

Version No. 076
Wildlife Act 1975
No. 8699 of 1975

Version incorporating amendments as at 5 October 2007

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No. 8699 of 1975

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An Act to re-enact with amendments the provisions of the
Game Act 1958 and sections 9 and 10 of the **Protection of
Animals Act 1966**.

BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):

1 Short title and commencement

- (1) This Act may be cited as the **Wildlife Act 1975**.
- (2) The several provisions of this Act shall come into operation on the day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the Government Gazette.

* * * *

S. 1(3)
amended by
Nos 9505
ss 5(9)(a),
18(2)(a),
9694 s. 2,
repealed by
No. 41/1987
s. 103(Sch. 4
item 76.1).

s. 1A

S. 1A
inserted by
No. 87/1997
s. 4.

1A Purposes

The purposes of this Act are—

- (a) to establish procedures in order to promote—
 - (i) the protection and conservation of wildlife; and
 - (ii) the prevention of taxa of wildlife from becoming extinct; and
 - (iii) the sustainable use of and access to wildlife; and
- (b) to prohibit and regulate the conduct of persons engaged in activities concerning or related to wildlife.

S. 2
repealed by
No. 46/1986
s. 5(1).

* * * * *

PART I—PRELIMINARY

3 Definitions

- (1) In this Act unless inconsistent with the context or subject-matter—

authorised officer means a person appointed as an authorised officer under the **Conservation, Forests and Lands Act 1987** for the purposes of this Act;

S. 3(1) def. of *authorised officer* inserted by No. 41/1987 s. 103(Sch. 4 item 76.2).

boat means any form of transportation on water;

buy means buy or purchase and includes agreeing to buy or purchase, receiving or accepting under an agreement to buy or purchase and acquiring by barter or exchange;

close season in relation to a kind or taxon of wildlife means any part or parts of the year during which the taking of that kind or taxon of wildlife is prohibited by or under this Act;

S. 3(1) def. of *close season* amended by No. 87/1997 s. 42(Sch. item 1(a)).

controlled wildlife means any kind or taxon of wildlife declared by the Governor in Council by Order published in the Government Gazette to be controlled wildlife for the purposes of this Act;

S. 3(1) def. of *controlled wildlife* amended by No. 87/1997 s. 42(Sch. item 1(b)).

Department has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

S. 3(1) def. of *Department* inserted by No. 41/1987 s. 103(Sch. 4 item 76.3).

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S. 3(1) def. of *Director-General* inserted by No. 41/1987 s. 103(Sch. 4 item 76.4), repealed by No. 87/1997 s. 5(1)(b).

* * * * *

S. 3(1) def. of *Director* repealed by No. 41/1987 s. 103(Sch. 4 item 76.4).

* * * * *

S. 3(1) def. of *Division* repealed by No. 41/1987 s. 103(Sch. 4 item 76.5).

* * * * *

S. 3(1) def. of *endangered wildlife* inserted by No. 87/1997 s. 5(1)(a).

endangered wildlife means wildlife declared by proclamation of the Governor in Council under section 47B(1) to be endangered wildlife;

S. 3(1) def. of *firearm* inserted by No. 87/1997 s. 5(1)(a).

firearm has the same meaning as in the **Firearms Act 1996**;

S. 3(1) def. of *game* amended by No. 87/1997 s. 42(Sch. item 1(c)).

game means any kind or taxon of wildlife declared by the Governor in Council by Order published in the Government Gazette to be game for the purposes of this Act;

S. 3(1) def. of *game licence* inserted by No. 90/1989 s. 12.

game licence means a game licence issued under section 22A;

S. 3(1) def. of *hunt* inserted by No. 87/1997 s. 5(1)(a).

hunt includes pursue, trail, stalk, search for or drive out an animal;

member of the police force has the same meaning as *member of the force* in the **Police Regulation Act 1958**;

S. 3(1) def. of *member of the police force* inserted by No. 87/1997 s. 5(1)(a).

notable wildlife means wildlife declared by proclamation of the Governor in Council under section 47B(2) to be notable wildlife;

S. 3(1) def. of *notable wildlife* inserted by No. 87/1997 s. 5(1)(a).

open season in relation to a kind or taxon of wildlife means any part or parts of the year during which the taking of that kind or taxon of wildlife is permitted by or under this Act;

S. 3(1) def. of *open season* amended by No. 87/1997 s. 42(Sch. item 1(d)).

prescribed means prescribed by regulations under this Act;

proclamation means any proclamation of the Governor in Council made under or continued in force by this Act;

protected wildlife means all wildlife other than those kinds or taxon which—

S. 3(1) def. of *protected wildlife* amended by Nos 9505 s. 2(1)(a)–(c), 52/1994 s. 97(Sch. 3 item 36.1(a)(b)), 87/1997 ss 5(1)(c), 42(Sch. item 1(e)).

- (i) is a pest animal within the meaning of the **Catchment and Land Protection Act 1994**; or
- (ii) the Governor in Council from time to time by Order published in the Government Gazette declares to be unprotected wildlife; or
- (iii) are specified by Order of the Governor in Council published in the Government Gazette pursuant to section 7A;

S. 3(1) def. of
Secretary
inserted by
No. 87/1997
s. 5(1)(a).

Secretary means the body corporate established
by Part 2 of the **Conservation, Forests and
Lands Act 1987**;

sell includes barter or exchange and also agreeing
to sell or offering or exposing for sale or
keeping or having in possession for sale or
sending forwarding delivering or receiving
for or on sale or authorizing directing
causing suffering permitting or attempting
any of such acts or things;

S. 3(1) def. of
*specified
hunting area*
inserted by
No. 87/1997
s. 5(1)(a).

specified hunting area means an area declared to
be a specified hunting area by regulation
under section 58C(2);

S. 3(1) def. of
structure
inserted by
No. 87/1997
s. 5(1)(a).

structure includes a hide or blind or other similar
structure erected for the purpose of
facilitating the hunting, watching or taking of
wildlife;

S. 3(1) def. of
taxon
inserted by
No. 87/1997
s. 5(1)(a).

taxon means any species, sub-species, hybrid,
genetic grouping or other taxonomic group
of any rank into which organisms are
categorised;

S. 3(1) def. of
the wild
inserted by
No. 70/1990
s. 6(1)(a).

the wild in relation to any wildlife means the
natural habitat of that wildlife or an
independent, unpossessed or natural state
and not an intentionally domesticated or
captive state regardless of the location;

S. 3(1) def. of
this Act
amended by
Nos 7/1988
s. 8(2) (as
amended by
No. 90/1989
s. 18(2)),
90/1989
s. 17(2).

this Act includes regulations and proclamations
made or continued in force under this Act
and notices under section 86 or 86A;

whale sightseeing permit means a permit issued by the Secretary under section 83A;

S. 3(1) def. of *whale sightseeing permit* inserted by No. 3/2002 s. 3.

whale swim tour permit means a permit issued by the Secretary under section 83C;

S. 3(1) def. of *whale swim tour permit* inserted by No. 3/2002 s. 3.

wildlife means—

- (a) any animal of a vertebrate taxon other than mankind which is indigenous to the whole or part or parts of Australia or its territories or territorial waters, whether or not it occurs elsewhere;
- (b) all kinds of deer, non-indigenous quail, pheasants, and partridges and any other taxon of animal which the Governor in Council by Order published in the Government Gazette declares to be wildlife for the purposes of this Act;
- (ba) any taxon of terrestrial invertebrate animal which is listed under the **Flora and Fauna Guarantee Act 1988**; and
- (c) any hybrids of a kind or taxon of animal specified in or pursuant to paragraphs (a) and (b)—

S. 3(1) def. of *wildlife* amended by Nos 9505 s. 3(a)–(c), 7/1988 s. 9(a), 47/1988 s. 71(Sch. 4 item 4(a)–(c)), 70/1990 s. 14(a)(i)(ii), 92/1995 s. 163, 87/1997 ss 5(1)(d), 42(Sch. item 1(f)).

and except as is otherwise expressly provided in any such Order includes any such animal or any member of a taxon which is bred or kept in captivity or confinement but in Parts I to VI and Parts IX and XI does not include a whale within the meaning of section 75;

s. 3

S. 3(1) def. of
*wildlife
licence*
inserted by
No. 87/1997
s. 5(1)(a).

wildlife licence means a wildlife licence issued
under section 22.

S. 3(2)
amended by
No. 92/1995
s. 161(Sch. 2
item 5).

(2) This Act does not apply to fish within the meaning
of the **Fisheries Act 1995**.

(3) Any reference in any other Act or law to the
Game Act 1958 or to section 9 or section 10 of
the **Protection of Animals Act 1966** or to any
provisions thereof shall be read and construed as a
reference to this Act or the corresponding
provisions of this Act (as the case requires).

S. 3(4)
amended by
Nos 70/1990
s. 4(1),
87/1997
s. 5(2).

(4) Any reference in this Act to wildlife is a reference
to wildlife in any form, whether alive or dead and
whether the flesh is raw, or cooked or preserved
or processed in any manner whatsoever, and
includes the skin, pelage, plumage, fur, skeletal
material, organs, blood, tissue or any other part
thereof and the eggs or any part of the eggs
thereof.

S. 3(5)
inserted by
No. 87/1997
s. 5(3).

(5) The Governor in Council may, by proclamation
published in the Government Gazette, declare any
taxon of animal to be wildlife for the purposes of
this Act.

S. 4
repealed by
No. 87/1997
s. 6.

* * * * *

S. 4A
inserted by
No. 9694 s. 3,
repealed by
No. 87/1997
s. 6.

* * * * *

4B Restriction on application of Act

The Governor in Council may by Order published in the Government Gazette declare that the parts of this Act specified in the Order do not apply to the taxa of invertebrate animals specified in the Order.

S. 4B
inserted by
No. 47/1988
s. 71(Sch. 4
item 5).

* * * * *

Ss 5-7
repealed.¹

7A Governor in Council may declare protected wildlife to be unprotected in an area of Victoria

S. 7A
inserted by
No. 9505
s. 2(2).

(1) Whenever it appears to the Minister that a taxon or kind of protected wildlife is causing injury or damage to—

S. 7A(1)
amended by
No. 87/1997
s. 42(Sch.
item 2(a)).

(a) any building, vineyard, orchard, garden or other property;

(b) any crop, grass, trees or other vegetation; or

(c) any taxon or kind of animal (including fish)—

S. 7A(1)(c)
amended by
No. 87/1997
s. 42(Sch.
item 2(a)).

in an area of Victoria, the Governor in Council may upon the recommendation of the Minister by an Order published in the Government Gazette declare that taxon or kind of wildlife to be unprotected wildlife in the area and for the period specified therein.

(2) An Order of the Governor in Council declared pursuant to subsection (1) shall specify the area, conditions, limitations and restrictions including the persons authorized and the methods that they may use to kill, take or otherwise control the taxon or kind of wildlife declared unprotected.

S. 7A(2)
amended by
No. 87/1997
s. 42(Sch.
item 2(b)).

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S. 7A(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.7),
87/1997
s. 42(Sch.
item 2(c)).

(3) Upon the making of the Order the Secretary shall cause notice of the making of the Order to be published in a newspaper circulating generally in the area to which the Order applies and the Secretary may take any other measures that the Secretary considers are necessary to publicize the provisions of the Order.

(4) Notwithstanding any other provision of this Act, the killing or taking of wildlife in accordance with the provisions of an Order declared pursuant to this section shall not constitute an offence against this Act or be unlawful by virtue of any of the provisions of this or any other Act.

S. 7A(5)
amended by
No. 70/1990
s. 12(1)(a).

(5) Any person who contravenes or fails to comply with any provision, condition, limitation or restriction contained in an Order under this section shall be guilty of an offence against this Act.

Penalty: 50 penalty units.

Ss 8, 9
repealed by
No. 41/1987
s. 103(Sch. 4
item 76.8).

* * * * *

S. 10
amended by
No. 9505
s. 4(2) (as
amended by
No. 9549
s. 2(1)(Sch.
item 254) (as
amended by
No. 9902
s. 2(1)(Sch.
item 230)),
repealed by
No. 41/1987
s. 103(Sch. 4
item 76.8).

* * * * *

11 Secretary to administer Act

Subject to the direction and control of the Minister
this Act shall be administered by the Secretary.

S. 11
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.9),
87/1997
s. 42(Sch.
item 3).

Pt 2 (Heading)
amended by
No. 9505
s. 5(9)(b).

**PART II—STATE WILDLIFE RESERVES AND NATURE
RESERVES**

12 Secretary may accept gift of land etc.

S. 12(1)
amended by
Nos 9212
s. 2(2), 9505
s. 5(1),
41/1987
s. 103(Sch. 4
item 76.10),
87/1997
s. 42(Sch.
item 4(a)).

- (1) The Secretary with the consent of the Minister may for the purposes of this Act accept the gift devise or bequest of any land from the donor thereof or from the executor or administrator of any estate which the owner thereof desires to be set aside for the propagation or management of wildlife or the preservation of wildlife habitat and thereupon the land shall be deemed to be unalienated land of the Crown temporarily reserved pursuant to the **Crown Land (Reserves) Act 1978** for the purposes of this Act.

S. 12(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.10),
87/1997
s. 42(Sch.
item 4(b)).

- (2) The Secretary with the consent of the Minister may accept a donation, gift, or bequest of land conditional upon the donor or a nominee of the donor or a nominee of the testator occupying the land during his lifetime or for a specified period.

13 Secretary may accept gift of personal property

S. 13
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.11),
87/1997
s. 42(Sch.
item 5).

The Secretary with the consent of the Minister may for the purposes of this Act accept the gift devise or bequest of any personal property or of money and may act as executor or administrator of any estate or as trustee of any property real or personal where in the opinion of the Minister it is expedient to do so for or in connexion with giving effect to the objects of this Act.

14 Secretary to have management and control of lands

The Secretary shall have the management and control of any lands—

- (a) accepted under section 12; and
- (b) of the Crown which pursuant to the provisions of the **Crown Land (Reserves) Act 1978** or any corresponding previous enactment are temporarily or permanently reserved from sale or from being leased or from having a licence granted in respect thereof and which—
 - (i) have been set aside for the propagation or management of wildlife or the preservation of wildlife habitat; or
 - (ii) have been set aside for another purpose specified in section 4(1) of the **Crown Land (Reserves) Act 1978** and in respect of which pursuant to the recommendation of the Land Conservation Council the Minister considers that it would be appropriate for the Secretary to have the management and control of such lands, and the Governor in Council by Order published in the Government Gazette pursuant to section 18(1) of the **Crown Land (Reserves) Act 1978** places such lands under the control and management of the Secretary for the purposes for which it is reserved.

S. 14 substituted by No. 9505 s. 5(2), amended by Nos 41/1987 s. 103(Sch. 4 item 76.12), 87/1997 s. 42(Sch. item 6).

S. 14(b)(ii) amended by Nos 41/1987 s. 103(Sch. 4 item 76.12), 87/1997 s. 42(Sch. item 6).

15 State Wildlife Reserves

S. 15(1)
amended by
Nos 9505
s. 5(3)(a),
41/1987
s. 103(Sch. 4
item 76.13),
87/1997
s. 42(Sch.
item 7(a)).

(1) All lands coming under the management and control of the Secretary pursuant to the provisions of this Act other than pursuant to section 14(b)(ii) shall be known as State Wildlife Reserves.

(2) State Wildlife Reserves may by Order of the Governor in Council published in the Government Gazette be further classified separately as State Game Reserves, State Game Refuges, State Faunal Reserves, Game Management Stations or other classifications as specified.

S. 15(3)
inserted by
No. 9505
s. 5(3)(b),
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.13),
87/1997
s. 42(Sch.
item 7(b)).

(3) All lands coming under the management and control of the Secretary pursuant to the provisions of section 14(b)(ii) are referred to in this Act as "Nature Reserves" and shall be known by the title specified in the Order of the Governor in Council referred to in section 14(b)(ii).

16 Secretary to manage State Wildlife Reserves

S. 16(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.14),
87/1997
s. 42(Sch.
item 8(a)).

(1) Every State Wildlife Reserve shall be managed and controlled by the Secretary subject to this Act and any special directions of the Minister.

S. 16(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.14),
87/1997
s. 42(Sch.
item 8(b)).

(2) Subject to the regulations the Secretary may—
(a) notwithstanding anything to the contrary in the **Land Act 1958** grant licences in respect of land within a State Wildlife Reserve;

- (b) impose collect and receive tolls rents fees or charges for or with respect to—
 - (i) entry upon such land or any specified part thereof;
 - (ii) the use of such land or any part thereof or any improvement thereon;
 - (iii) shooting on or over any such land;
 - (iv) using any service or facility whatsoever;
 - (v) the examination and approval of plans for any building or other structure to be erected on any land in an area held under licence under this section;
- (c) provide services or arrange for the provision of services to any such land;
- (d) carry out works or improvements on any such land;
- (e) authorize and control the use of any land held under licence under this section.

16A Secretary to manage and control Nature Reserves

S. 16A
inserted by
No. 9505
s. 5(4).

- (1) The Secretary shall for the purposes of the management and control of Nature Reserves be deemed to have the same powers functions and duties as a committee of management under section 15(1) of the **Crown Land (Reserves) Act 1978**.
- (2) Notwithstanding the provisions of sections 14(b)(ii) and 16A(1), where the land is subject to a notice pursuant to section 10(3) of the **Land Conservation Act 1970** requiring that effect be given to a recommendation of the Land

S. 16A(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.15),
87/1997
s. 42(Sch.
item 9(a)).

S. 16A(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.15),
87/1997
s. 42(Sch.
item 9(b)).

s. 17

Conservation Council the Secretary may give effect to that recommendation even if the recommendation conflicts with the purpose for which the land is reserved.

S. 16A(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.15),
87/1997
s. 42(Sch.
item 9(c)).

- (3) The Governor in Council may on the recommendation of the Secretary make regulations for and with respect to any of the matters referred to in subparagraphs (ii) to (xi) of section 13(1) of the **Crown Land (Reserves) Act 1978** in relation to the land as if—

S. 16A(3)(a)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.15),
87/1997
s. 42(Sch.
item 9(c)).

- (a) any reference in that section to a committee of management were a reference to the Secretary; and

- (b) any reference in that section to the land were a reference to a Nature Reserve.

S. 17
amended by
No. 9549
s. 2(1)(Sch.
item 252),
substituted by
No. 9861
s. 3(1).

17 Moneys received paid to Consolidated Fund

S. 17(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.16),
87/1997
s. 42(Sch.
item 10).

- (1) All moneys received by the Secretary by way of tolls, fees, rents or charges in respect of any State Wildlife Reserve or Nature Reserve shall be paid into the Consolidated Fund.

Ss 17(2)–17A
repealed.^{2,3}

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18 Secretary to prepare plans of management for reserves

- (1) The Secretary shall—
- (a) with respect to each wildlife reserve in existence at the commencement of this section, prepare a plan of management as soon as practicable after the commencement of this section; and
 - (b) with respect to each State Wildlife Reserve constituted after the said commencement prepare a plan of management as soon as practicable after the constitution of the State Wildlife Reserve; and
 - (c) with respect to each Nature Reserve brought under the management and control of the Secretary pursuant to section 14(b)(ii), prepare a plan of management as soon as practicable after the commencement of this subsection.
- (2) The Minister may adopt a plan of management without alteration, or with such alterations as he thinks reasonable, or may refer the plan back to the Secretary for further consideration.
- (3) Every plan of management when sanctioned by the Minister shall be the working plan for the State Wildlife Reserve or the Nature Reserve to which it relates.

S. 18(1) amended by Nos 9505 s. 5(6)(a)(b)(ii), 41/1987 s. 103(Sch. 4 item 76.17), 87/1997 s. 42(Sch. item 11(a)).

S. 18(1)(b) amended by No. 9505 s. 5(6)(b)(i)(ii).

S. 18(1)(c) inserted by No. 9505 s. 5(6)(c), amended by Nos 41/1987 s. 103(Sch. 4 item 76.17), 87/1997 s. 42(Sch. item 11(a)).

S. 18(2) amended by Nos 41/1987 s. 103(Sch. 4 item 76.17), 87/1997 s. 42(Sch. item 11(b)).

S. 18(3) amended by No. 9505 s. 5(6)(d).

s. 19

S. 18(4)
amended by
No. 9505
s. 5(6)(d).

- (4) A plan of management may be amended from time to time with the approval of the Minister and shall, as amended, thereafter be the plan of management of the State Wildlife Reserve or the Nature Reserve to which it relates.

19 Limitation of mining etc. on State Wildlife or Nature Reserves

S. 19(1)
amended by
Nos 9505
s. 5(7),
41/1987
s. 103(Sch. 4
item 76.18),
92/1990
s. 128(Sch. 1
item 33),
63/2006
s. 61(Sch.
item 34).

