 25 Mar 2022 (see r. 2(a)); Regulations other than r. 1 and 2: 26 Mar 2022 (see r. 2(b))
Biodiversity Conservation Amendment Regulations (No. 2) 2022	SL 2022/95 17 Jun 2022	r. 1 and 2: 17 Jun 2022 (see r. 2(a)); Regulations other than r. 1 and 2: 18 Jun 2022 (see r. 2(b) and SL 2022/81 cl. 2)
Biodiversity Conservation Amendment Regulations 2023	SL 2023/165 1 Nov 2023	r. 1 and 2: 1 Nov 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 4 Nov 2023 (see r. 2(b))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Subsidiary legislation as made* on the WA Legislation website.

Citation	Published	Commencement
Environment Regulations Amendment (Firearms) Regulations 2024 Pt. 2	SL 2024/298 21 Dec 2024	31 Mar 2025 (see r. 2(b) and SL 2024/289 cl. 2)

Defined terms

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

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biosecurity	3
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