- (1) Notwithstanding anything to the contrary in the **Mineral Resources (Sustainable Development) Act 1990** or in any other Act or law no person has any rights of entry, prospecting, exploration, or mining in respect of lands being part of a State Wildlife Reserve or a Nature Reserve without the written permission of the Minister after consultation with the Minister for the time being administering the **Mineral Resources (Sustainable Development) Act 1990** and subject always to any conditions, limitations, or restrictions the Minister thinks fit to impose.

S. 19(2)
amended by
No. 41/1987
s. 103(Sch. 4
item 76.19).

- (2) Any dispute arising with respect to the operation of this section between the Department within the meaning of the **Conservation, Forests and Lands Act 1987** and any other Government Department or authority, board, or like body incorporated by Act of Parliament for a public purpose shall be determined by the Governor in Council whose decision thereon shall be final.

S. 19(3)
amended by
Nos 9505
ss 5(7), 6(1)(a),
41/1987
s. 103(Sch. 4
items 76.20,
76.21),
57/1989
s. 3(Sch.
item 219.1),
87/1997
s. 42(Sch.
item 12).

- (3) Where buildings huts fences dams weirs installations or standing crops are found within a State Wildlife Reserve or a Nature Reserve and—
(a) the owner or occupier thereof does not on demand produce any lease licence permit or authority therefor; or

(b) after reasonable inquiries made by an authorised officer the owner or occupier thereof cannot be found—

S. 19(3)(b)
amended by
No. 41/1987
s. 103(Sch. 4
item 76.20).

then on the hearing of the complaint of an authorised officer either generally or specially authorized in writing by the Secretary to make such a complaint the Magistrates' Court may fix a time within which such buildings huts fences dams weirs installations or crops shall be removed.

(4) If such removal is not effected within the time so fixed all such buildings huts fences dams weirs installations or crops shall thereupon become the property of the Crown and shall be disposed of as the Minister directs.

S. 19(4)
amended by
No. 9505
s. 6(1)(b).

(5) In any case where after such inquiries the owner or occupier has not been found it shall be sufficient service of the notice of removal if a copy thereof is posted on some conspicuous part of the land on which the buildings huts fences dams weirs installations or crops are found.

S. 19(5)
amended by
No. 9505
s. 6(1)(c).

* * * * *

S. 19(6)
repealed by
No. 9505
s. 6(1)(d).

s. 20

S. 19A
inserted by
No. 9505
s. 6(2),
amended by
Nos 9861
s. 3(1),
41/1987
s. 103(Sch. 4
items
76.22–76.25),
12/1989
s. 4(1)(Sch. 2
item 134.1),
repealed by
No. 89/1994
s. 40.⁴

* * * * *

20 Offence to take wildlife from State Wildlife Reserve

S. 20(1)
amended by
Nos 70/1990
s. 12(1)(b),
3/2002 s. 4.

- (1) Any person who, without the authority in writing of the Minister under Part IIIA, takes or destroys wildlife in or upon a State Wildlife Reserve not being a State Game Reserve shall be guilty of an offence against this Act.

Penalty: 25 penalty units.

S. 20(2)
amended by
No. 70/1990
s. 12(1)(b).

- (2) Any person who without the authority in writing of the Minister hunts or wilfully disturbs wildlife in or upon a State Wildlife Reserve not being a State Game Reserve shall be guilty of an offence against this Act.

Penalty: 25 penalty units.

21 Removing sand etc. from State Wildlife Reserve or Nature Reserve

S. 21(1)
amended by
Nos 9505
s. 5(8)(a),
41/1987
s. 103(Sch. 4
item 76.26),
70/1990
s. 12(1)(c),
87/1997
s. 42(Sch.
item 13(a)).

- (1) Any person who without the authority in writing of the Secretary digs or removes any sand, soil, or other material from a State Wildlife Reserve or a Nature Reserve or deposits rubbish, debris, or other material in a State Wildlife Reserve or a Nature Reserve shall be guilty of an offence against this Act.

Penalty: 25 penalty units.

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- (2) Any person, other than a person authorised under the **Water Act 1989** to do so, who without the authority in writing of the Secretary interferes with or damages any structure or interferes with the flow of water into, out of, or within a State Wildlife Reserve or a Nature Reserve shall be guilty of an offence against this Act.

Penalty: 25 penalty units.

- (3) Any person who without the authority in writing of the Secretary takes, destroys, hunts, injures or wilfully disturbs wildlife or takes destroys or damages any native flora in a Nature Reserve shall be guilty of an offence against this Act.

Penalty: 25 penalty units.

S. 21(2)
amended by
Nos 9505
s. 5(8)(a),
41/1987
s. 103(Sch. 4
item 76.26),
70/1990
s. 12(1)(d),
87/1997
ss 7, 42(Sch.
item 13(b)).

S. 21(3)
inserted by
No. 9505
s. 5(8)(b),
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.26),
70/1990
s. 12(1)(b),
87/1997
s. 42(Sch.
item 13(c)).

PART III—LICENCES

22 Wildlife licences⁵

S. 22
amended by
Nos 9505
s. 7(a)–(d),
9578 s. 2(a)(b),
9902
s. 2(1)(Sch.
item 276),
41/1987
s. 103(Sch. 4
items 76.26,
76.27),
substituted by
No. 70/1990
s. 5(1).

S. 22(1)
substituted by
No. 87/1997
s. 8(1),
amended by
No. 10/2005
s. 3(Sch. 1
item 27.1).

S. 22(2)
repealed by
No. 87/1997
s. 8(1).

S. 22(3)(b)(ii)
substituted by
No. 87/1997
s. 8(2)(a).

- (1) The Secretary may license a person to do all or any of the following—
- (a) take or destroy wildlife;
 - (b) buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process or display wildlife.

* * * * *

- (3) A licence—
- (a) must be in a prescribed category; and
 - (b) is subject to any conditions, limitations and restrictions—
 - (i) that are prescribed; and
 - (ii) that the Secretary imposes on the licence or on that category of licence; and

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- (c) is subject to the condition that the holder of the licence must allow inspection by an authorised officer, at any reasonable time, of any dwelling house specified in the licence for the purpose of monitoring compliance with this Act, the regulations or the conditions of the licence. **S. 22(3)(c) inserted by No. 87/1997 s. 8(2)(b).**
- (3A) If the regulations vary the conditions, limitations or restrictions on wildlife licences or a category of wildlife licences, the variation has effect, in relation to a wildlife licence in force at the time the regulation is made, upon the Secretary giving notice of the variation to the holder of the licence. **S. 22(3A) inserted by No. 87/1997 s. 8(3).**
- (4) A person seeking the issue of a licence must apply to the Secretary in the prescribed manner for a prescribed category of licence and must pay the appropriate prescribed fee with the application. **S. 22(4) amended by No. 87/1997 s. 42(Sch. item 14).**
- (5) A licence issued under this section does not authorise a person to take any wildlife from the wild or to destroy, buy, sell, dispose of, keep, possess, control, breed, process or display any wildlife taken from the wild unless the person is specifically authorised by the licence to do so.
- (6) A person who holds a licence who contravenes subsection (5) or any condition, limitation or restriction of the licence is guilty of an offence and liable to a penalty not exceeding 100 penalty units. **S. 22(6) amended by No. 87/1997 s. 8(4).**
- (7) In addition to any other penalty to which the holder of a licence is liable under this Act, a court before which the holder is convicted of an offence against subsection (6) may impose any additional condition, limitation or restriction on the licence that the court thinks fit.
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s. 22A

22A Game licences⁶

S. 22A
inserted by
No. 90/1989
s. 13(1).

S. 22A(1)
amended by
No. 70/1990
s. 12(2),
substituted by
No. 87/1997
s. 9(1),
amended by
No. 10/2005
s. 3(Sch. 1
item 27.2).

S. 22A(2)
amended by
No. 87/1997
s. 42(Sch.
item 15(a)).

S. 22A(3)
amended by
No. 87/1997
s. 42(Sch.
item 15(b)).

S. 22A(4)
amended by
No. 87/1997
s. 42(Sch.
item 15(c)).

S. 22A(4A)
inserted by
No. 87/1997
s. 9(2).

- (1) The Secretary may license a person to hunt, take or destroy game.
- (2) A person seeking a game licence must apply to the Secretary in the prescribed manner for the game licence and must lodge the prescribed fee with the application.
- (3) The Secretary may, subject to any conditions, limitations and restrictions that are prescribed or as the Secretary thinks fit to impose, license any person to hunt, take or destroy any game.
- (4) A game licence may be general in application or may be restricted as to the kinds or taxon of game which may be hunted, taken or destroyed or the area in which game may be hunted, taken or destroyed or the type of weapon which may be used to hunt, take or destroy game.
- (4A) Despite anything to the contrary in any other Act, if the Secretary thinks fit, a game licence is subject to the condition that the holder of the licence must take part in a ballot, in accordance with the regulations, in order to determine the entitlements of the holder to take game specified under that licence.

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|--|---|
| (4B) If the regulations vary the conditions, limitations or restrictions on game licences or a category of game licences, the variation has effect, in relation to a game licence in force at the time the regulation is made, upon the Secretary giving notice of the variation to the holder of the licence. | S. 22A(4B) inserted by No. 87/1997 s. 9(2). |
| (5) Subject to subsection (6), the Secretary must grant any application for a game licence unless the Secretary is satisfied that— | S. 22A(5) amended by No. 87/1997 s. 42(Sch. item 15(d)(i)). |
| (a) the applicant is not a fit and proper person to hold the licence; or | |
| (b) the applicant is not qualified under the regulations to hold the licence; or | |
| (c) the issue of the licence would be deleterious to the conservation of any taxon or any kind of game; or | S. 22A(5)(c) amended by No. 87/1997 ss 9(3), 42(Sch. item 15(d)(ii)). |
| (d) the applicant is already the holder of a licence under this section; or | S. 22A(5)(d) inserted by No. 87/1997 s. 9(3). |
| (e) the applicant has failed any prescribed test about the identification of that taxon of wildlife in respect of which the licence is to be issued. | S. 22A(5)(e) inserted by No. 87/1997 s. 9(3). |
| (6) The Secretary may refuse to grant any application for a game licence if the applicant has been convicted of any offence against this Act. | S. 22A(6) amended by No. 87/1997 s. 42(Sch. item 15(e)). |
| (7) A game licence unless sooner cancelled or surrendered under this Act continues in force for any period up to 5 years that is specified in the licence. | S. 22A(7) amended by No. 87/1997 s. 9(4)(a)(b). |
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s. 22A

S. 22A(7A)
inserted by
No. 87/1997
s. 9(5).

- (7A) The Secretary must renew a licence upon application from the holder of the licence unless the Secretary is satisfied that—
- (a) any of the circumstances set out in subsection (5)(a), (b), (c) or (e) applies; or
 - (b) the applicant has been found guilty of an offence against this Act or the regulations; or
 - (c) the applicant has failed to comply with this Act, the regulations or the conditions of his or her licence.

S. 22A(7B)
inserted by
No. 87/1997
s. 9(5).

- (7B) Upon application made in writing and upon payment of any additional prescribed fee, the Secretary may vary any licence in force under this section in any respect and, as from the date of the variation, the licence is deemed to have been granted as so varied.

S. 22A(7C)
inserted by
No. 87/1997
s. 9(5).

- (7C) In considering an application under subsection (7B) the Secretary may refuse to grant the application if the Secretary is satisfied that any of the grounds set out in subsection (5)(a), (b), (c) or (e) applies.

S. 22A(7D)
inserted by
No. 87/1997
s. 9(5).

- (7D) A person who is not a natural person is not eligible to seek the issue of or to be granted a licence under this section.

S. 22A(8)
amended by
No. 70/1990
s. 12(2).

- (8) The holder of a game licence must not contravene any condition, limitation or restriction to which the licence is subject.

Penalty for an offence against this subsection:
10 penalty units.

S. 22A(9)
amended by
No. 87/1997
s. 42(Sch.
item 15(f)),
repealed by
No. 52/1998
s. 311(Sch. 1
item 107.1).

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23 Secretary may refuse to grant licences in certain cases

- (1) The Secretary may refuse to grant any application for a licence referred to in section 22 or to renew any such licence if the Secretary is satisfied that—
- (a) the applicant is not a fit and proper person to hold the licence applied for;
S. 23(1) amended by Nos 41/1987 s. 103(Sch. 4 items 76.28, 76.29), 90/1989 s. 14(b), 87/1997 s. 42(Sch. item 16(a)(i)).
 - (b) the premises specified in the application for grant or renewal as being the premises which is to house the wildlife in respect of which the licence is sought—
S. 23(1)(b) substituted by No. 87/1997 s. 10(a).
 - (i) are not suitable for housing the wildlife; or
 - (ii) are premises in respect of which a licence has already been issued; or
 - (iii) in the case of a private wildlife licence, are not premises at which the applicant resides;
 - (c) the issue of the licence would be deleterious to the welfare or conservation of any wild life or of any taxon of wildlife;
S. 23(1)(c) amended by Nos 70/1990 s. 6(1)(b), 87/1997 s. 42(Sch. item 16(a)(ii)).
 - (d) the number of such licences in force ought to be limited; or
 - (e) the applicant has been found guilty of an offence against this Act or a corresponding previous enactment; or
S. 23(1)(e) substituted by No. 87/1997 s. 10(b).
 - (f) the applicant is already the holder of a wildlife licence; or
S. 23(1)(f) inserted by No. 87/1997 s. 10(b).
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s. 25

S. 23(1)(g)
inserted by
No. 87/1997
s. 10(b).

(g) the applicant has failed to comply with this Act, the regulations or the conditions of his or her licence.

S. 23(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.28),
90/1989
s. 14(c),
70/1990
s. 6(1)(c),
87/1997
s. 42(Sch.
item 16(b)).

(2) Upon application made in writing and upon payment of any additional prescribed fees the Secretary may vary any licence in force under section 22 in any respect and as from the date of such variation the licence shall be deemed to have been granted as so varied.

S. 23(3)
amended by
Nos 9505
s. 18(2)(b),
41/1987
s. 103(Sch. 4
item 76.28),
90/1989
s. 14(c),
repealed by
No. 70/1990
s. 6(1)(d).

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S. 24
amended by
Nos 9505 s. 8,
9578 s. 3, 9643
s. 2(a)(i)–(vii),
9851 s. 2(a)–
(j), 90/1989
s. 14(c),
repealed by
No. 70/1990
s. 6(1)(e).

* * * * *

25 Duration of licence

S. 25(1)
amended by
Nos 90/1989
s. 14(c),
70/1990
s. 6(1)(f),
87/1997
s. 11.

(1) Every licence referred to in section 22 shall, unless sooner cancelled, suspended or surrendered under this Act, remain in force for the period specified in the licence but not in any case exceeding three years.

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- (2) An application to the Secretary for the renewal of a licence under section 22 must be made in the prescribed manner.
- (3) Every renewal shall be subject to such conditions, limitations, and restrictions as are prescribed or as the Secretary thinks fit and are expressed or referred to in the licence.
- (4) Any licence under section 22 may at any time be varied by the Secretary by notice in writing sent by post to the holder of the licence.

S. 25(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.30),
90/1989
s. 14(c),
substituted by
No. 70/1990
s. 6(7),
87/1997
s. 42(Sch.
item 17(a)).

S. 25(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.30),
70/1990
s. 6(1)(g),
87/1997
s. 42(Sch.
item 17(b)).

S. 25(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.30),
90/1989
s. 14(c),
87/1997
s. 42(Sch.
item 17(c)).

25A Mandatory cancellation of licences

- (1) The Secretary must cancel a licence issued under this Part if the Secretary is satisfied on reasonable grounds that the holder knowingly provided false or misleading information with the application.
- (2) Before cancelling a licence under this section, the Secretary must—
- notify the holder in writing that it is proposed to cancel the licence; and
 - allow the holder 14 days within which to make oral or written submissions about the proposal.

S. 25A
inserted by
No. 87/1997
s. 12(1).

s. 25B

- (3) In making a decision, the Secretary must—
 - (a) have regard to the submissions; and
 - (b) notify the holder of the decision.
- (4) In addition to cancelling the licence, the Secretary may—
 - (a) cancel any other licence issued to that person under this Act; and
 - (b) specify a time within which the person may not apply for another licence under this Act.

S. 25B
inserted by
No. 87/1997
s. 12(1).

25B Power of Secretary to suspend licence

- (1) The Secretary may suspend a licence, by notice in writing given to the holder of the licence, if the Secretary is satisfied, on reasonable grounds, that—
 - (a) the holder of the licence has been found guilty of an offence against this Act; or
 - (b) the holder of the licence has breached a condition of the licence.
- (2) A suspension under this section has effect—
 - (a) from the time specified in the notice given under subsection (1), which must be after the day on which the notice is given; and
 - (b) subject to section 25C, for the period (not exceeding 90 days) specified in the notice.
- (3) The custody, care and management of any wildlife held under a licence which has been suspended under this section must be dealt with in accordance with the directions of the Secretary.

S. 25C
inserted by
No. 87/1997
s. 12(1).

25C Making submissions on suspension

- (1) Immediately on suspending a licence, the Secretary must allow the holder of the licence an opportunity to make written submissions.

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- (2) Submissions must be made within the period specified in the notice of suspension.
 - (3) On receiving any submissions under subsection (2), the Secretary must review the decision to suspend the licence, and in doing so must have regard to the submissions and may decide—
 - (a) not to revoke or amend the suspension; or
 - (b) to revoke or amend the suspension.
 - (4) The Secretary must notify the holder of the licence of the outcome of the review.

25D Power of the Secretary to cancel a licence

S. 25D
inserted by
No. 87/1997
s. 12(1).

- (1) The Secretary may cancel a licence if the Secretary is satisfied, on reasonable grounds, that—
 - (a) the holder of the licence has been found guilty of an offence against this Act; or
 - (b) the holder of the licence has breached a condition of the licence.
 - (2) Before cancelling a licence the Secretary must—
 - (a) notify the holder that he or she proposes to cancel the licence; and
 - (b) allow the holder of the licence an opportunity to make either oral or written submissions.
 - (3) Submissions under subsection (2) must be made within the period specified in the notice.
 - (4) In making a decision as to whether or not to cancel a licence, the Secretary must—
 - (a) have regard to any submissions made under subsection (2) within the period specified in the notice; and
 - (b) must notify the holder of his or her decision.
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s. 28

- (5) A cancellation under this section has effect from the time specified in the notice of the Secretary's decision under subsection (4), which must be after the day on which the notice is given.
- (6) Any wildlife held under a licence which has been cancelled under this section must be disposed of in accordance with the directions of the Secretary.

S. 26
amended by
Nos 9505
s. 18(2)(b),
90/1989
s. 14(c),
substituted by
No. 70/1990
s. 6(6),
repealed by
No. 87/1997
s. 12(2).

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S. 27
repealed by
No. 9861
s. 3(1).

* * * * *

28 Production of licence

S. 28(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.31),
70/1990
s. 12(1)(f).

- (1) The holder of any licence, permit, or other authority under this Act shall on demand by an authorised officer or by a member of the police force produce the licence, permit, or other authority for inspection by the officer or member either forthwith or, if he has not the licence, permit, or other authority in his possession at that time, within fourteen days thereafter at such place as the officer or member directs.

Penalty: 5 penalty units.

S. 28(2)
amended by
No. 70/1990
s. 12(1)(a).

- (2) Any person—
- (a) who gives or lends a licence under this Act to any other person or knowingly permits or suffers his licence to be used by any other person;

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- (b) who when lawfully required to produce his licence under this Act produces or tenders a licence issued to any other person; or
 - (c) tampers with, defaces, or otherwise unlawfully uses or attempts to use a licence under this Act issued to any other person—

shall be guilty of an offence against this Act.

Penalty: 50 penalty units.

Pt 3A
(Heading and
ss 28A–28F)
inserted by
No. 87/1997
s. 13.

S. 28A
inserted by
No. 87/1997
s. 13.

PART IIIA—AUTHORISATIONS

28A Authorisation to take etc. wildlife

- (1) The Secretary may give written authorisation to a person to do all or any of the following—
- (a) hunt, take or destroy wildlife;
 - (b) buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process, display, take samples from or experiment on wildlife—
if he or she is satisfied that the authorisation is necessary—
 - (c) because wildlife is damaging any building, vineyard, orchard, crop, tree, pasture, habitat or other property owned, occupied or administered by the person to whom the authorisation is to be issued or property adjacent to or in proximity to such property;
or
 - (d) for the purposes of the management, conservation, protection or control of wildlife or for the purposes of education about wildlife, research into wildlife or scientific or other study of wildlife; or
 - (e) for aboriginal cultural purposes; or
 - (f) for the purposes of enabling the care, treatment or rehabilitation of sick, injured or orphaned wildlife; or
 - (g) for the purposes of ensuring the health or safety of any person or class of persons; or
 - (h) to support a recognised wildlife management plan; or

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- (i) to make provision for the custody, care and management of wildlife, held under another authorisation or a licence which has been suspended, during the period of that suspension.
 - (2) An authorisation is subject to any conditions, limitations or restrictions placed on that authorisation or that category of authorisation—
 - (a) by the Secretary; or
 - (b) by the regulations.
 - (3) An authorisation is subject to the condition that the holder of the authorisation must allow inspection by an authorised officer, at any reasonable time, of any dwelling house specified in the authorisation for the purpose of monitoring compliance with this Act, the regulations or the conditions of the authorisation.
 - (4) A person seeking the issue of an authorisation must—
 - (a) apply to the Secretary for the authorisation in the prescribed manner; and
 - (b) provide any information required by the Secretary to accompany the application; and
 - (c) pay the prescribed fee (if any) for the authorisation.

28B Offence of failing to comply with conditions of authorisation

S. 28B
inserted by
No. 87/1997
s. 13.

A person to whom an authorisation under section 28A has been granted must comply with the conditions, limitations or restrictions of the authorisation.

Penalty: 50 penalty units.

s. 28C

S. 28C
inserted by
No. 87/1997
s. 13.

28C Duration and renewal of authorisation

- (1) An authorisation, unless sooner cancelled or suspended, continues in force for that period, not exceeding 3 years, that is specified in the authorisation.
- (2) An authorisation may be renewed.

S. 28D
inserted by
No. 87/1997
s. 13.

28D Suspension of authorisation

- (1) If the Secretary is satisfied that there are reasonable grounds to do so, the Secretary may suspend an authorisation, by notice in writing given to the holder of an authorisation.
- (2) A suspension under this section has effect—
 - (a) from the time specified in the notice under subsection (1), which must be after the day on which the notice is given; and
 - (b) subject to section 28E, for the period (not exceeding 90 days) specified in the notice.
- (3) The custody, care and management of any wildlife held under an authorisation which has been suspended under this section must be dealt with in accordance with the directions of the Secretary.

S. 28E
inserted by
No. 87/1997
s. 13.

28E Making submissions on suspension

- (1) Immediately on suspending an authorisation, the Secretary must allow the holder of the authorisation an opportunity to make written submissions.
- (2) Submissions must be made within the period specified in the notice of suspension.
- (3) On receiving any submissions under subsection (2), the Secretary must review the decision to suspend the authorisation, and in doing so must have regard to the submissions and may decide—

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- (a) not to revoke or amend the suspension; or
 - (b) to revoke or amend the suspension.
- (4) The Secretary must notify the holder of the authorisation of the outcome of the review.

28F Cancellation of authorisation

S. 28F
inserted by
No. 87/1997
s. 13.

- (1) If the Secretary is satisfied that there are reasonable grounds to do so, the Secretary may cancel an authorisation.
 - (2) Before cancelling an authorisation the Secretary must—
 - (a) notify the holder that it is proposed to cancel the authorisation; and
 - (b) allow the holder of the authorisation an opportunity to make either oral or written submissions.
 - (3) Submissions under subsection (2) must be made within the period specified in the notice.
 - (4) In making a decision as to whether or not to cancel an authorisation, the Secretary must—
 - (a) have regard to any submissions made under subsection (2) within the period specified in the notice; and
 - (b) must notify the holder of the decision.
 - (5) A cancellation under this section has effect from the time specified in the notice under subsection (4).
 - (6) Any wildlife held under an authorisation which has been cancelled under this section must be disposed of in accordance with the directions of the Secretary.
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PART IV—RESEARCH AND MANAGEMENT

29 Secretary to carry out research etc.

Subject to the direction and control of the Minister the Secretary shall carry out or cause to be carried out investigations, field studies, and scientific or biological research for the purpose of conserving, and propagating wildlife or improving, conserving, or maintaining wildlife habitat and in particular, without in any way limiting the generality of the foregoing, the Secretary may carry out or cause to be carried out—

- (a) surveys of wildlife populations and wildlife habitats;
- (b) investigations concerning the possible effects and influence on wildlife and wildlife habitat of any existing or proposed river improvement work, drainage projects, water conservation projects, re-forestation projects and any other project which may affect wildlife or wildlife habitat;
- (c) banding or marking of wildlife;
- (d) collection of wildlife for examination and study;
- (e) management of wildlife or wildlife habitat;
- (f) works for the improvement or preservation of wildlife habitat;
- (g) such public education programmes as he considers necessary for promoting and maintaining an appreciation of the value of wildlife;

S. 29
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.32),
87/1997
s. 42(Sch.
item 18(a)).

- (h) scientific or biological research, studies, or investigations in conjunction with other scientific organizations;
- (i) economic studies and investigations with respect to the raising, keeping, and rearing of any taxon of wildlife for commercial purposes;
- (j) removal of wildlife from any particular locality;
- (k) any act or operation for the conservation of wildlife and improvement of wildlife habitat.

S. 29(i)
amended by
No. 87/1997
s. 42(Sch.
item 18(b)).

30 Minister may authorize the use of prohibited equipment for certain purposes

- (1) For the purposes of this Part the Minister may, subject to such conditions, limitations, and restrictions as he thinks fit to impose, authorize any person in writing (whether an officer of the Department within the meaning of the **Conservation, Forests and Lands Act 1987** or not) to use any equipment or substance the use of which is prohibited by or under this Act to capture wildlife for examination, study, investigation, transfer or release elsewhere or for the purpose of stocking any zoo, public gardens, exhibition, experimental farm, or wildlife farm or eradicating any wildlife causing damage to crops or property.
- (2) The Minister may cancel any authority given under subsection (1) by notice in writing sent by post to the holder of the authority.

S. 30(1)
amended by
No. 41/1987
s. 103(Sch. 4
item 76.33).

31 Persons acting under authority not guilty of offence

Notwithstanding anything to the contrary in this Act or the regulations any person who uses any equipment or substance or who captures or is in possession of or destroys wildlife under and in accordance with an authority given by the Minister under section 30 shall not with respect to such use, possession, or destruction be guilty of any offence against this Act or the regulations.

PART V—WILDLIFE MANAGEMENT CO-OPERATIVE AREAS, PROHIBITED AREAS, AND SANCTUARIES

32 Wildlife Management Co-operative Areas

(1) The Governor in Council on the recommendation of the Minister by Order published in the Government Gazette may declare any locality to be a Wildlife Management Co-operative Area for every kind or taxon of wildlife specified in the Order for the period of time specified in the Order.

S. 32(1)
amended by
No. 87/1997
s. 42(Sch.
item 19(a)).

(2) An Order shall not be made under subsection (1) in respect of any private land unless the owner or occupier thereof has first applied to the Minister in writing for such land to be declared a Wildlife Management Co-operative Area and the Minister has caused not less than one month's notice of intention to make the Order to be published in some newspaper circulating generally in the locality and in respect of any lands of the Crown unless the Minister has first consulted with the Minister administering the **Water Act 1989**.

S. 32(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.35),
46/1998
s. 7(Sch. 1).

(3) In respect of land declared under subsection (1) to be a Wildlife Management Co-operative Area the Secretary may prepare a scheme of operations the objects of which shall be the management, study, control of hunting, or preservation, of the kinds or taxon of wildlife specified in the Order or which exists in the area and the maintenance, restoration or improvement of the wildlife habitat thereon and such scheme, when approved by the Minister, shall be the working plan for the Wildlife Management Co-operative Area to which it relates.

S. 32(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.34),
87/1997
s. 42(Sch.
item 19(b)
(i)(ii)).

Wildlife Act 1975
No. 8699 of 1975

Part V—Wildlife Management Co-operative Areas, Prohibited Areas, and Sanctuaries

s. 32

S. 32(4)
amended by
Nos 9505
s. 9(a),
41/1987
s. 103(Sch. 4
item 76.34),
87/1997
s. 42(Sch.
item 19(c)).

(4) The working plan for any Wildlife Management Co-operative Area may be prepared in consultation between the Secretary, interested organizations, and the owner or occupier of any lands which pursuant to the provisions of this section have been declared to be a Wildlife Management Co-operative Area and upon the owner or occupier of such lands consenting to the working plan, the working plan shall be submitted to the Minister for approval, and when approved by the Minister shall bind the land to which it relates for the period specified in the Order and in the case of private land may be enforced against any owner or occupier for the time being as if it were an agreement in writing executed by him.

S. 32(5)
amended by
No. 41/1987
s. 103(Sch. 4
item 76.36).

(5) The plan may contain provisions requiring the involvement and participation of officers of the Department within the meaning of the **Conservation, Forests and Lands Act 1987** with such interested organizations, owners or occupiers for the carrying out of works or of any act or operation in furtherance of the objects of the working plan.

S. 32(6)
amended by
No. 9505
s. 9(b).

(6) A working plan may, with the consent of the owner or occupier of any lands to which the working plan relates to the proposed amendments being first obtained and the approval in writing of the Minister, be amended from time to time and thereafter the working plan as so amended shall be the working plan for the Wildlife Management Co-operative Area to which it relates.

S. 32(7)
amended by
No. 41/1987
s. 103(Sch. 4
item 76.37).

(7) Any dispute arising with respect to a working plan under this section between the Department within the meaning of the **Conservation, Forests and Lands Act 1987** and any other Government Department or authority, board, or like body incorporated by Act of Parliament for a public

purpose shall be determined by the Governor in Council whose decision thereon shall be final.

33 Prohibited areas

- (1) The Governor in Council may by Order published in the Government Gazette declare the habitat of any taxon of wildlife existing on any lands of the Crown to be a prohibited area during any period or periods of the year specified in the Order.
- (2) Before any such Order is made the Minister shall consult with the Minister administering the **Water Act 1989** and shall cause to be published in the Government Gazette not less than one month's notice of intention to make the Order.
- (3) The Secretary shall forthwith cause notice of the making of any such Order to be published in some newspaper circulating in the locality of those lands and shall cause notice of the Order to be exhibited at every gateway to those lands and upon public notice boards in the locality.
- (4) Any person who knowingly enters into or takes a vehicle or boat into or upon a prohibited area within the meaning of subsection (1) without first obtaining the authority in writing of the Secretary shall be guilty of an offence against this Act.
- Penalty: 25 penalty units.
- (5) Any dispute arising with respect to a proposal for a prohibited area under this section shall be determined by the Governor in Council whose decision thereon shall be final.

S. 33(1)
amended by
No. 87/1997
s. 42(Sch.
item 20(a)).

S. 33(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.39),
46/1998
s. 7(Sch. 1).

S. 33(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.38),
87/1997
s. 42(Sch.
item 20(b)).

S. 33(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.38),
70/1990
s. 12(1)(c),
87/1997
s. 42(Sch.
item 20(c)).

34 Wildlife sanctuaries

- (1) The Governor in Council may by Order published in the Government Gazette declare any area of land or water or of land and water (whether inland waters or coastal waters) to be a wildlife sanctuary for the purposes of this Act.
- (2) An Order shall not be made under subsection (1) in respect of any private land unless the owner or occupier thereof has first applied to the Minister in writing for such land to be declared a wildlife sanctuary or in respect of any lands of the Crown unless the Minister has first consulted with the Minister administering the **Water Act 1989** and in either case the Minister has caused to be published in some newspaper circulating generally in the locality not less than one month's notice of intention to make the Order.
- (3) Any dispute arising with respect to a proposal for a wildlife sanctuary under this section shall be determined by the Governor in Council whose decision thereon shall be final.
- (4) The Secretary shall cause notices to be erected on or near the principal roads having access to wildlife sanctuaries declared under this section advising persons using the road that they are entering or passing or are adjacent to (as the case requires) a wildlife sanctuary within the meaning of this section.

S. 34(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.40),
87/1997
s. 42(Sch.
item 21(a)).

S. 34(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.41),
87/1997
s. 42(Sch.
item 21(b)).

35 Offences in relation to wildlife sanctuaries

- (1) Any person who takes or destroys wildlife in or upon a sanctuary shall be guilty of an offence against this Act.

Penalty: 25 penalty units.

S. 35(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.42),
70/1990
s. 12(1)(b).

Wildlife Act 1975
No. 8699 of 1975

Part V—Wildlife Management Co-operative Areas, Prohibited Areas, and
Sanctuaries

s. 35

(2) Any person who without the authority in writing of the Secretary hunts or wilfully disturbs wildlife in or upon a sanctuary shall be guilty of an offence against this Act.

Penalty: 25 penalty units.

S. 35(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.43),
70/1990
s. 12(1)(c),
87/1997
s. 42(Sch.
item 22).

* * * * *

Pt 6 (Heading
and ss 36–40)
amended by
Nos 41/1987
s. 103(Sch. 4
items
76.44–76.47),
70/1990
s. 12(1)(e)(g),
repealed by
No. 52/1994
s. 97(Sch. 3
item 36.2).

PART VII—OFFENCES

S. 41
amended by
No. 70/1990
ss 4(2),
12(1)(h)(i)(ii),
substituted by
No. 87/1997
s. 14.

41 Hunting, taking or destroying endangered wildlife

- (1) A person must not hunt, take or destroy, endangered wildlife.

Penalty: 240 penalty units or 24 months imprisonment or both the fine and imprisonment and an additional penalty of 20 penalty units for every head of wildlife in respect of which an offence has been committed.

- (2) Subsection (1) does not apply to a person—

- (a) who is the holder of a licence or authorisation which authorises the hunting, taking or destroying of endangered wildlife; and
(b) who is acting in accordance with the licence or authorisation.

S. 42
amended by
No. 70/1990
ss 4(2),
12(1)(i)(i)(ii),
substituted by
No. 87/1997
s. 14.

42 Hunting, taking or destroying notable wildlife

- (1) A person must not hunt, take or destroy notable wildlife.

Penalty: 120 penalty units or 12 months imprisonment or both the fine and imprisonment and an additional penalty of 10 penalty units for every head of wildlife in respect of which an offence has been committed.

- (2) Subsection (1) does not apply to a person—

- (a) who is the holder of a licence or authorisation which authorises the hunting, taking or destroying of notable wildlife; and
(b) who is acting in accordance with the licence or authorisation.
-

43 Hunting, taking or destroying protected wildlife

- (1) A person must not hunt, take or destroy other protected wildlife.

Penalty: 50 penalty units or 6 months imprisonment or both the fine and imprisonment and an additional penalty of 5 penalty units for every head of wildlife in respect of which an offence has been committed.

- (2) Subsection (1) does not apply to a person—

- (a) who is the holder of a licence or authorisation which authorises the hunting, taking or destroying of other protected wildlife; and
- (b) who is acting in accordance with the licence or authorisation.

- (3) In this section *other protected wildlife* means protected wildlife which is not endangered or notable wildlife or game.

* * * * *

S. 43 amended by Nos 9505 s. 10, 70/1990 ss 4(2), 12(1)(i)(ii), substituted by No. 87/1997 s. 14.

S. 43A inserted by No. 70/1990 s. 8, repealed by No. 87/1997 s. 14.

44 Hunting, taking or destroying game

- (1) During the close season for a taxon of game a person must not hunt, take or destroy any game of that taxon of game.

Penalty: 50 penalty units or 6 months imprisonment or both the fine and imprisonment and an additional penalty of 5 penalty units for every head of game in respect of which an offence has been committed.

S. 44 substituted by No. 9505 s. 11, amended by Nos 90/1989 s. 14(d), 70/1990 s. 6(1)(h)(i)(ii) (i)(10)(a)–(c), substituted by No. 87/1997 s. 14.

- (2) Subsection (1) does not apply to a person—
- (a) who is the holder of an authorisation which authorises the hunting, taking or destroying of that taxon of game; and
 - (b) who is acting in accordance with the authorisation.
- (3) During the open season for a taxon of game a person must not hunt, take or destroy game of that taxon of game.
- Penalty: 10 penalty units.
- (4) Subsection (3) does not apply to a person—
- (a) who is the holder of a licence or authorisation which authorises the hunting, taking or destroying of that taxon of game; and
 - (b) who is acting in accordance with that licence or authorisation.

S. 45
amended by
No. 70/1990
s. 12(1)(k)
(i)–(iii),
substituted by
No. 87/1997
s. 14.

45 Acquiring etc. endangered wildlife

- (1) A person must not buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process, display, take samples from or experiment on endangered wildlife.
- Penalty: 240 penalty units or 24 months imprisonment or both the fine and imprisonment and an additional penalty of 20 penalty units for every head of wildlife in respect of which an offence has been committed.
- (2) Subsection (1) does not apply to a person—
- (a) who is the holder of a licence or authorisation which authorises the buying, selling, acquiring, receiving, disposing of, keeping, possessing, controlling, breeding, processing, displaying, taking samples from

or experimenting on endangered wildlife;
and

- (b) who is acting in accordance with the licence
or authorisation.

46 Acquiring etc. notable wildlife

- (1) A person must not buy, sell, acquire, receive,
dispose of, keep, possess, control, breed, process,
display, take samples from or experiment on
notable wildlife.

Penalty: 120 penalty units or 12 months
imprisonment or both the fine and
imprisonment and an additional penalty
of 10 penalty units for every head of
wildlife in respect of which an offence
has been committed.

- (2) Subsection (1) does not apply to a person—

- (a) who is the holder of a licence or
authorisation which authorises the buying,
selling, acquiring, receiving, disposing of,
keeping, possessing, controlling, breeding,
processing, displaying, taking samples from
or experimenting on notable wildlife; and
(b) who is acting in accordance with the licence
or authorisation.

47 Acquiring etc. protected wildlife

- (1) A person must not buy, sell, acquire, receive,
dispose of, keep, possess, control, breed, process,
display, take samples from or experiment on other
protected wildlife.

Penalty: 50 penalty units or 6 months
imprisonment or both the fine and
imprisonment and an additional penalty
of 5 penalty units for every head of
wildlife in respect of which an offence
has been committed.

S. 46
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.48),
70/1990
s. 12(1)(l),
substituted by
No. 87/1997
s. 14.

S. 47
amended by
No. 70/1990
s. 12(1)(m),
substituted by
No. 87/1997
s. 14.

s. 47A

- (2) Subsection (1) does not apply to a person—
- (a) who is the holder of a licence or authorisation which authorises the buying, selling, acquiring, receiving, disposing of, keeping, possessing, controlling, breeding, processing, displaying, taking samples from or experimenting on other protected wildlife; and
 - (b) who is acting in accordance with the licence or authorisation.
- (3) In this section *other protected wildlife* means protected wildlife which is not endangered or notable wildlife.

S. 47A
inserted by
No. 87/1997
s. 14.

47A Exemptions from sections 41, 42, 43, 44, 45, 46 and 47

Sections 41, 42, 43, 44, 45, 46 and 47 do not apply to any person or class of persons exempted by the regulations from the operation of all or any of the sections.

S. 47B
inserted by
No. 87/1997
s. 14.

47B Declaration of endangered and notable wildlife

- (1) The Governor in Council may, by proclamation published in the Government Gazette, declare any taxon of protected wildlife to be endangered wildlife.
- (2) The Governor in Council may, by proclamation published in the Government Gazette, declare any taxon of protected wildlife to be notable wildlife.

S. 47C
inserted by
No. 87/1997
s. 14.

47C Employees of licence holders

- (1) Sections 41, 42, 43, 45, 46 and 47 do not apply to the taking, destroying, buying, selling, acquiring, receiving, disposing of, keeping, possessing, controlling, breeding, processing or displaying of or taking samples from or experimenting on any taxon of wildlife by an employee of the holder of a licence if that taking, destroying, buying, selling,

acquiring, receiving, disposal, keeping, possessing, controlling, breeding, processing, displaying, taking samples from or experimenting on is in accordance with the licence and this Act.

- (2) If an employee of the holder of a licence engages in conduct on behalf of the licence holder within the scope of the employee's actual or apparent authority, the licence holder is deemed, for the purposes of a prosecution for an offence against this Act or the regulations, also to have engaged in the conduct, unless the licence holder establishes that the licence holder took reasonable precautions and exercised due diligence to avoid the conduct.

47D Wildlife unlawfully taken

S. 47D
inserted by
No. 87/1997
s. 14.

- (1) A person must not have wildlife in his or her possession or control if that wildlife has been taken, destroyed, acquired, received, bought, sold, disposed of, kept, possessed, controlled, bred, processed or displayed in contravention of this Act or any corresponding law of another State or a Territory of the Commonwealth.

Penalty: 240 penalty units or 24 months imprisonment or both.

- (2) It is a defence to a charge brought under subsection (1) against a person to prove that the person took reasonable steps to ascertain and reasonably believed that the wildlife was not unlawfully taken, destroyed, acquired, received, bought, sold, disposed of, kept, possessed, controlled, bred, processed or displayed.

47E Exemption from definition of prohibited person in Firearms Act 1996

S. 47E
inserted by
No. 87/1997
s. 14.

Despite anything to the contrary in the **Firearms Act 1996**, a person, in relation to whom not more than 12 months have expired since that person was found guilty by a court of an offence against

section 41, 42, 43 or 44(1), is deemed not to be a prohibited person (within the meaning of that Act) unless the Court, upon that finding of guilt, imposed a term of imprisonment (within the meaning of that Act).

S. 48
amended by
Nos 9412
s. 4(2),
70/1990
s. 12(1)(a),
substituted by
No. 87/1997
s. 15.

48 Offence for dogs or cats to attack etc. wildlife

- (1) If a dog or cat rushes at, attacks, bites, worries or chases wildlife while at large on public land, the owner is guilty of an offence and liable, upon conviction, to a penalty of not more than 25 penalty units.
- (2) Subsection (1) does not apply to dogs pursuing game birds or sambar deer in accordance with regulations made under this Act.
- (3) An authorised officer may destroy any dog or cat found in circumstances in which the authorised officer reasonably believes that an offence under this section is being committed.

S. 48A
inserted by
No. 87/1997
s. 15.

48A Seizure of dogs or cats

- (1) An authorised officer may seize a dog or cat which is found at large on any public land which is—
 - (a) a Nature Reserve or a State Wildlife Reserve; or
 - (b) a Wildlife Management Co-operative Area or a wildlife sanctuary established under Part V; or
 - (c) any other area prescribed for the purposes of this section.
- (2) If reasonable attempts have been made to seize a dog or cat found at large in circumstances in which subsection (1) applies, and the dog or cat has not been seized, an authorised officer may destroy the dog or cat.

- (3) An authorised officer who seizes a dog or cat must, as soon as is reasonably possible, deliver it to an authorised officer of the Council of the municipal district in which the animal is found.

48B Owner to be notified

S. 48B
inserted by
No. 87/1997
s. 15.

- (1) If the owner of a dog or cat which has been delivered to the authorised officer of a Council under section 48A is able to be identified from a marker attached to or implanted in the animal's body, the Council must notify the owner of the seizure of the animal.
- (2) A notice under this section must be in writing and must be delivered either personally or by post within 4 days after the animal is seized.

48C Recovery or disposal of animal

S. 48C
inserted by
No. 87/1997
s. 15.

- (1) The owner of a dog or cat which has been seized under section 48A may recover that animal if he or she pays the amount fixed by the Council within 8 days of the seizure of that animal.
- (2) If the dog or cat is not recovered by its owner within 8 days of seizure, the Council may sell or destroy it.

49 Power to make Order prohibiting possession etc. of certain wildlife

- (1) Where it appears to the Governor in Council to be desirable in the public interest for ensuring the survival of any kind or taxon of wildlife indigenous to Victoria, for maintaining the identity or distinctive characteristics of any kind or taxon of wildlife indigenous to Victoria, or for preventing the introduction or spread of disease among wildlife the Governor in Council may by Order published in the Government Gazette—

S. 49(1)
amended by
No. 87/1997
s. 42(Sch.
item 24).

Wildlife Act 1975
No. 8699 of 1975
Part VII—Offences

s. 49

S. 49(1)(a)
amended by
No. 87/1997
s. 42(Sch.
item 24).

(a) prohibit or regulate the keeping or possession in Victoria or in any part or parts of Victoria of any kind or taxon of wildlife specified in the Order;

S. 49(1)(b)
amended by
No. 87/1997
s. 42(Sch.
item 24).

(b) prohibit or regulate the transportation abandonment, or release in Victoria or in any part or parts of Victoria of any kind or taxon of wildlife specified in the Order;

S. 49(1)(c)
amended by
No. 41/1987
s. 103(Sch. 4
item 76.49).

(c) authorize the seizure and disposal of any wildlife found kept in contravention of any Order made under this section or abandoned or released from captivity or confinement and believed by an authorised officer on reasonable grounds to be at large;

(d) require the placing of wildlife in quarantine for such periods, at such premises and under such conditions as are expedient for preventing the spread of disease; and

(e) subject wildlife to such restrictions or remedial measures as are necessary to prevent the introduction and spread of disease.

S. 49(2)
amended by
No. 70/1990
s. 12(1)(e).

(2) Any person who has in his possession or releases from captivity or confinement any wildlife contrary to the provisions of any Order made under this section shall be guilty of an offence against this Act.

Penalty: 50 penalty units.

50 Import and export permits

S. 50
amended by
No. 41/1987
s. 103(Sch. 4
item 76.50),
substituted by
No. 70/1990
s. 9.

(1) A person must not—

- (a) import wildlife into Victoria from another State or Territory of the Commonwealth; or
- (b) export wildlife from Victoria to another State or Territory of the Commonwealth—

without a permit issued by the Secretary.

Penalty: 100 penalty units.

S. 50(1)
amended by
No. 87/1997
ss 16(1),
42(Sch.
item 25(a)).

(1A) Subsection (1) does not apply to wildlife and wildlife products prescribed for the purposes of this section.

S. 50(1A)
inserted by
No. 87/1997
s. 16(2).

(2) If an applicant seeks a permit, the Secretary must grant the permit if the Secretary is satisfied, on the basis of information provided by the applicant, that—

S. 50(2)
amended by
No. 87/1997
ss 16(3),
42(Sch.
item 25(b)(i)).

- (a) each item of wildlife to which the application relates—
 - (i) was lawfully obtained; and
 - (ii) is lawfully kept; and
 - (iii) in the case of the proposed import from another State or Territory into Victoria, may be lawfully moved from that State or Territory; and
- (b) the proposed import or export of wildlife will not pose a risk to the health or safety of any person or livestock or prejudice the conservation of protected wildlife in Victoria; and

s. 50

S. 50(2)(d)
amended by
No. 87/1997
s. 42(Sch.
item 25(b)(ii)).

S. 50(2)(e)
amended by
No. 87/1997
s. 42(Sch.
item 25(b)(iii)).

S. 50(3)
amended by
No. 87/1997
s. 42(Sch.
item 25(c)).

S. 50(5)
inserted by
No. 87/1997
s. 16(4).

- (c) each item of wildlife to which the application relates may lawfully be the object of trade in the State or Territory from which the wildlife is to be imported or the State or Territory to which the wildlife is to be exported; and
 - (d) the proposed export from Victoria of the wildlife to which the application relates will not adversely affect the population in the wild of the kind or taxon of wildlife to be exported; and
 - (e) in the case of the proposed import of wildlife from another State or Territory, the bringing into or keeping in Victoria of the kind or taxon of wildlife to which the application relates is not contrary to the law of Victoria or of the State or Territory or the circumstances under which that wildlife is proposed to be kept in Victoria are not contrary to the law of Victoria or of the State or Territory; and
 - (f) no person in Victoria who is concerned in the import or export of the wildlife to which the application relates is at the time of the application subject to suspension of or cancellation of or disqualification from holding a licence, permit or authority pursuant to section 70.
- (3) A person seeking the issue of a permit must apply to the Secretary in the prescribed manner.
- (4) An application under subsection (3) must be accompanied by the prescribed fee (if any).
- (5) A permit is subject to any conditions, limitations or restrictions imposed on that permit by the Secretary.

- (6) A person to whom a permit under this section has been granted must comply with the conditions, limitations and restrictions of that permit.

S. 50(6)
inserted by
No. 87/1997
s. 16(4).

Penalty: 100 penalty units.

51 Marking protected wildlife

S. 51
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.51),
70/1990
s. 12(1)(n),
87/1997
ss 17(1)(2)
(ILA s. 39B(1)).

- (1) Any person who marks protected wildlife by means of a ring, band, dye, or other means whatsoever without the authority in writing of the Secretary shall be guilty of an offence against this Act.

S. 51(1)
amended by
No. 87/1997
s. 42(Sch.
item 26).

Penalty: 100 penalty units.

- (2) A person must not interfere with a mark which has been placed on protected wildlife in accordance with this Act, unless that person is—

S. 51(2)
inserted by
No. 87/1997
s. 17(2).

- (a) an authorised officer; or
(b) acting in accordance with an authority of the Secretary to interfere with marks placed on wildlife.

Penalty: 100 penalty units.

52 Release of birds and animals from captivity or confinement

S. 52
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.52),
70/1990
s. 12(1)(e),
87/1997
s. 42(Sch.
item 27(a)(b)).

No person shall without first obtaining the consent in writing of the Secretary wilfully abandon or release from captivity or confinement in circumstances which makes recovery impossible or uncertain any wildlife or any animal of a taxon proclaimed by the Governor in Council by

proclamation published in the Government Gazette to be a taxon to which this section applies.

Penalty: 50 penalty units.

S. 53
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.53),
70/1990
s. 12(1)(c),
87/1997
s. 42(Sch.
item 28).

53 Use of prohibited equipment

Any person who has in his possession without the authority in writing of the Secretary in or upon or adjacent to any lake, swamp, marsh, sanctuary, or State Wildlife Reserve or uses in taking or hunting wildlife any snare, trap, net, gun, or substance the use of which is prohibited by or under this Act in connexion with the taking of wildlife shall be guilty of an offence against this Act.

Penalty: 25 penalty units.

54 Killing wildlife by poison

S. 54(1)
amended by
Nos 70/1990
s. 12(1)(o),
87/1997
s. 18.

- (1) Any person who kills, destroys, takes or injures wildlife by any bait impregnated with poison or any substance, whether liquid, solid, or gaseous, which is prescribed to be a poison for the purposes of this section or lays any such poison or substance with intent to kill, destroy, take, or injure wildlife shall be guilty of an offence against this Act.

Penalty: 100 penalty units or 6 months imprisonment or both the fine and imprisonment.

S. 54(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.54),
52/1994
s. 97(Sch. 3
item 36.3),
87/1997
s. 42(Sch.
item 29(a)(b)).

- (2) The provisions of subsection (1) shall not apply to the Secretary or the Secretary's servants or agents with respect to the use of poisons for eradicating pest animals on any lands, or to any landholder using poison on and adjacent to his land for the purpose of eradicating any wildlife which has been declared by Order of the Governor in Council under the **Land Act 1958** to be vermin nor to any person acting under and in accordance with the authority of the Minister given under this Act.

55 Using bird-lime etc.

Any person who without the authority in writing of the Secretary uses any glue, adhesive material, bird-lime or any similar viscid substance for or in connexion with the taking or restraining of wildlife shall be guilty of an offence against this Act.

Penalty: 20 penalty units.

S. 55
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.55),
70/1990
s. 12(1)(g),
87/1997
s. 42(Sch.
item 30).

56 Punt guns

(1) No person shall use a punt gun in hunting or taking wildlife or have a punt gun in his possession in upon or adjacent to any lake, marsh, swamp, or waters being a recognized wildlife habitat or in a boat or vehicle in upon or adjacent thereto.

Penalty: 50 penalty units.

S. 56(1)
amended by
No. 70/1990
s. 12(1)(a).

(2) A gun or weapon shall be taken to be a punt gun which has—

- (a) a barrel exceeding 107 centimetres in length;
- (b) a single barrel exceeding 3.75 kilograms in weight or having a double barrel exceeding 6.50 kilograms in weight;
- (c) a bore of greater size than the calibre now known as twelve bore or gauge;
- (d) a weight exceeding 7.50 kilograms;
- (e) more than two barrels;
- (f) has been constructed or adapted to be operated otherwise than by being raised at arm's length and fired without other support from the shoulder; or
- (g) a combination of more than two guns temporarily or permanently secured together.

s. 57

S. 56(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.56),
87/1997
s. 42(Sch.
item 31).

- (3) The provisions of subsection (1) with respect to the possession of a punt gun in upon or adjacent to the places referred to in subsection (1) shall not apply to any person having a punt gun in his possession in any such place with the permission in writing of the Secretary given for some other purpose than the use of the punt gun in hunting or taking wildlife.

S. 57
amended by
No. 70/1990
s. 12(1)(a).

57 Interference with signs etc.

Any person who removes, obliterates, damages, obscures, alters, or otherwise interferes with—

- (a) any mark, sign, or device attached to wildlife for the purposes of this Act so as to prevent its use for the purposes of this Act;
- (b) any equipment, trap, or net being used in any scientific study or investigation under this Act; or
- (c) any notice erected for the purposes of this Act—

shall be guilty of an offence against this Act.

Penalty: 50 penalty units.

S. 58
amended by
Nos 70/1990
s. 12(1)(g),
87/1997
s. 19(2) (ILA
s. 39B(1)).

58 Molesting protected wildlife during close season

- (1) Any person who—

S. 58(1)(a)
substituted by
No. 87/1997
s. 19(1).

- (a) wilfully molests or injures protected wildlife or wilfully causes protected wildlife to be molested or injured;

S. 58(1)(b)
substituted by
No. 87/1997
s. 19(1).

- (b) wilfully disturbs, chases or herds protected wildlife or wilfully causes protected wildlife to be disturbed, chased or herded;

(c) wilfully separates protected wildlife from its young or causes it to be so separated—

shall be guilty of an offence against this Act.

Penalty: 20 penalty units.

(2) Subsection (1) does not apply to any person acting in accordance with a licence or authorisation issued under this Act.

S. 58(2)
inserted by
No. 87/1997
s. 19(2).

58A Keeping false records

If a person, who is the holder of a licence, permit or authorisation under this Act, is required by or under this Act or the terms of that licence, permit or authorisation to make or keep records, that person must not knowingly make or keep records that are inaccurate or false.

S. 58A
inserted by
No. 87/1997
s. 20.

Penalty: 120 penalty units.

58B Providing false information

A person must not in or in connection with an application for a licence, permit or authorisation under this Act give false or misleading information.

S. 58B
inserted by
No. 87/1997
s. 20.

Penalty: 120 penalty units.

58C Offence for certain persons to enter on or remain in specified hunting area

S. 58C
inserted by
No. 87/1997
s. 20.

(1) During the open season for duck, a person must not enter on or remain in any specified hunting area at any time in the season which is specified in regulations made under subsection (2), unless the person—

(a) is the holder of—

(i) a game licence authorising the hunting or taking of game birds (including duck); and

- (ii) a longarm licence under the **Firearms Act 1996**; or
- (b) is an authorised officer or a member of the police force acting in the course of his or her duty; or
- (c) is acting in accordance with the authorisation of the Secretary.

Penalty: 10 penalty units.

- (2) The Governor in Council may make regulations—
 - (a) declaring any area to be a specified hunting area; and
 - (b) specifying the times during which entry onto the area or remaining in the area is prohibited for the purposes of subsection (1).

S. 58D
inserted by
No. 87/1997
s. 20.

58D Offence to approach a person who is hunting

During the open season for duck, a person must not approach to within a distance of 10 metres or less from a person who is carrying a firearm or hunting or taking game birds in a specified hunting area unless the person who so approaches—

- (a) is hunting or taking game birds from the same boat, the same hide or blind or the same natural cover as the other person; or
- (b) is supervising the other person in hunting or taking game birds; or
- (c) is an authorised officer or a member of the police force acting in the course of his or her duty; or
- (d) is acting in accordance with the authorisation of the Secretary.

Penalty: 10 penalty units.

58E Hindering or obstructing hunting

A person must not interfere with, harass, hinder or obstruct a person who is engaged in hunting or taking game in accordance with this Act.

Penalty: 20 penalty units.

S. 58E
inserted by
No. 87/1997
s. 20.

PART VIII—ENFORCEMENT AND LEGAL PROCEEDINGS

59 Powers of authorised officers

S. 59(1)
amended by
Nos 9505
s. 12(a)(b),
87/1997
s. 21(1)(a).

(1) In the administration of this Act or for ascertaining whether or not the provisions of this Act or the regulations or the conditions, limitations, and restrictions of any licence, permission, or other authority issued under this Act are being observed, any authorised officer may without any further or other authority than this section at any reasonable time having regard to all the circumstances and with such persons as he thinks necessary enter upon any lands or waters or into any tent, or into any building or structure other than a dwelling-house or upon any vehicle or boat and in particular without in any way limiting or derogating from the generality of the foregoing for any of the following purposes—

S. 59(1)(a)
substituted by
No. 87/1997
s. 21(1)(b).

(a) searching the lands, waters, tent, building or structure and any thing found at the lands, waters, tent, building or structure;

S. 59(1)(b)
substituted by
No. 87/1997
s. 21(1)(b).

(b) inspecting and taking photographs (including video recordings) of the lands, waters, tent, building or structure or any thing found at the lands, waters, tent, building or structure;

S. 59(1)(ba)
inserted by
No. 87/1997
s. 21(1)(b).

(ba) with whatever assistance is required, taking and keeping samples of—

(i) the blood, any bodily fluids or other matter from any wildlife; or

(ii) any other thing—

found at the lands, waters, tent, building or structure;

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Part VIII—Enforcement and Legal Proceedings

s. 59

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- (bb) with whatever assistance is required, mark any wildlife or thing found at the lands, waters, tent, building or structure for the purpose of later being able to identify it; **S. 59(1)(bb) inserted by No. 87/1997 s. 21(1)(b).**
- (bc) inspecting and making copies of or taking extracts from any document kept at the lands, waters, tent, building or structure; **S. 59(1)(bc) inserted by No. 87/1997 s. 21(1)(b).**
- (bd) seizing any thing found at the lands, waters, tent, building or structure if the authorised officer believes on reasonable grounds that it is necessary to seize the thing in order to prevent— **S. 59(1)(bd) inserted by No. 87/1997 s. 21(1)(b).**
- (i) its concealment, loss or destruction; or
- (ii) its use in committing, continuing or repeating an offence against this Act;
- (c) constructing, erecting, and maintaining notices, posts, buoys, beacons, or other markers for or in connexion with the boundaries of areas referred to in or held under this Act or the subject of applications made for the purposes of this Act;
- (d) searching for and seizing any wildlife which have been taken or are apparently being held or retained in contravention of this Act and any documents or records relating thereto;
- * * * * *
- (f) searching for and seizing or dismantling or destroying any duck-trap, net, or other equipment which is apparently being used or has been used in contravention of this Act;

S. 59(1)(e) repealed by No. 52/1994 s. 97(Sch. 3 item 36.4).

s. 59A

S. 59(1)(g)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.59),
87/1997
s. 42(Sch.
item 32).

(g) carrying out any scientific study authorized
by the Secretary; or

S. 59(1)(h)
inserted by
No. 9505
s. 12(c).

(h) generally for ascertaining whether the holder
of any licence issued pursuant to this Act is
complying with the conditions, limitations or
restrictions subject to which the licence was
issued.

S. 59(2)–(4)
repealed.⁷

* * * * *

S. 59(5)
amended by
No. 41/1987
s. 103(Sch. 4
item 76.57).

(5) An authorised officer or member of the police
force shall not in any way be liable for anything
done by him in the exercise of his powers and
functions under this Act.

S. 59A
inserted by
No. 87/1997
s. 22.

59A Searches of personal property

An authorised officer or member of the police
force may, at any time without warrant, search
any parcel, basket, bag, box or receptacle for any
thing which he or she reasonably believes is being
used or is likely to be used in contravention of this
Act, and may do any one or more of the
following—

- (a) inspect and take photographs (including
video recordings) of the premises or any
thing found during the course of the search;
- (b) with whatever assistance is required, take
and keep samples of—
 - (i) the blood, any bodily fluids or other
matter from any wildlife; or
 - (ii) any other thing—
found during the course of the search;

- (c) with whatever assistance is required, mark any wildlife or thing found during the course of the search for the purpose of later being able to identify it;
- (d) inspect and make copies of or take extracts from any document found during the course of the search;
- (e) seize any thing found during the course of the search if the authorised officer believes on reasonable grounds that it is necessary to seize the thing in order to prevent—
 - (i) its concealment, loss or destruction; or
 - (ii) its use in committing, continuing or repeating an offence against this Act.

59B Searches of vehicles and boats

An authorised officer or a member of the police force may, at any time, without warrant, stop and search any boat or vehicle which he or she reasonably believes has been used by persons committing an offence against this Act or which contains persons the officer or member wants to question with respect to an offence against this Act and may do any one or more of the following—

- (a) inspect and take photographs (including video recordings) of the boat or vehicle or any thing found during the course of the search;
- (b) with whatever assistance is required, take and keep samples of—
 - (i) the blood, any bodily fluids or other matter from any wildlife; or
 - (ii) any other thing—
found during the course of the search;

S. 59B
inserted by
No. 87/1997
s. 22.

- (c) with whatever assistance is required, mark any wildlife or thing found during the course of the search for the purpose of later being able to identify it;
- (d) inspect and make copies of or take extracts from any document found during the course of the search;
- (e) seize any thing found during the course of the search if the authorised officer believes on reasonable grounds that it is necessary to seize the thing in order to prevent—
 - (i) its concealment, loss or destruction; or
 - (ii) its use in committing, continuing or repeating an offence against this Act.

S. 59C
inserted by
No. 87/1997
s. 22.

59C Search warrant for evidence of offence

- (1) An authorised officer may apply to a magistrate for the issue of a search warrant in relation to a particular premises if the authorised officer believes on reasonable grounds that there is, or may be within the next 72 hours, on the premises a particular thing that may be evidence of the commission of an offence against this Act.
- (2) If a magistrate is satisfied by the evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on the premises a particular thing that may be evidence of the commission of an offence against this Act, the magistrate may issue a search warrant authorising an authorised officer named in the warrant and any assistants the officer considers necessary—
 - (a) to enter the premises named or described in the warrant; and
 - (b) to search for and seize a thing named or described in the warrant.

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- (3) In addition to any other requirement, a search warrant under this section must state—
- (a) the offence suspected; and
 - (b) the premises to be searched; and
 - (c) a description of the thing to be searched for; and
 - (d) any condition to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) If, in the course of executing a warrant under this section, the person executing the warrant finds a thing that he or she believes on reasonable grounds to be—
- (a) connected with the offence, although not the thing named or described in the warrant; or
 - (b) connected with another offence against this Act—
- and the person believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence, the warrant is deemed to authorise the person to seize the thing.
- (5) A search warrant under this section must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
- (6) The rules to be observed with respect to search warrants set out in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.
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s. 59D

S. 59D
inserted by
No. 87/1997
s. 22.

59D Announcement before entry

- (1) Before executing a search warrant, the authorised officer named in the warrant or a person assisting the authorised officer must announce that he or she is authorised by the warrant to enter the premises or dwelling-house and give any person at the premises or dwelling-house an opportunity to allow immediate entry to the premises or dwelling-house.
- (2) The authorised officer or a person assisting the authorised officer need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises or dwelling-house is required to ensure—
 - (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

S. 59E
inserted by
No. 87/1997
s. 22.

59E Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at the premises or dwelling-house when a search warrant is being executed, the authorised officer must—

- (a) identify himself or herself to that person by producing evidence of his or her identity for inspection by that person; and
- (b) give that person the occupier's copy of the warrant.

S. 59F
inserted by
No. 87/1997
s. 22.

59F Occupier entitled to be present during search

- (1) If a search warrant is being executed, and the occupier or a person apparently in charge of the premises in respect of which the warrant is being executed is present at those premises, the person has a right to observe the search being conducted.

- (2) The right to observe the search being conducted ceases if the person impedes the search.

60 Seizure of prohibited equipment etc.

- (1) If an authorised officer or member of the police force believes on reasonable grounds that an offence against this Act has been, is being or is about to be committed, the officer or member may do all or any of the following—

S. 60(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.60),
90/1989
s. 14(e)(i),
70/1990
s. 4(2),
66/1996 s. 207,
substituted by
No. 87/1997
s. 23.

- (a) seize—
- (i) any thing, the use or possession of which is prohibited by or under this Act in any particular case or under any similar enactment of another State or Territory of the Commonwealth; or
 - (ii) any thing which the officer or member reasonably believes has been or is likely to be used in or to assist in the offence; or
 - (iii) any thing which the officer or member reasonably believes has been taken or held in contravention of this Act or the law of another State or Territory of the Commonwealth;
- (b) inspect and take photographs (including video recordings) of any thing which the officer or member believes on reasonable grounds to be involved in the commission of the offence;
- (c) with whatever assistance is required, take and keep samples of—
- (i) the blood, any bodily fluids or other matter from any wildlife; or

- (ii) any other thing—
which the officer believes on reasonable grounds to be required to prove the offence;
- (d) with whatever assistance is required, mark any wildlife or thing which the officer believes, on reasonable grounds, to be required to prove the offence, for the purpose of later being able to identify it;
- (e) inspect and make copies of or take extracts from any document which the officer or member believes, on reasonable grounds, to be evidence of the commission of the offence.
- (2) Where any equipment, net, trap, gun, substance, instrument or other device the use of which is prohibited by or under this Act is seized that equipment, net, trap, gun, substance, instrument, or other device is forfeited to Her Majesty and shall be disposed of as the Minister directs.
- (3) Where any equipment, trap, net, gun or other weapon or other device is seized and the person found with that equipment, trap, net, gun or other weapon or other device is convicted by a court for an offence of taking or killing wildlife in contravention of this Act that equipment, trap, net, gun or other weapon or other device is forfeited to Her Majesty and shall be disposed of as the Minister directs.
- (4) Where a gun the use of which is not prohibited by or under this Act is seized by any person in the exercise of his powers under this Act a court convicting a person of any offence in respect of which the seizure was made may authorize the return of the gun to the defendant or to the owner (as the case requires) but where the person convicted is proved to have been previously

S. 60(3)
amended by
No. 90/1989
s. 14(e)(ii).

convicted of killing wildlife contrary to the provisions of this Act the court shall order the forfeiture of the gun which shall be disposed of as the Minister directs.

- (5) Any equipment, net, trap, substance, gun or other weapon, instrument or device forfeited under this section or seized under this Act and not claimed within twelve months may be destroyed or be sold.

S. 60(5)
amended by
No. 90/1989
s. 14(e)(iii).

60A Power to require production of firearms licence

S. 60A
inserted by
No. 66/1996
s. 208.

- (1) An authorised officer who—

(a) has reasonable grounds for suspecting that—

S. 60A(1)(a)
amended by
No. 9/2003
s. 16.

(i) a person is in possession of a firearm;
and

(ii) that the person intends to use the
firearm for the purposes of hunting
wildlife; and

(b) produces evidence of his or her identity to
the person—

may demand that the person produce his or her
licence under the **Firearms Act 1996** to possess,
carry or use the firearm.

- (2) A person to whom a demand is directed under
subsection (1) must comply with that demand.

Penalty: 30 penalty units.

60B Requirements as to taking samples, seizing

S. 60B
inserted by
No. 87/1997
s. 24.

- (1) An authorised officer or member of the police
force may not take samples of a thing or seize a
thing apparently in the possession of a person
unless the officer or member makes out or tenders
to the person a written receipt for the sample taken
or thing seized.

s. 60C

- (2) If the officer or member is unable to ascertain the identity of the owner or custodian of the thing seized or sampled, the officer or member must leave a receipt with or post it to the person apparently in charge of the thing seized.
- (3) If an officer or member seizes a thing he or she must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.

S. 60C
inserted by
No. 87/1997
s. 24.

60C Samples

If an authorised officer or member of the police force proposes to take samples, he or she must—

- (a) advise the owner, if possible, before taking the sample that it is taken for the purpose of analysis; and
- (b) where, in the opinion of the officer it is reasonably possible, divide the sample into 3 parts and give 1 part to the owner, 1 part to the analyst and keep 1 part untouched for future comparison.

S. 60D
inserted by
No. 87/1997
s. 24.

60D Retention notices

- (1) If an authorised officer or a member of the police force believes on reasonable grounds that any thing has been taken or is being held in contravention of this Act or the law of another State or a Territory of the Commonwealth, the officer or member may issue the person holding the thing with a notice requiring that person to keep the thing in his or her possession and not to sell or dispose of the thing.
- (2) A notice under subsection (1)—
 - (a) must be in writing; and
 - (b) has effect for the period specified in the notice (which must not be more than 90 days from the issue of the notice); and

- (c) may be cancelled by the person who issued the notice; and
 - (d) is subject to any terms and conditions specified in the notice.
- (3) If the Secretary is of the opinion that it is reasonably necessary to do so, the Secretary may extend the period for which a notice has effect under subsection (2).
- (4) If the Secretary extends the period for which a notice has effect, the Secretary must, before the expiry of the original extension—
- (a) notify the person to whom the notice is issued of the extension; and
 - (b) specify in the notice the period for which the extension is to have effect.
- (5) A person to whom a notice has been issued must comply with the notice.

Penalty: 120 penalty units or 12 months imprisonment or both.

60E Evidentiary provisions relating to retention notices

S. 60E
inserted by
No. 87/1997
s. 24.

- (1) In any proceedings under section 60D, evidence that a thing, specified in a notice under this section as being in the possession of a particular person, is no longer in the possession of that person is evidence, and, in the absence of evidence to the contrary, is proof that the person has not complied with the notice.
- (2) In any proceedings under this Act, the fact that a thing is specified in a notice under section 60D as being in the possession of a particular person is evidence, and, in the absence of evidence to the contrary, is proof that the thing was in the possession of that person.

61 Offenders to give name and address on demand

S. 61(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.61),
90/1989
s. 17(3).

- (1) Any person found offending against any of the provisions of this Act or the regulations or any proclamation or any notice under section 86 or 86A shall on demand by an authorised officer or by a member of the police force give his name and place of residence.

S. 61(2)
amended by
No. 90/1989
s. 17(3).

- (2) In subsection (1) the expression "found offending" extends to the case of a person found doing or committing to do any act, matter, or thing or behaving or conducting himself in such a manner or in such circumstances that the person finding him believes on reasonable grounds that the person so found has in respect of any such act, omission, behaviour, or conduct committed an offence against this Act or the regulations or any proclamation or any notice under section 86 or 86A.

S. 61(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.61),
70/1990
s. 12(1)(g).

- (3) Any person who refuses to give his name or place of residence upon demand by an authorised officer or member of the police force or who gives a false name or place of residence shall be guilty of an offence against this Act.

Penalty: 20 penalty units.

S. 61(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.61),
57/1989
s. 3(Sch.
item 219.3).

- (4) Any person who on demand by an authorised officer or by a member of the police force refuses to give his name or address or gives a name or place of residence which the officer or member reasonably suspects to be false may be arrested by the officer or member without warrant and taken before a bail justice or the Magistrates' Court to be dealt with according to law.

62 Obstructing officer etc.

- (1) Any person who obstructs or resists or assaults or incites or encourages any person to obstruct, resist, or assault an authorised officer or member of the police force in the execution of his duty under this Act or who threatens any such officer or member shall be guilty of an offence against this Act.
- Penalty: 120 penalty units or 12 months imprisonment or both the fine and imprisonment .
- (2) Any person who uses threatening, insulting or abusive words to an authorised officer or member of the police force in the execution of his duty under this Act shall be guilty of an offence against this Act.
- Penalty: 10 penalty units.
- (3) An authorised officer or member of the police force who is in the course of interviewing a person about a matter under this Act may direct the person to remove all cartridges from any firearm in his or her possession.
- (4) A person must comply with a direction under subsection (3).
- Penalty: 120 penalty units or 12 months imprisonment or both the fine and imprisonment.
- (5) An authorised officer or a member of the police force who believes on reasonable grounds that a person is contravening or failing to comply with section 58C, 58D or 58E may direct that person to leave or not to enter a specified hunting area.

S. 62(1)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.62),
70/1990
s. 12(1)(p),
87/1997
s. 25(1).

S. 62(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.62),
70/1990
s. 12(1)(q).

S. 62(3)
inserted by
No. 87/1997
s. 25(2).

S. 62(4)
inserted by
No. 87/1997
s. 25(2).

S. 62(5)
inserted by
No. 87/1997
s. 25(2).

s. 62A

S. 62(6)
inserted by
No. 87/1997
s. 25(2).

- (6) A person must comply with a direction under subsection (5).

Penalty: 10 penalty units.

S. 62A
inserted by
No. 9505 s. 13,
amended by
Nos 41/1987
s. 103(Sch. 4
items 76.63,
76.64),
70/1990
s. 12(1)(p),
87/1997
s. 42(Sch.
item 33).

62A Offence to impersonate officer

Any person who impersonates the Secretary or an authorised officer in the performance of duties or the exercise of powers pursuant to this Act shall be guilty of an offence against this Act.

Penalty: 50 penalty units.

S. 63
repealed by
No. 41/1987
s. 103(Sch. 4
item 76.65),
new s. 63
inserted by
No. 87/1997
s. 26.

63 Authorised officers do not commit offences in certain circumstances

- (1) An act done by—
- (a) an authorised officer; or
 - (b) a member of the police force; or
 - (c) a member of a police force of the Commonwealth or of another State or a Territory—

which, but for this subsection, would constitute an offence against section 41, 42, 43, 45, 46, 47, 47D, 50, 51 or 76, does not have that consequence if the act is done under written instructions given in relation to a particular case by the Secretary.

- (2) The Secretary must not give instructions to an authorised officer under subsection (1) unless the Secretary is satisfied that the authorised officer has the appropriate qualifications, training and experience to carry out the act in respect of which the instructions are given.

64 Statements of the Secretary as evidence

A statement in writing purporting to be under the seal of the Secretary to the effect that—

- (a) a specified person was or was not the holder of a licence, authorisation or permit under this Act; or
- (b) a licence, authority or permit under this Act is subject to specified conditions, restrictions or limitations; or
- (c) a premises is the premises specified in a licence under this Act; or
- (d) a specified person was or was not issued with a tag under this Act—

is evidence, and in the absence of evidence to the contrary, is proof of the facts stated in it.

S. 64
repealed by
No. 9861
s. 3(1),
new s. 64
inserted by
No. 87/1997
s. 26.

65 Eggs presumed to be endangered wildlife

In any proceedings for an offence against this Act it must be presumed that any eggs or parts of eggs are the eggs or parts of eggs of endangered wildlife unless the contrary is proven.

S. 65
repealed by
No. 41/1987
s. 103(Sch. 4
item 76.65),
new s. 65
inserted by
No. 87/1997
s. 26.

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Ss 66, 67
repealed by
No. 41/1987
s. 103(Sch. 4
item 76.65).

68 Simplification of proof

- (1) For the purposes of this Act any person having in his possession wildlife and a gun or other weapon, net, trap, or snare shall be deemed unless the contrary is proved by that person to have taken that wildlife by the use of such equipment.

S. 68(1)
amended by
No. 90/1989
s. 14(f).

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- (2) Where the taking or killing of a particular kind of wildlife is prohibited by the regulations in any particular place any person proved to have wildlife of that kind in his possession in upon or adjacent to that area shall be deemed unless the contrary is proved by that person to have taken or killed that wildlife in that area.
 - (3) Where the taking or killing of a particular kind of wildlife is prohibited generally any person proved to have wildlife of that kind in his possession in upon or adjacent to a habitat of that wildlife shall be deemed unless the contrary is proved by that person to have taken or killed that wildlife in that habitat.
 - (4) Without in any way limiting or derogating from the generality of any other provisions of this Act with respect to the taking of protected wildlife a person shall be deemed to take protected wildlife—
 - (a) who has protected wildlife, whether alive or dead, in his possession or under his control or in a vehicle or boat in which he is travelling or using or in a dwelling-house owned or occupied by him;
 - (b) who shoots protected wildlife with a gun or with a missile discharged from any other weapon;
 - (c) who captures protected wildlife in a trap, snare, or net;
 - (d) who poisons protected wildlife by any bait set or laid by him in a sanctuary or in a habitat of protected wildlife.
 - (5) Without in any way limiting or derogating from the generality of any other provisions of this Act with respect to the hunting of protected wildlife and without prejudice to any other means of
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proving that any person was hunting protected wildlife a person shall be deemed to be hunting protected wildlife—

- (a) who discharges a gun or other weapon at protected wildlife;
 - (b) who in upon or adjacent to a sanctuary State Wildlife Reserve or lake, marsh, swamp, waters or land being the recognized habitat of protected wildlife carries, uses, controls or possesses a gun or other weapon;
 - (c) who in a sanctuary or State Wildlife Reserve has with him a dog of a recognized hunting breed whether or not he also has a gun or other weapon;
 - (d) who sets a trap, snare, or net in upon or adjacent to a sanctuary State Wildlife Reserve or lake, marsh, swamp or waters being the habitat of protected wildlife;
 - (e) who lays poison in a sanctuary or State Wildlife Reserve.
- (6) Any person who in a newspaper or by notice on his property advertises wildlife for sale shall be deemed until the contrary is proved to have exposed for sale the protected wildlife mentioned in the advertisement or notice.

S. 68(5)(b)
amended by
No. 87/1997
s. 27(a)(b).

69 Onus of proving wildlife not taken in Victoria

On proceedings for an offence against any of the provisions of this Act or the regulations or any proclamation with respect to taking or killing of wildlife alleged by the informant to have been taken or killed in Victoria it shall be upon the person charged to prove that the wildlife was not taken or killed in Victoria.

s. 70

S. 70
amended by
No. 70/1990
s. 6(8).

70 Cancellation of licence upon conviction for offence

(1) Where the holder of a licence, permit, or other authority under this Act or the regulations or any proclamation is convicted by a court for an offence against this Act or the regulations or any proclamation the court may, in addition to imposing any other penalty, order that the licence, permit, or authority be cancelled or be suspended for such period as the court thinks fit and where it so cancels a licence, permit, or authority, may disqualify the person convicted from obtaining any such licence, permit, or authority for any specified period.

S. 70(1A)
inserted by
No. 87/1997
s. 28.

(1A) If a court has cancelled or suspended a licence, permit or authority under subsection (1), the court may order that—

- (a) if the licence, permit or authorisation has been suspended, before the end of the suspension, the holder be required to successfully complete any prescribed test about the identification of that taxon of wildlife in respect of which the licence, permit or authorisation was issued (whether or not that person has previously successfully completed that test); or
- (b) if the licence, permit or authorisation has been cancelled, before a person is eligible to be granted a new licence, permit or authorisation, the person be required to successfully complete any prescribed test about the identification of that taxon of wildlife in respect of which a new licence, permit or authorisation is applied for (whether or not that person has previously successfully completed the test).

(1B) If a court makes an order under subsection (1A), the suspension or cancellation of the licence, permit or authorisation remains in force, despite any other provision of this Act, until the test has been successfully completed.

S. 70(1B)
inserted by
No. 87/1997
s. 28.

(2) A court which cancels or suspends a licence issued under section 22 may, in determining the date when the cancellation or suspension takes effect, have regard to the need for a licence holder to dispose of any wildlife in his or her possession under that licence.

S. 70(2)
inserted by
No. 70/1990
s. 6(9).

70A Disposal of seized things

S. 70A
inserted by
No. 87/1997
s. 29.

(1) If a person is found guilty by a court of an offence against this Act, the regulations or any proclamation made under this Act, the court may, in addition to imposing any other penalty, order any thing seized under this Act which relates to that offence to be destroyed or otherwise disposed of in the manner specified in the order.

(2) The Magistrates' Court may, on the application of an authorised officer, order that any thing seized under this Act be destroyed or otherwise disposed of, if the Court is satisfied that—

- (a) the owner of the thing cannot be found; or
- (b) in the case of wildlife, the person apparently in possession of the wildlife does not hold a licence, authorisation or permit under this Act to do so.

Wildlife Act 1975
No. 8699 of 1975

s. 71

<p>Pt 9 (Heading) repealed by No. 70/1990 s. 6(5).</p>	*	*	*	*	*
<p>S. 71 amended by Nos 9505 s. 14, 7/1988 s. 9(c), 106/1995 s. 55(a)(b), 87/1997 s. 42(Sch. item 34), repealed by No. 70/1990 s. 6(5).</p>	*	*	*	*	*
<p>S. 72 amended by Nos 9505 s. 15(a)(i)(ii) (b), 9643 s. 2(b), 9851 s. 3, 41/1987 s. 103(Sch. 4 items 76.66, 76.67), 70/1990 s. 12(1)(e), repealed by No. 70/1990 s. 6(2).</p>	*	*	*	*	*
<p>S. 73 amended by Nos 9505 s. 16(a)(i)(ii)(b), 9643 s. 2(c), 9851 s. 4, 41/1987 s. 103(Sch. 4 items 76.68, 76.69), 70/1990 s. 12(1)(a), 87/1997 s. 42(Sch. item 35(a)(b)), repealed by No. 70/1990 s. 6(3).</p>	*	*	*	*	*

Wildlife Act 1975
No. 8699 of 1975

s. 74

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S. 74
amended by
Nos 9505
s. 17, 9643
s. 2(d), 9851
s. 5, 41/1987
s. 103(Sch. 4
items 76.70,
76.71),
70/1990
s. 12(1)(e),
87/1997
s. 42(Sch.
item 36(a)(b)),
repealed by
No. 70/1990
s. 6(4).

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S. 74A
inserted by
No. 9505
s. 18(1),
repealed by
No. 70/1990
s. 6(5).

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S. 74B
inserted by
No. 9505
s. 18(1),
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.72),
87/1997
s. 42(Sch.
item 37),
repealed by
No. 70/1990
s. 6(5).

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S. 74C
inserted by
No. 9505
s. 18(1),
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.73),
87/1997
s. 42(Sch.
item 38),
repealed by
No. 70/1990
s. 6(5).

Wildlife Act 1975
No. 8699 of 1975

s. 74D

S. 74D
inserted by
No. 9505
s. 18(1),
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.74),
87/1997
s. 42(Sch.
item 39(a)(b)),
repealed by
No. 70/1990
s. 6(5).

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S. 74E
inserted by
No. 9505
s. 18(1),
amended by
No. 70/1990
s. 12(1)(a),
repealed by
No. 3/2002
s. 5.

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S. 74F
inserted by
No. 9505
s. 18(1),
repealed by
No. 9861
s. 3(1).

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PART X—PROTECTION OF WHALES

Pt 10
(Heading)
substituted by
No. 9694 s. 4.

Division 1—General

Pt 10 Div. 1
(Heading)
inserted by
No. 3/2002
s. 6.

75 Definitions

S. 75
inserted by
No. 9694
s. 4.

- (1) In this Part unless inconsistent with the context or subject-matter—

interfere, in relation to a whale, includes harass, chase, herd, tag, mark or brand;

S. 75(1) def. of
interfere
amended by
Nos 87/1997
s. 30(1),
3/2002 s. 7.

take, in relation to a whale, means take, catch or capture;

treat, in relation to a whale, means any operation of dividing or cutting up or of extracting any product from, the whale;

whale means any member of the sub-order Mysticeti or the sub-order Odontoceti of the order Cetacea.

S. 75(1) def. of
whale
amended by
No. 7/1988
s. 9(d).

- (2) The provisions of this Part apply to and with respect to whales—
- (a) in waters that are within the limits of the State of Victoria;
- (b) in any part or parts of the territorial sea of Australia that is or are adjacent to the State of Victoria; and

- (c) in any marine or tidal waters that are on the landward side of any part of the territorial sea of Australia and are adjacent to the State of Victoria but are not within the limits of that State—

but if at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles the provisions of this Act shall continue to have effect as if the breadth of the territorial sea of Australia continues to be 3 nautical miles.

S. 75(3)
inserted by
No. 87/1997
s. 30(2).

- (3) Any reference in this Part to a whale or whales is a reference to a whale or whales in any form whether alive or dead and whether the flesh is raw or cooked or preserved or processed in any manner whatsoever, and includes the skin, skeletal material, organs or any other part of any whale.

S. 76
inserted by
No. 9694
s. 4.

76 Killing, taking whales etc. an offence

- (1) Any person who—
- (a) in waters to which this Part applies kills, injures, takes or interferes with a whale; or
 - (b) treats any whale that has been killed or taken in contravention of this Part—

S. 76(1)(b)
amended by
No. 70/1990
s. 12(1)(r)(i).

shall be guilty of an indictable offence.

Penalty: 1000 penalty units.

S. 76(2)
amended by
No. 70/1990
s. 12(1)(r)(i).

- (2) Any person who has in his possession a whale or part of a whale, or a product derived from a whale, where the whale has been killed or taken in contravention of this Part shall be guilty of an indictable offence.

Penalty: 1000 penalty units.

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- (2A) Any person who has in his possession a live whale of any origin taken in circumstances or which came into his possession in any circumstances not provided for in subsection (2) shall be guilty of an indictable offence.
- Penalty: 1000 penalty units.
- S. 76(2A) inserted by No. 7/1988 s. 9(e)(i), amended by No. 3/2002 s. 8(1).
- (3) Any person who, in waters to which this Part applies, takes a live whale without a permit granted under section 78(1) and without contravening this Part shall release the whale unless it is killed in circumstances of a kind referred to in subsection (4).
- Penalty: 100 penalty units.
- S. 76(3) amended by Nos 70/1990 s. 12(1)(r)(ii), 3/2002 s. 8(2).
- (4) The provisions of subsections (1)(2) and (2A) shall not apply in relation to any action by a person if—
- (a) the action in question was done in accordance with a permit granted under section 78(1);
- S. 76(4) amended by No. 7/1988 s. 9(e)(ii).
- S. 76(4)(a) amended by No. 3/2002 s. 8(3).
- (aa) the action in question was carried out under the direction of an authorised officer and was reasonably necessary for the welfare of the whale;
- S. 76(4)(aa) inserted by No. 87/1997 s. 31.
- (b) the action in question was reasonably necessary to avoid loss of human life, injury to any person or damage to any vessel or aircraft or to any structure affixed to or resting on the sea-bed;
- (c) in the case of killing, injuring, taking or interfering with a whale—the action in question was done while the person was engaged in licensed commercial fishing operations and was—
- S. 76(4)(c) amended by No. 7/1988 s. 9(e)(iii).
- (i) unavoidable in the course of those operations; or
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- (ii) reasonably necessary to avoid damage to a vessel or equipment used in those operations; or
- (iii) carried out in a humane manner and was reasonably necessary to relieve or prevent suffering by that or any other whale; or
- (d) in the case of treating a whale—the action in question was reasonably necessary to prevent a risk to human health.

S. 76(5)
inserted by
No. 7/1988
s. 9(e)(iv),
amended by
No. 70/1990
s. 12(1)(r)(i).

- (5) Any person who displays a live whale of any origin for any purpose or causes or permits a live whale of any origin to be displayed for any purpose shall be guilty of an indictable offence.

Penalty: 1000 penalty units.

S. 77
inserted by
No. 9694
s. 4.

77 Action to be taken with respect to killing or taking of whale

S. 77(1)
amended by
No. 70/1990
s. 12(1)(s).

- (1) Unless otherwise expressly provided in this section, where a person, without contravening any of the provisions of this Part—
 - (a) treats a whale that has been killed or taken in contravention of this Part;
 - (b) in waters to which this Part applies, kills, injures or takes a whale; or
 - (c) in waters to which this Part applies, treats a whale not killed or taken in contravention of this Part—

that person shall—

(d) as soon as practicable after the killing, injuring, taking or treatment notify the Secretary of the killing, injuring, taking or treatment;

S. 77(1)(d)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.75),
87/1997
s. 42(Sch.
item 40(a)).

(e) within the time and in the manner prescribed, supply the Secretary with the prescribed particulars of the killing, injuring, taking or treatment; and

S. 77(1)(e)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.75),
87/1997
s. 42(Sch.
item 40(b)).

(f) in the case of the killing or treatment of a whale without a permit—as soon as practicable after the killing or treatment notify a scientific body of the killing or treatment and offer to enter into an arrangement with that body to make the whale or part or parts of the whale, as required by that body, available to that body for purposes of scientific research.

Penalty: 50 penalty units.

- (2) Subsection (1) does not apply in relation to the treatment of a whale the killing, injuring or taking of which has been notified under subsection (1).
- (3) In this section *notify* means notify by telephone, telegraph or radio.

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78 Power to Secretary to grant permits

S. 78
inserted by
No. 9694
s. 4.

- (1) Upon application made to the Secretary, and upon payment of the prescribed fee, the Secretary may grant to any person a permit in writing authorizing that person—

S. 78(1)
amended by
Nos 41/1987
s. 103(Sch. 4
Item 76.76),
87/1997
ss 32(1)(a),
42(Sch.
item 41(a)).

S. 78(1)(a)
repealed by
No. 7/1988
s. 9(f)(i).

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S. 78(1)(b)
amended by
No. 41/1987
s. 103(Sch. 4
Item 76.76),
87/1997
s. 42(Sch.
item 41(a)).

- (b) to kill or take whales in the course of and incidentally to licensed commercial fishing operations specified in the permit being operations of a kind specified by the Secretary for the purposes of this paragraph by notice published in the Government Gazette;
- (c) to do, for specified scientific purposes, a specified act or acts constituting interference with whales;

S. 78(1)(d)
substituted by
No. 7/1988
s. 9(f)(ii).

- (d) to have dead whales in the person's possession or treat or otherwise deal with dead whales in a specified manner and for specified scientific or educational purposes;

S. 78(1)(e)
substituted by
No. 7/1988
s. 9(f)(i).

- (e) to have live whales in the person's possession in the course of rescuing stranded whales or rehabilitating injured whales;

S. 78(1)(f)
substituted by
No. 7/1988
s. 9(f)(ii).

- (f) to have live whales temporarily in the person's possession in the whale's natural habitat for specified scientific or educational purposes.

Wildlife Act 1975
No. 8699 of 1975
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S. 78(1)(g)
inserted by
No. 87/1997
s. 32(1)(b),
repealed by
No. 3/2002
s. 9(1).

- (2) A permit shall specify the class or classes of whales, and the number of whales, or the respective number of whales of each class, in relation to which it applies.
- (3) A permit shall remain in force until the day (if any) specified in the permit for its expiry or, if no such day is specified, for a period of not more than twelve months.

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S. 78(3A)
inserted by
No. 87/1997
s. 32(2),
repealed by
No. 3/2002
s. 9(2).

- (3B) The Secretary may renew a permit granted under subsection (1), upon application from the holder of the permit, unless the Secretary is satisfied that—
- (a) the holder has been found guilty of an offence against this Act or the regulations; or
- (b) the holder has failed to comply with this Act, the regulations or the conditions of the permit.

S. 78(3B)
inserted by
No. 87/1997
s. 32(2),
amended by
No. 3/2002
s. 9(3)(a)(b).

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S. 78(3C)
inserted by
No. 87/1997
s. 32(2),
repealed by
No. 3/2002
s. 9(2).

s. 79

S. 78(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.76),
87/1997
s. 42(Sch.
item 41(b)).

- (4) The Secretary shall cause registers to be kept showing particulars of permits in force from time to time.

S. 79
inserted by
No. 9694
s. 4.

79 Conditions of permit

S. 79(1)
substituted by
No. 87/1997
s. 33,
amended by
No. 3/2002
s. 10.

- (1) A permit granted under section 78(1) is subject to—
- (a) any conditions, determined by the Secretary, that are specified or referred to in the permit; and
 - (b) any conditions that are imposed under subsection (2); and
 - (c) any conditions which are prescribed by regulations made under section 85A for permits of the category to which the permit belongs.

S. 79(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.77),
87/1997
s. 42(Sch.
item 42).

- (2) After publication of the notices referred to in section 82(4) the Secretary may, by notice in writing served on the holder of a permit, vary or revoke any conditions of the permit or impose further conditions.
- (3) Without limiting the generality of subsections (1) and (2) conditions of a permit may include conditions relating to—
- (a) the times between which, and the areas in which, a whale to which the permit relates may be killed or taken or interfered with or dealt with; and

- (b) the method of dealing with a whale to which the permit relates.
- (4) The conditions of a permit may make different provision in relation to different whales or classes of whales.

80 Breach of condition an offence

Any person who contravenes or fails to comply with any condition of a permit granted under section 78(1) that is applicable to him shall be guilty of an offence against this section.

Penalty: 100 penalty units or 6 months imprisonment or both the fine and imprisonment.

S. 80
inserted by
No. 9694
s. 4,
amended by
Nos 70/1990
s. 12(1)(t),
87/1997
s. 34, 3/2002
s. 11.

81 Power of authorised officer to give directions

- (1) An authorised officer may direct a person to cease, immediately, any activity being carried out under a permit granted under section 78(1), if the authorised officer reasonably believes that the activity is detrimental to the welfare of any whale.
- (2) A person must comply with a direction given under subsection (1).

Penalty: 50 penalty units.

S. 81
inserted by
No. 9694
s. 4,
amended by
No. 41/1987
s. 103(Sch. 4
items 76.78,
76.79),
substituted by
No. 87/1997
s. 35.

S. 81(1)
amended by
No. 3/2002
s. 12.

s. 81A

81A Variation of permits

S. 81A
inserted by
No. 87/1997
s. 35.

S. 81A(1)
amended by
No. 3/2002
s. 13(a).

(1) Upon application made in writing and upon payment of any prescribed fee, the Secretary may vary any permit granted under section 78(1)(d) in any respect and as from the date of the variation the permit is deemed to have been granted as so varied.

S. 81A(2)
amended by
No. 3/2002
s. 13(b).

- (2) If the Secretary is of the opinion that a permit granted under section 78(1)(d) should be varied, the Secretary may vary the permit.
- (3) The variation of a permit under subsection (2) has effect upon the Secretary giving notice of the variation to the holder of the permit.

S. 81B
inserted by
No. 87/1997
s. 35.

81B Suspension of permits

S. 81B(1)
amended by
No. 3/2002
s. 14(1).

(1) If the Secretary is satisfied that there are reasonable grounds to do so, the Secretary may suspend a permit granted under section 78(1) by notice in writing given to the holder of the permit.

- (2) A suspension under this section has effect—
- (a) from the time specified in the notice under subsection (1), which must be after the day on which the notice is given; and
- (b) subject to section 81C, for the period (not exceeding 90 days) specified in the notice.

S. 81B(2)(b)
amended by
No. 3/2002
s. 14(2).

81C Making submissions on suspension

S. 81C
inserted by
No. 87/1997
s. 35.

- (1) Immediately upon suspending a permit, the Secretary must allow the holder of the permit granted under section 78(1) an opportunity to make written submissions.
- (2) Submissions must be made within the period specified in the notice of suspension.
- (3) On receiving any submissions under subsection (2), the Secretary must review the decision to suspend the permit, and in doing so must have regard to the submissions and may decide to continue, revoke or amend the suspension.
- (4) The Secretary must notify the holder of the permit of the outcome of the review.

S. 81C(1)
amended by
No. 3/2002
s. 15.

81D Power of Secretary to cancel permit

S. 81D
inserted by
No. 87/1997
s. 35.

- (1) The Secretary may cancel a permit granted under section 78(1) if the Secretary is satisfied, on reasonable grounds, that—
 - (a) the holder of the permit has been found guilty of an offence against this Act; or
 - (b) the holder of the permit has breached a condition of the permit; or
 - (c) that the act or acts authorised by the permit may adversely affect a population of a particular taxon of whale; or
 - (d) where the holder of the permit has been convicted of an offence against a law of the Commonwealth or of a State or a Territory of the Commonwealth relating to fauna, to

S. 81D(1)
amended by
No. 3/2002
s. 16(a).

s. 81D

the preservation, conservation and protection of whales or to the living natural resources of the continental shelf of Australia.

S. 81D(2)
amended by
No. 3/2002
s. 16(b).

- (2) Before cancelling a permit granted under section 78(1)(d) the Secretary must—
- (a) notify the holder that he or she proposes to cancel the permit; and
 - (b) allow the holder of the permit an opportunity to make either oral or written submissions.

S. 81D(4)
amended by
No. 3/2002
s. 16(c).

- (3) Submissions under subsection (2) must be made within the period specified in the notice.
- (4) In making a decision as to whether or not to cancel a permit granted under section 78(1)(d), the Secretary must—
- (a) have regard to any submissions made under subsection (2) within the period specified in the notice; and
 - (b) must notify the holder of his or her decision.

S. 81D(5)
amended by
No. 3/2002
s. 16(d).

- (5) A cancellation of a permit granted under section 78(1)(d) has effect from the time specified in the notice of the Secretary's decision under subsection (4), which must be after the day on which the notice is given.
- (6) Any wildlife held under a permit which has been granted under section 78(1)(d) and which has been cancelled under this section must be disposed of in accordance with the directions of the Secretary.

82 Public notices in relation to permits

S. 82
inserted by
No. 9694
s. 4.

(1) A person making an application for—

S. 82(1)
amended by
No. 41/1987
s. 103 (Sch.
item 76.80),
substituted by
No. 87/1997
s. 36(1).

(a) the grant of a permit under section 78(1)(b),
(c), (e) or (f); or

(b) the variation or revocation of a condition of a
permit granted under section 78(1) (other
than a permit granted under section
78(1)(d)); or

S. 82(1)(b)
amended by
No. 3/2002
s. 17(a)(i)(ii).

(c) the imposition of a further condition on a
permit granted under section 78(1) (other
than a permit granted under section
78(1)(d))—

S. 82(1)(c)
amended by
No. 3/2002
s. 17(b)(i)(ii).

must publish a notice in accordance with
subsection (7)—

(d) setting out particulars of the application; and

(e) inviting interested persons to lodge written
comments in respect of the application with
the Secretary, not later than a specified day
(not being earlier than 30 days after the
publication of the notice) at a place approved
by the Secretary for the purposes of this
paragraph.

(2) The Secretary shall cause to be served on the
applicant copies of any comments received under
subsection (1) and afford the applicant a
reasonable opportunity to submit to the Secretary
a reply in writing.

S. 82(2)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.80),
87/1997
s. 42(Sch.
item 44(b)).

s. 82

S. 82(3)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.80),
87/1997
s. 42(Sch.
item 44(c)).

- (3) Before deciding whether or not to grant the application the Secretary shall give due consideration to any comments received under subsection (1) in respect of the application and any reply received under subsection (2).

S. 82(4)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.80),
87/1997
ss 36(2)(a)–(c),
42(Sch.
item 44(d)).

- (4) Where the Secretary proposes to cancel a permit granted under section 78(1)(b), (c), (e) or (f) or, otherwise than in pursuance of an application, to vary or revoke a condition of such a permit or impose a further condition of such a permit, the Secretary shall—

- (a) cause the publication, in accordance with subsection (7), of a notice—
- (i) setting out particulars of the permit and the grounds for the proposal;
 - (ii) inviting interested persons to lodge with the Secretary, not later than a specified day (being not earlier than 30 days after the publication of the notice), at a specified place, written comments in respect of the proposal; and

S. 82(4)(a)(ii)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.80),
87/1997
s. 42(Sch.
item 44(d)).

S. 82(4)(b)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.80),
87/1997
s. 42(Sch.
item 44(d)).

- (b) cause a copy of the notice to be served on the holder of the permit and invite him to submit to the Secretary his comments in writing.

S. 82(5)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.80),
87/1997
s. 42(Sch.
item 44(e)).

- (5) The Secretary shall cause to be served on the holder of the permit copies of any comments received under subsection (4)(a) and afford him a reasonable opportunity to submit to the Secretary a reply in writing.

- (6) Before deciding whether or not to take action with respect to the proposal referred to in subsection (4), the Secretary shall give due consideration to any comments received under that subsection and any reply received under subsection (5).
- (7) Any notices required by this section to be published shall be published in a newspaper circulating generally in Victoria.

S. 82(6)
amended by
Nos 41/1987
s. 103(Sch. 4
item 76.80),
87/1997
s. 42(Sch.
item 44(f)).

Division 2—Further offences and tour operator permits

Pt 10 Div. 2
(Heading and
ss 83–83N)
inserted by
No. 3/2002
s. 18.

83 Offence to approach a whale at a certain distance

S. 83
inserted by
No. 9694
s. 4 (as
amended by
No. 9861
s. 3(1)),
amended by
No. 7/1988
s. 9(g)(i)(ii),
repealed by
No. 87/1997
s. 37,
new s. 83
inserted by
No. 3/2002
s. 18.

- (1) A person must not approach a whale at a distance that is less than the prescribed minimum distance.
Penalty: 20 penalty units.
- (2) Subsection (1) does not apply to a person who is acting in accordance with—
- (a) a permit granted under section 83A; or
 - (b) a permit granted under section 78(1) or 83C;
or
 - (c) a written authorisation given under section 28A.

83A Power of Secretary to grant whale sightseeing permit

S. 83A
inserted by
No. 3/2002
s. 18.

- (1) The Secretary may grant a permit to a natural person authorising the person to cause the vessel named in the permit to be operated so as to approach a whale at a distance that is less than the prescribed minimum distance.

s. 83B

- (2) A permit granted under subsection (1)—
 - (a) has effect for the period specified in the permit, which must not exceed 2 years; and
 - (b) may specify the times and places at which the vessel may be operated under the permit.
- (3) The Secretary may renew a whale sightseeing permit, on application from the holder of the permit, unless the Secretary is satisfied that—
 - (a) the holder has been found guilty of an offence against this Act or the regulations; or
 - (b) the holder has failed to comply with this Act or the regulations or the conditions of the permit.

S. 83B
inserted by
No. 3/2002
s. 18.

83B Offence to conduct whale swim tour

A person must not, for profit, conduct an activity which involves persons being in the water to observe or swim with a whale, unless that person does so in accordance with a permit granted under section 83C.

Penalty: 100 penalty units or 6 months imprisonment or both the fine and imprisonment.

S. 83C
inserted by
No. 3/2002
s. 18.

83C Power of Secretary to grant whale swim tour permit

- (1) The Secretary may grant a permit to a natural person authorising that person to conduct an activity for profit that involves persons being in the water to observe or swim with a whale from the vessel named in the permit.
- (2) The Secretary must not grant a permit under subsection (1) unless the Secretary is satisfied that the applicant satisfies the criteria specified in the Order made under section 83F relating to the area in respect of which the permit is to be granted.

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- (3) A permit granted under subsection (1)—
- (a) has effect for the period specified in the permit, which must not exceed 2 years; and
 - (b) may specify the times and places at which an activity may be conducted under the permit.

83D Prohibition on Secretary granting more permits than specified in the Order

S. 83D
inserted by
No. 3/2002
s. 18.

The Secretary must not grant more whale swim tour permits than the maximum number that may be granted under the Order made under section 83F for the area to which the Order relates.

83E Applications for whale sightseeing permits

S. 83E
inserted by
No. 3/2002
s. 18.

A person seeking a whale sightseeing permit must apply to the Secretary for the permit and must lodge the fee prescribed for such a permit with the application.

83F Power to make Orders for the granting of whale swim tour permits in whale swim tour areas

S. 83F
inserted by
No. 3/2002
s. 18.

- (1) The Secretary may, by Order published in the Government Gazette proclaim an area to be a whale swim tour area.
- (2) An Order under subsection (1) may—
 - (a) invite applications for whale swim tour permits in the area; and
 - (b) specify whether the fee to be paid for a whale swim tour permit in the area is to be determined by tender or is to be a fee prescribed by the regulations; and
 - (c) specify the maximum number of permits that may be granted in the area and the maximum number of activities that may be conducted each day under each permit and any other

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- matters related to the conduct of activities under permits in the area; and
- (d) specify the procedures to be followed and the information that must be given in making an application for a permit; and
 - (e) specify the date by which applications for such permits must be lodged with the Secretary; and
 - (f) specify the criteria which will be used to assess applications; and
 - (g) specify whether or not the holders of existing whale swim tour permits in the area may apply for permits specified in the Order.
- (3) The Secretary, in making a specification under subsection (2)(c) as to the number of permits that may be granted in an area, must not fix a number of permits that is greater than the number the Secretary has determined to be ecologically sustainable for that area.
- (4) In making any specification under subsection (2)(c), the Secretary must have regard to the best available information as to the effect that the conduct of activities has or is likely to have on individual whales or groups of whales in the area.

S. 83G
inserted by
No. 3/2002
s. 18.

83G Requirement to pay fee on grant of permit

A person who is granted a whale swim tour permit must, on the grant of the permit, pay the fee determined by tender or prescribed by regulations (as the case requires) for the permit.

83H Conditions of whale sightseeing permits and whale swim tour permits

S. 83H
inserted by
No. 3/2002
s. 18.

A permit granted under this Division is subject to—

- (a) any conditions, determined by the Secretary, that are specified or referred to in the permit; and
- (b) any conditions that are prescribed by regulations made under section 85A for permits of the category to which the permit belongs.

83I Breach of condition an offence

S. 83I
inserted by
No. 3/2002
s. 18.

The holder of a permit granted under this Division must comply with the conditions of the permit.

Penalty: 100 penalty units or 6 months imprisonment or both the fine and imprisonment.

83J Power of authorised officer to give directions

S. 83J
inserted by
No. 3/2002
s. 18.

- (1) An authorised officer may direct a person to cease immediately any activity being carried out under a permit granted under this Division, if the authorised officer reasonably believes that the activity is detrimental to the welfare of any whale.
- (2) A person must comply with a direction given under subsection (1).

Penalty: 50 penalty units.

83K Variation of permits under this Division

S. 83K
inserted by
No. 3/2002
s. 18.

- (1) Upon application made in writing and upon payment of any prescribed fee, the Secretary may vary any permit granted under this Division in any respect, and a variation under this subsection has effect on the Secretary making the variation.

s. 83L

- (2) If the Secretary is of the opinion that a permit under this Division should be varied, the Secretary may, of his or her own motion, vary the permit, and a variation under this subsection has effect on the Secretary giving notice of the variation to the holder of the permit.
- (3) The Secretary must not vary a permit under this section unless the Secretary is satisfied that the holder of the permit continues to satisfy the criteria specified in the Order made under section 83F relating to the area in respect of which the permit is granted.

S. 83L
inserted by
No. 3/2002
s. 18.

83L Suspension of permits under this Division

- (1) If the Secretary is satisfied that there are reasonable grounds to do so, the Secretary may suspend a permit granted under this Division by notice in writing given to the holder of the permit.
- (2) A suspension under this section has effect—
 - (a) from the time specified in the notice under subsection (1), which must be after the day on which the notice is given; and
 - (b) subject to section 83M, for the period (not exceeding 90 days) specified in the notice.

S. 83M
inserted by
No. 3/2002
s. 18.

83M Making submissions on suspension

- (1) Immediately upon suspending a permit granted under this Division, the Secretary must allow the holder of the permit an opportunity to make written submissions.
- (2) Submissions must be made within the period specified in the notice of suspension.
- (3) On receiving any submissions under subsection (2), the Secretary must review the decision to suspend the permit.

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- (4) In carrying out a review under subsection (3), the Secretary—
- (a) must have regard to the submissions; and
 - (b) may decide to continue, revoke or amend the suspension.
- (5) The Secretary must notify the holder of the permit of the outcome of the review.

83N Power of Secretary to cancel permit

S. 83N
inserted by
No. 3/2002
s. 18.

- (1) The Secretary may cancel a permit granted under this Division if the Secretary is satisfied, on reasonable grounds, that—
- (a) the holder of the permit has been found guilty of an offence against this Act; or
 - (b) the holder of the permit has breached a condition of the permit; or
 - (c) the act or acts authorised by the permit adversely affects a population of a particular taxon of whale; or
 - (d) the holder of the permit has been convicted of an offence against a law of the Commonwealth or of a State or a Territory of the Commonwealth relating to fauna, to the preservation, conservation and protection of whales or to the living natural resources of the continental shelf of Australia.
- (2) Before cancelling a permit, the Secretary must—
- (a) notify the holder that he or she proposes to cancel the permit; and
 - (b) allow the holder of the permit an opportunity to make either oral or written submissions.
- (3) Submissions under subsection (2) must be made within the period specified in the notice.

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- (4) In making a decision as to whether or not to cancel a permit, the Secretary must—
- (a) have regard to any submissions made under subsection (2) within the period specified in the notice; and
 - (b) must notify the holder of his or her decision.
- (5) The cancellation of a permit has effect from the time specified in the notice of the Secretary's decision under subsection (4), which must be after the day on which the notice is given.

Pt 10 Div. 3
(Heading)
inserted by
No. 3/2002
s. 18.

Division 3—Regulations and miscellaneous matters

S. 84
inserted by
No. 9694
s. 4,
amended by
No. 41/1987
s. 103(Sch. 4
item 76.81).

84 Performance by authorised officers of duties etc. under Commonwealth Act

Without any further or other authority than the provisions of this section any authorised officer within the meaning of this Act may be appointed to be an inspector for the purposes of the Commonwealth Act known as the Whale Protection Act 1980 and any officer so appointed—

- (a) shall perform any duties or functions required to be performed by him as such inspector; and
- (b) may exercise any powers and perform any functions that are conferred upon him or delegated to him—

by or under the provisions of the Whale Protection Act 1980 or of any other Commonwealth Act relating to whales.

85 Summary jurisdiction in indictable offences

- (1) The provisions of the **Magistrates' Court Act 1989** enabling the hearing of charges for certain indictable offences in a summary way shall have effect with respect to offences against section 76(1), (2), (2A) or (5) subject to the following provisions, namely—

* * * * *

- (b) any consent required by those provisions to be given by the defendant may, in the absence of the defendant, be given by his or her Australian legal practitioner (within the meaning of the **Legal Profession Act 2004**);

- (c) the court may hear and determine the charge in a summary way if it considers of its own motion at any time during or immediately after the hearing of the evidence for the prosecution and whether or not the defendant is present in court or represented in court that it is fitting for the charge to be disposed of summarily;

- (d) the court may impose a fine of not more than 100 penalty units; and

- (e) where the person charged is the master of a ship and is for the time being out of the jurisdiction service of any documents relating to the offence shall be sufficiently served on that person by being served on the

S. 85
inserted by
No. 9694
s. 4.

S. 85(1)
amended by
Nos 7/1988
s. 9(h),
57/1989
s. 3(Sch.
item 219.4(a)).

S. 85(1)(a)
repealed by
No. 57/1989
s. 3(Sch.
item 219.4(b)).

S. 85(1)(b)
amended by
Nos 35/1996
s. 453(Sch. 1
item 89),
18/2005
s. 18(Sch. 1
item 118).

S. 85(1)(d)
amended by
No. 70/1990
s. 12(1)(u).

s. 85A

agent (if any) of the ship of which he is the master.

- (2) Notwithstanding the provisions of any Act, law or usage to the contrary a person who has been directed to be tried for an indictable offence against this Part may be proceeded against, tried and convicted of the offence in his absence.

85A Regulations

- (1) The Governor in Council may make regulations for or with respect to—

(a) regulating or prohibiting activity in the vicinity of a whale, being activity that may disturb or interfere with the whale—

(i) by persons in vessels or aircraft; or

(ii) by persons in the water or on the land;

(b) prescribing penalties not exceeding twenty penalty units for a contravention of the regulations;

(c) any other matter or thing which is authorised or required by this Part to be prescribed to give effect to this Part.

- (2) Regulations under this section may be of general or of specially limited application and may differ according to differences in time, place or circumstance.

- (2A) Regulations made under this Part may confer a discretionary authority or impose a duty on the Minister, the Secretary or an authorised officer.

S. 85A
inserted by
No. 90/1989
s. 16.

S. 85A(1)(a)
amended by
No. 87/1997
s. 38(1)(a)(i).

S. 85A(1)(a)(i)
amended by
No. 87/1997
s. 38(1)(a)(ii).

S. 85A(1)(c)
inserted by
No. 87/1997
s. 38(1)(b).

S. 85A(2A)
inserted by
No. 87/1997
s. 38(2).

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- (3) Regulations made under this section may be disallowed in whole or in part by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**.
- (4) Disallowance under subsection (3) is deemed to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.
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Pt 11
(Heading)
inserted by
No. 9694 s. 4.

PART XI—MISCELLANEOUS

S. 75
re-numbered
as s. 86 by
No. 9694
s. 5(a) (as
amended by
No. 10087
s. 3(1)(Sch. 1
item 326),
substituted by
No. 7/1988
s. 8(1).

86 Closure notices

(1) The Minister may by notice published in the Government Gazette—

S. 86(1)(a)
amended by
No. 87/1997
s. 42(Sch.
item 45(a)).

- (a) prohibit absolutely or regulate or control the taking, destroying or hunting of any particular kind or taxon of wildlife in any area and any period specified in the notice; and
- (b) provide for exemptions for anything referred to in paragraph (a); and
- (c) fix penalties of not more than 25 penalty units for any contravention of any part of a notice.

S. 86(1)(c)
amended by
No. 70/1990
s. 12(1)(v).

(2) A notice under subsection (1)—

S. 86(2)(a)
amended by
Nos 90/1989
s. 18(1),
87/1997
s. 42(Sch.
item 45(b)).

- (a) may be general in application or may be restricted in operation as to wildlife (whether by reference to kind or taxon or to sex) time, place, persons, equipment, hunting, guns or circumstances whether any such wildlife time, place, persons, equipment, hunting, guns or circumstances is determined or ascertainable before, at or after the making of the notice; and

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- (b) unless it otherwise expressly provides, if it refers to wildlife or any specified kind or taxon of wildlife applies to both sexes of wildlife or to both sexes of that kind or taxon of wildlife; and
- (c) takes effect from the date of the publication or from any later date specified in the notice; and
- (d) in the absence of a date specified in the notice continues to have effect until 90 days after the notice; and
- (e) may not provide that it continues to have effect for any period exceeding twelve months.
- (3) A notice under subsection (1) prevails over any inconsistent—
- (a) regulation made under this Act; or
- (b) licence, permit or other authority to take destroy or hunt any particular kind or taxon of wildlife issued under this Act.
- (4) At least 72 hours before publishing a notice under subsection (1), the Minister must publish a notice in a newspaper circulating generally in the area likely to be affected by the notice under subsection (1) stating that he or she intends to publish that notice.
- (5) Sections 5, 6, and 6A of the **Subordinate Legislation Act 1962** apply to a notice under subsection (1) as if that notice were a statutory rule within the meaning of that Act.
- (6) A reference in section 5(1) of the **Subordinate Legislation Act 1962** to the publication of notice of the making of a statutory rule must be read for
- S. 86(2)(b) amended by No. 87/1997 s. 42(Sch. item 45(c)).
- S. 86(3)(b) amended by No. 87/1997 s. 42(Sch. item 45(d)).

s. 86A

the purposes of this section as a reference to the publication of the notice under subsection (1).

- (7) A notice under subsection (1) may be disallowed in whole or in part by a resolution of either House of Parliament made in accordance with section 6(2) of the **Subordinate Legislation Act 1962**.
- (8) Disallowance of a notice under subsection (5) is deemed to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.

S. 86A
inserted by
No. 90/1989
s. 17(1).

86A Emergency closure notices

S. 86A(1)
amended by
No. 87/1997
s. 42(Sch.
item 46(a)).

- (1) If, after considering the advice of an advisory committee or in the case of an emergency the chairperson of the advisory committee, after considering the advice of the Secretary, or an authorised officer nominated by the Secretary, the Minister is satisfied that any protected wildlife declared by proclamation of the Governor in Council published in the Government Gazette to be endangered wildlife or notable wildlife or that significant numbers of protected wildlife other than game is under immediate threat of destruction, injury or disturbance from hunting or the presence of hunters, the Minister may, by notice published in the Government Gazette—

S. 86A(1)(a)
amended by
No. 87/1997
s. 42(Sch.
item 46(b)).

- (a) prohibit absolutely or regulate or control the taking or destroying or hunting of any particular kind or taxon of wildlife in any area and for any period not exceeding seven days specified in the notice; and
- (b) provide for exemptions for anything referred to in paragraph (a); and

-
- (c) fix penalties of not more than 25 penalty units for any contravention of any part of a notice.
- (2) A notice under subsection (1)—
- (a) may be general in application or may be restricted in operation as to wildlife (whether by reference to kind or taxon or to sex) time, place, persons, equipment, hunting, guns or circumstances whether any such wildlife, time, place, persons, equipment, hunting, guns or circumstances is determined or ascertainable before, at, or after the making of the notice; and
- (b) unless it otherwise expressly provides, if it refers to wildlife or any specified kind or species of wildlife applies to both sexes of wildlife or to both sexes of that kind or species of wildlife; and
- (c) takes effect from the date of the publication of the notice.
- (3) A notice under subsection (1) prevails over any inconsistent—
- (a) regulation made under this Act; or
- (b) licence, permit or other authority to take destroy or hunt any particular kind or taxon of wildlife issued under this Act.
- (4) At least 24 hours before publishing a notice under subsection (1) the Minister must publish a notice in a newspaper circulating generally in the area likely to be affected by the notice under the subsection (1) stating that, he or she intends to publish that notice.

S. 86A(1)(c)
amended by
No. 70/1990
s. 12(3).

S. 86A(2)(a)
amended by
No. 87/1997
s. 42(Sch.
item 46(c)).

S. 86A(3)(b)
amended by
No. 87/1997
s. 42(Sch.
item 46(d)).

s. 86B

- (5) The Minister must establish an advisory committee consisting of six persons for the purposes of subsection (1), and that Committee must include—
- (a) a person nominated by each of the following—
 - (i) the Sporting Shooters Association of Australia (Victorian Branch);
 - (ii) the Victorian Field and Game Association Inc.;
 - (iii) the Australia Deer Association Inc.;
 - (iv) the Royal Australian Ornithologists Union; and
 - (b) two persons nominated by the Minister.
- (6) The Minister must appoint a person referred to in subsection (5)(a)(i), (ii) or (iii) to be chairperson of the committee.

S. 86B
inserted by
No. 87/1997
s. 39.

86B Time for bringing proceedings

Despite section 26 of the **Magistrates' Court Act 1989**, a proceeding for an offence under section 22, 41, 42, 43, 44, 45, 46, 47, 50, 51, 54, 74E or 80 must be commenced not later than 2 years after the date on which the offence is alleged to have been committed.

S. 86C
inserted by
No. 87/1997
s. 39.

86C Review of decisions

- (1) An application may be made to the Victorian Civil and Administrative Tribunal for review of a decision of the Secretary—
- (a) to refuse to grant a licence, authorisation or permit under this Act; or

S. 86C(1)
amended by
No. 52/1998
s. 311(Sch. 1
item 107.2).

- (b) to refuse to renew a licence, authorisation or permit granted under this Act; or
- (c) to suspend or cancel a licence, authorisation or permit granted under this Act—
- or of a failure of the Secretary to make such a decision within a reasonable time.
- (2) An application under subsection (1) may be made by—
- (a) in the case of an application for a decision, the person who has made the application; or
- (b) in any other case, the holder of the licence, permit or authorisation which was the subject of the decision or failure to decide.
- (3) An application under subsection (1) must be made within 28 days after the later of—
- (a) the day on which the decision is made;
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 86C(3)
inserted by
No. 52/1998
s. 311(Sch. 1
item 107.3).

87 Regulations

S. 76
re-numbered
as s. 87 by
No. 9694
s. 5(b) (as
amended by
No. 10087
s. 3(1)(Sch. 1
item 326)).

- (1) The Governor in Council may make regulations for the management, control, conservation, and propagation of wildlife, for the preservation and maintenance of wildlife habitat, and providing for the effective management of hunting including

S. 87(1)
amended by
No. 87/1997
s. 40(1)(a).

preserving good order among hunters of wildlife and in particular, without in any way limiting or derogating from the generality of the foregoing provisions of this section, for or with respect to—

- (a) prescribing forms for the purposes of this Act;
- (b) prescribing the procedure to be followed in making any application for the purposes of this Act or in issuing any licence or other authority or in giving any permission under this Act or the regulations;
- (ba) exemptions from the requirement to hold a licence under section 22;
- (c) prescribing conditions, limitations, and restrictions to which licences, permissions, or other authorities under this Act or the regulations are to be subject;
- (d) regulating and controlling the taking of wildlife at large in the open season therefor, fixing and enforcing bag limits for any kind of wildlife and regulating the taking of protected wildlife on wildlife farms licensed under this Act;
- (e) prohibiting absolutely the taking or hunting, of any particular kind of wildlife at large and the possession keeping or control of any wildlife so taken;
- (f) prescribing open seasons and close seasons for any kind or taxon of wildlife and fixing other periods during which the hunting, killing, molesting, disturbing, possession, keeping, or control of wildlife of any kind or taxon is prohibited;

S. 87(1)(ba)
inserted by
No. 70/1990
s. 7.

S. 87(1)(f)
amended by
No. 87/1997
ss 40(1)(b),
42(Sch.
item 47(a)).

- (g) prohibiting or regulating the handling, keeping, possession, controlling, or releasing of wildlife, prescribing the conditions under which wildlife may be kept in captivity, and prescribing enclosure and cage sizes for the keeping of any kind of wildlife;
- (ga) prohibiting or regulating the feeding of wildlife;
- (h) regulating the manner of processing or preparing the flesh, skin, or feathers of wildlife for sale;
- (i) requiring the marking of the skin or other portions of wildlife by any person or class of persons;
- (j) prohibiting or regulating the buying, selling, exhibiting for sale, storage, consigning or marketing of any specified wildlife or the flesh, skin, or feathers thereof and prescribing the conditions to be observed by persons buying, selling, exhibiting for sale, storing, consigning, or marketing the same;
- (k) prohibiting or regulating the use of any method, substance, gun, net, or equipment whatsoever for the taking, hunting, or killing of wildlife;
- (l) requiring the keeping of books and records by the holders of licences, authorities, and permissions under this Act or the regulations, prescribing the method of keeping such books and records and the information to be kept therein and the inspection of such books and records by authorised officers;

S. 87(1)(ga)
inserted by
No. 87/1997
s. 40(1)(c).

S. 87(1)(l)
amended by
No. 41/1987
s. 103(Sch. 4
item 76.82).

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S. 87(1)(m)
repealed by
No. 87/1997
s. 40(1)(d).

Wildlife Act 1975
No. 8699 of 1975
Part XI—Miscellaneous

s. 87

S. 87(1)(n)
amended by
No. 41/1987
s. 103(Sch. 4
item 76.83).

- (n) requiring the holders of licences, authorities, and permissions under this Act to produce for inspection at the request of an authorised officer any books or records kept pursuant to the provisions of this Act or the regulations;
- (o) the inspection or examination of wildlife for discovering disease or disorder and preventing the spread of disease or disorder in wildlife;

S. 87(1)(p)
repealed by
No. 87/1997
s. 40(1)(e).

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S. 87(1)(q)
amended by
No. 87/1997
s. 40(1)(f).

- (q) the licensing of bowhunters, the conduct, management, and control of bowhunting, and the fees to be paid for bowhunters' licences;
- (r) the seizure and destruction of diseased wildlife;

S. 87(1)(s)
amended by
No. 87/1997
s. 40(1)(g).

- (s) the control, care, protection, preservation, or improvement of sanctuaries, reserves and wildlife management co-operative areas (not on private land) established under this Act including the preservation of good order and decency therein;

S. 87(1)(t)
amended by
No. 87/1997
s. 40(1)(h)(i)(ii).

- (t) prohibiting or regulating the entry of persons in upon or adjacent to or the remaining of persons in, upon or adjacent to any sanctuary or reserve established under this Act or any recognized wildlife habitat, wildlife management co-operative area or specified hunting area established under this Act and not on private lands and prohibiting or regulating access thereto or travel therein by any specified means of transport;

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| (ta) prescribing areas of public land for the purposes of section 48A; | S. 87(1)(ta) inserted by No. 87/1997 s. 40(1)(i). |
| (u) prohibiting or regulating camping upon any sanctuary reserve or wildlife management co-operative area (not on private land) established under this Act, the lighting of fires thereon, or doing any act likely to create a fire hazard thereon; | S. 87(1)(u) amended by No. 87/1997 s. 40(1)(j). |
| (v) prescribing conditions, limitations, and restrictions for hunting in or upon any reserve or wildlife management co-operative area (not on private land) established under this Act and prohibiting or controlling the removal or cutting of plants, trees, or vegetation on any such reserve or area; | S. 87(1)(v) amended by No. 87/1997 s. 40(1)(k)(i)(ii). |
| (va) prohibiting or regulating—
(i) the carrying, control, possession or use of any firearm, appliance or equipment; and
(ii) the control or use of dogs for hunting—
in any sanctuary, reserve or wildlife management co-operative area (not on private land) established under this Act or any other area specified in the regulations; | S. 87(1)(va) inserted by No. 87/1997 s. 40(1)(l). |
| (w) determining what circumstances give priority as between hunters to hunt and take wildlife in Victoria; | |
| (x) prohibiting or regulating the transfer or assignment of licences or other authorities under this Act or the regulations and prescribing fees in respect of any transfer or assignment; | S. 87(1)(x) amended by No. 87/1997 s. 40(1)(m). |
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S. 87(1)(z)
amended by
No. 87/1997
s. 42(Sch.
item 47(b)).

- (y) requiring the furnishing of returns and information by the holders of licences under this Act or the regulations with respect to consigning, buying, selling, holding, or importing or exporting of wildlife;
- (z) prohibiting or regulating the keeping or confinement of any type or taxon of animals by persons generally or in any wildlife park, animal exhibition, or zoo;
 - (aa) regulating the size and construction of buildings, fences, cages, enclosures, and other means for keeping animals in confinement in a wildlife park, animal exhibition, or zoo;
 - (ab) prescribing the minimum quantities and standards of food and drink to be supplied to animals kept in confinement at any place in Victoria, the intervals at which such animals shall be so supplied with food and drink and prohibiting the supply of any specified food or drink to any particular animal or animals;
 - (ac) requiring the proper treatment of sick or disabled animals;
 - (ad) imposing any condition, limitation, or restriction on any licence, permit, or other authority under this Act and providing for the cancellation of any such licence, permit, or other authority for any contravention of or failure to comply with any such condition, limitation, or restrictions;
 - (ae) prohibiting or regulating the tethering or restraining of any animal being kept in confinement by the holders of licences and authorities under this Act;

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- (af) the inspection by authorised officers of any wildlife park, animal exhibition, zoo, wildlife farm, or other place where wildlife is likely to be kept in confinement; S. 87(1)(af) amended by No. 41/1987 s. 103(Sch. 4 item 76.82).
- (ag) prescribing the royalties to be paid in respect of the taking of wildlife and the sale of skins, flesh, or carcasses thereof and the payment of such royalties;
- (ah) fees to be charged under this Act for any purposes not expressly provided for and for services rendered by officers of the Department within the meaning of the **Conservation, Forests and Lands Act 1987**; S. 87(1)(ah) amended by No. 41/1987 s. 103(Sch. 4 item 76.84).
- (aha) fees to be charged for permits issued under Part X and for variations of permits issued under Part X; S. 87(1)(aha) inserted by No. 87/1997 s. 40(1)(n).
- (ahb) ballots under section 22A(4A), including fees to enter a ballot; S. 87(1)(ahb) inserted by No. 87/1997 s. 40(1)(n).
- (ahc) prescribing persons or classes of persons who are exempted from the operation of sections 41, 42, 43, 44, 45, 46 and 47 and conditions to which any such exemption is subject; S. 87(1)(ahc) inserted by No. 87/1997 s. 40(1)(n).
- (ahd) the keeping of records about the taking, destroying, buying, selling, acquiring, receiving, disposing of, keeping, possessing, controlling, breeding, processing, displaying, taking samples from or experimenting on wildlife by persons who are exempt from the requirement to hold a licence or authorisation under this Act to do so; S. 87(1)(ahd) inserted by No. 87/1997 s. 40(1)(n).
- (ai) prescribing penalties not exceeding 50 penalty units for any contravention of or failure to comply with the regulations; S. 87(1)(ai) amended by No. 70/1990 s. 12(1)(w).
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- (aj) generally for prescribing any matter or thing which is authorized or required by this Act to be prescribed for carrying this Act into effect.
- S. 87(2)**
amended by
No. 87/1997
s. 42(Sch.
item 47(c)).
- (2) Any such regulation may be general in application or may be restricted in operation as to wildlife (whether by reference to kind or taxon or to sex), time, place, persons, equipment, hunting guns, or circumstances whether any such wildlife, time, place, persons, equipment, hunting guns, or circumstances is determined or ascertainable before at or after the making of the regulation.
- S. 87(2A)**
inserted by
No. 87/1997
s. 40(2).
- (2A) In fixing fees in any such regulations, the Governor in Council may provide for all or any of the following matters—
- (a) maximum or minimum fees;
 - (b) maximum and minimum fees;
 - (c) the reduction, waiver or refund, in whole or in part, of the fees.
- S. 87(2B)**
inserted by
No. 87/1997
s. 40(2).
- (2B) The regulations may provide in specified cases or classes of cases for the exemption of persons or things or classes of persons or things from any of the provisions of the regulations whether unconditionally or on specified conditions and either wholly or to such extent as is specified in the regulations.
- S. 87(3)**
amended by
No. 87/1997
s. 42(Sch.
item 47(e)).
- (3) Unless otherwise expressly provided the provisions of this Act and the regulations with respect to wildlife or any specified kind or taxon of wildlife shall be deemed to apply to both sexes of wildlife or to both sexes of that kind or taxon of wildlife.
- (4) Forms prescribed by the regulations or forms to the like effect shall be sufficient for the purposes of this Act or the regulations.
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- (4A) Regulations made under this section may be disallowed in whole or in part by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**. **S. 87(4A) inserted by No. 70/1990 s. 10.**
- (4B) Disallowance under subsection (4A) is deemed to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**. **S. 87(4B) inserted by No. 70/1990 s. 10.**
- (5) Regulations under this Act may revoke or vary any proclamation or Order made by the Governor in Council under the provisions of the **Game Act 1958** or any corresponding previous enactment or any proclamation or regulation made under section 9 or 10 of the **Protection of Animals Act 1966**.
- (6) Regulations made under this Act may define the limits of any wildlife habitat, sanctuary, reserve, or other locality for the purposes of this Act.
- (7) Regulations made under this Act may confer a discretionary authority or impose a duty on the Minister, the Secretary, an authorised officer or a person employed under the **Public Administration Act 2004** in the administration of this Act. **S. 87(7) inserted by No. 70/1990 s. 11, amended by Nos 87/1997 s. 40(3), 46/1998 s. 7(Sch. 1), 108/2004 s. 117(1) (Sch. 3 item 235).**
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Pt 12
(Heading and
ss 88, 89)
inserted by
No. 87/1997
s. 41.

PART XII—TRANSITIONAL

S. 88
inserted by
No. 87/1997
s. 41.

88 Permits and authorities

On and from the coming into operation of this section, a permit or authority which—

- (a) has been given or issued under section 4, 4A, 5, 6 or 7 of this Act as in force immediately before the commencement of section 6 of the **Wildlife (Amendment) Act 1997**; and
- (b) is in force immediately before the commencement of that section—

is deemed to—

- (c) be an authorisation issued under Part IIIA of this Act and, except as is otherwise provided for in this section, the provisions of Part IIIA apply accordingly; and
- (d) continue in force, unless sooner suspended or cancelled in accordance with the provisions of Part IIIA, until the date on which the permit or authority would have expired if the **Wildlife (Amendment) Act 1997** had not been enacted.

S. 89
inserted by
No. 87/1997
s. 41.

89 Conditions on licences etc.

On and from the commencement of this section—

- (a) a wildlife licence—
 - (i) given or issued under this Act as in force immediately before the commencement of section 8 of the **Wildlife (Amendment) Act 1997**; and

(ii) which is in force immediately before the commencement of that section—

is deemed to be subject to the condition set out in section 22(3)(c);

(b) any authority to which section 88 applies is deemed to be subject to the condition set out in section 28A(4).

**90 Transitional provision, dolphin swim tour permits—
Wildlife (Amendment) Act 2002**

S. 90
inserted by
No. 3/2002
s. 19.

(1) On and from the commencement of section 9 of the **Wildlife (Amendment) Act 2002**, a dolphin swim tour permit in force immediately before that commencement is—

(a) deemed to be a whale swim tour permit, and, except as otherwise provided for in this section, Part X applies accordingly; and

(b) deemed to continue in force, unless sooner suspended or cancelled in accordance with Part X, until the date on which the permit would have expired if section 9 of the **Wildlife (Amendment) Act 2002** had not been enacted.

(2) In this section *dolphin swim tour permit* means a permit—

(a) that is issued under section 78(1)(g) as in force immediately before the commencement of section 9 of the **Wildlife (Amendment) Act 2002**; and

(b) that authorised the conduct of activities involving persons being in the water for the purpose of observing or swimming with dolphins.

s. 91

S. 91
inserted by
No. 3/2002
s. 19.

91 Transitional provision, dolphin sightseeing permits—Wildlife (Amendment) Act 2002

- (1) On and from the commencement of section 9 of the **Wildlife (Amendment) Act 2002**, a dolphin sightseeing permit in force immediately before that commencement is—
 - (a) deemed to be a whale sightseeing permit, and, except as otherwise provided for in this section, Part X applies accordingly; and
 - (b) deemed to continue in force, unless sooner suspended or cancelled in accordance with Part X, until the date on which the permit would have expired if section 9 of the **Wildlife (Amendment) Act 2002** had not been enacted.
- (2) In this section *dolphin sightseeing permit* means a permit issued under section 78(1)(g) as in force immediately before the commencement of section 9 of the **Wildlife (Amendment) Act 2002** that—
 - (a) authorised the conduct of activities involving persons being on vessels for the purpose of observing dolphins; and
 - (b) did not authorise the conduct of activities involving persons being in the water for the purpose of observing or swimming with dolphins.

S. 92
inserted by
No. 9/2003
s. 17.

92 Transitional provision—Control of Weapons and Firearms Acts (Search Powers) Act 2003

Section 60A(1) as in force immediately before the commencement of section 16 of the **Control of Weapons and Firearms Acts (Search Powers) Act 2003** continues to apply to demands made under section 60A(1) before that commencement.

ENDNOTES

1. General Information

The **Wildlife Act 1975** was assented to on 16 May 1975 and came into operation as follows:

Sections 1, 3–13, 16–19, 29–33, 36–40, 48–52, 57, 59–64, 66, 67, 75 and 76 on 13 August 1975: Government Gazette 13.8.75 p. 2925;

Sections 46, 47, 53, 55, 58, 65, 68–70 on 7 December 1976: Government Gazette 8.12.76 p. 3489;

Sections 2, 14, 15, 20–28, 34, 35, 41–45, 54, 56, 71–74 on 31 May 1980: Government Gazette 16.4.80 p. 1098.

2. Table of Amendments

This Version incorporates amendments made to the **Wildlife Act 1975** by Acts and subordinate instruments.

Crown Land Reserves Act 1978, No. 9212/1978

Assent Date: 19.12.78
Commencement Date: 1.3.79: Government Gazette 21.2.79 p. 441
Current State: All of Act in operation

Protection of Animals (Amendment) Act 1980, No. 9412/1980

Assent Date: 20.5.80
Commencement Date: 1.7.80: Government Gazette 25.6.80 p. 2122
Current State: All of Act in operation

Wildlife (Amendment) Act 1980, No. 9505/1980 (as amended by No. 9549 (as amended by No. 9902))

Assent Date: 23.12.80
Commencement Date: 7.1.81: Government Gazette 7.1.81 p. 17
Current State: All of Act in operation

Statute Law Revision Act 1981, No. 9545/1981

Assent Date: 19.5.81
Commencement Date: 19.5.81: subject to s. 2(2)
Current State: All of Act in operation

Wildlife (Licences) Act 1981, No. 9578/1981

Assent Date: 29.9.81
Commencement Date: 29.9.81
Current State: All of Act in operation

Wildlife (Fees) Act 1981, No. 9643/1981

Assent Date: 15.12.81
Commencement Date: 10.3.82: Government Gazette 10.3.82 p. 671
Current State: All of Act in operation

Wildlife (Protection of Whales) Act 1981, No. 9694/1981 (as amended by Nos 9861, 10087)

Assent Date: 5.1.82
Commencement Date: 30.4.83: Government Gazette 27.4.83 p. 945
Current State: All of Act in operation

Wildlife (Fees) Act 1982, No. 9851/1982

Assent Date: 5.1.83
Commencement Date: 10.3.83: s. 1(3)
Current State: All of Act in operation

Public Account (Trust Funds) Act 1982, No. 9861/1982

Assent Date: 5.1.83
Commencement Date: 12.1.83: Government Gazette 21.1.83 p. 81
Current State: All of Act in operation

Wildlife Act 1975
No. 8699 of 1975

Endnotes

Statute Law Revision Act 1983, No. 9902/1983

Assent Date: 15.6.83
Commencement Date: 15.6.83: subject to s. 2(2)
Current State: All of Act in operation

Prevention of Cruelty to Animals Act 1986, No. 46/1986

Assent Date: 20.5.86
Commencement Date: S. 5(1) on 4.3.87: Government Gazette 7.1.87 p. 5
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Conservation, Forests and Lands Act 1987, No. 41/1987

Assent Date: 19.5.87
Commencement Date: S. 103(Sch. 4 items 76.1–76.84) on 1.7.87: Government Gazette 24.6.87 p. 1694
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

National Parks and Wildlife (Amendment) Act 1988, No. 7/1988 (as amended by No. 90/1989)

Assent Date: 19.4.88
Commencement Date: Ss 8, 9 on 21.6.88: Special Gazette (No. 52) 21.6.88 p. 1
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Flora and Fauna Guarantee Act 1988, No. 47/1988

Assent Date: 24.5.88
Commencement Date: Ss 1–4, 8, 11, 69 on 24.5.88: s. 2(1); rest of Act on 25.9.88: Special Gazette (No. 81) 25.9.88 p. 1
Current State: All of Act in operation

Local Government (Consequential Provisions) Act 1989, No. 12/1989

Assent Date: 9.5.89
Commencement Date: S. 4(1)(Sch. 2 item 134.1) on 1.11.89: Government Gazette 1.11.89 p. 2798
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Prescribed Weapons Act 1989, No. 39/1989 (as amended by No. 24/1990)

Assent Date: 6.6.89
Commencement Date: 1.9.89: Government Gazette 30.8.89 p. 2210
Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Endnotes

Conservation, Forests and Lands Acts (Amendment) Act 1989, No. 90/1989

Assent Date: 5.12.89
Commencement Date: Ss 16, 17 on 5.12.89: s. 2(1); ss 11–14, 18(1) on 3.10.90: Special Gazette (No. 47) 3.10.90 p. 1
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Wildlife (Amendment) Act 1990, No. 70/1990

Assent Date: 4.12.90
Commencement Date: S. 12 on 25.9.91: Government Gazette 25.9.91 p. 2650; rest of Act (*except* s. 6(3)–(5)) on 1.7.92: Government Gazette 1.7.92 p. 1629; s. 6(3)–(5) on 28.2.02: Government Gazette 28.2.02 p. 318
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Mineral Resources Development Act 1990, No. 92/1990

Assent Date: 18.12.90
Commencement Date: S. 128(Sch. 1 item 33) on 6.11.91: Government Gazette 30.10.91 p. 2970
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Financial Management (Consequential Amendments) Act 1994, No. 31/1994

Assent Date: 31.5.94
Commencement Date: S. 3(1)(Sch. 1 item 65) on 7.7.94: Government Gazette 7.7.94 p. 1878—see **Interpretation of Legislation Act 1984**
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Catchment and Land Protection Act 1994, No. 52/1994

Assent Date: 15.6.94
Commencement Date: S. 97(Sch. 3 items 36.1–36.4) on 15.12.94: s. 2(3)
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Impounding of Livestock Act 1994, No. 89/1994

Assent Date: 6.12.94
Commencement Date: 6.12.94
Current State: All of Act in operation

Fisheries Act 1995, No. 92/1995

Assent Date: 5.12.95
Commencement Date: S. 163 on 25.1.96: Government Gazette 25.1.96 p. 148; s. 161(Sch. 2 item 5) on 1.4.98: Government Gazette 26.2.98 p. 418
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Wildlife Act 1975
No. 8699 of 1975

Endnotes

Zoological Parks and Gardens Act 1995, No. 106/1995

Assent Date: 5.12.95
Commencement Date: Ss 1, 2 on 5.12.95: s. 2(1); rest of Act on 30.4.96:
Special Gazette (No. 45) 30.4.96 p. 1
Current State: All of Act in operation

Legal Practice Act 1996, No. 35/1996

Assent Date: 6.11.96
Commencement Date: S. 453(Sch. 1 item 89) on 1.1.97: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Wildlife Act 1975**

Firearms Act 1996, No. 66/1996

Assent Date: 17.12.96
Commencement Date: Ss 207–208 on 29.4.97: Government Gazette 24.4.97
p. 921
Current State: This information relates only to the provision/s
amending the **Wildlife Act 1975**

Wildlife (Amendment) Act 1997, No. 87/1997

Assent Date: 2.12.97
Commencement Date: Ss 1, 2 on 2.12.97: s. 2(1); ss 30–38, 40 on 18.12.97:
Government Gazette 18.12.97 p. 3613; rest of Act on
21.3.98: Government Gazette 12.3.98 p. 520
Current State: All of Act in operation

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Wildlife Act 1975**

**Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998,
No. 52/1998**

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 107) on 1.7.98: Government
Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s
amending the **Wildlife Act 1975**

Wildlife (Amendment) Act 2002, No. 3/2002

Assent Date: 26.3.02
Commencement Date: Ss 3–19 on 1.11.02: Government Gazette 31.10.02
p. 2906
Current State: All of Act in operation

Control of Weapons and Firearms Acts (Search Powers) Act 2003, No. 9/2003

Assent Date: 6.5.03
Commencement Date: Ss 16–17 on 5.10.03: Government Gazette 2.10.03
p. 2538
Current State: This information relates only to the provision/s
amending the **Wildlife Act 1975**

Wildlife Act 1975
No. 8699 of 1975

Endnotes

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 235) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Statute Law Revision Act 2005, No. 10/2005

Assent Date: 27.4.05
Commencement Date: S. 3(Sch. 1 item 27) on 28.4.05: s. 2
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 118) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: S. 61(Sch. item 34) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Wildlife Act 1975**

3. Explanatory Details

¹ Ss 5–7:

S. 5 repealed by No. 87/1997 s. 6.

S. 6 amended by No. 7/1988 s. 9(b), repealed by No. 87/1997 s. 6.

S. 7 amended by Nos 9505 s. 4(1), 41/1987 s. 103(Sch. 4 item 76.6), 70/1990 ss 5(2), 14(b)(i)(ii), repealed by No. 87/1997 s. 6.

² Ss 17(2)–17A:

S. 17(2) amended by No. 90/1989 s. 14(a), repealed by No. 31/1994 s. 3(Sch. 1 item 65).

S. 17(3) repealed by No. 31/1994 s. 3(Sch. 1 item 65).

S. 17A inserted by No. 9505 s. 5(5), repealed by No. 9861 s. 3(1).

³ S. 17(2) (*repealed*): Section 4(3)(Sch. item (4)) of the **Prescribed Weapons Act 1989**, No. 39/1989, **substituted** the words "**Firearms Act 1958**" with the words "**Firearms and Other Weapons Act 1958**". This amendment was in operation from 1 September 1989 until the repeal of the **Prescribed Weapons Act 1989** by section 13(1) of the **Control of Weapons Act 1990**, No. 24/1990, on 31 August 1990.

Section 13(2) of the **Control of Weapons Act 1990**, No. 24/1990, reads as follows:

13 Repeals and savings

- (2) The amendments made to any other Act by the **Prescribed Weapons Act 1989** cease to have effect on the day on which subsection (1) comes into operation and on and after that day any Act amended by the **Prescribed Weapons Act 1989** has effect as if the **Prescribed Weapons Act 1989** had not been enacted except for the purposes of paragraphs (c) to (g) of section 14(2) of the **Interpretation of Legislation Act 1984**.

⁴ S. 19A (*repealed*): Section 43(1) of the **Impounding of Livestock Act 1994**, No. 89/1994 reads as follows:

43 Transitional provisions

- (1) The provisions of any Act repealed or amended by this Act continue to apply to any livestock (however designated) impounded before the commencement of this Act as if this Act had not repealed or amended those Acts.

⁵ S. 22: Section 13 of the **Wildlife (Amendment) Act 1990**, No. 70/1990 reads as follows:

13 Transitional

Any licence issued under section 22 of the Principal Act and in force immediately before the commencement of this section shall subject to the Principal Act and regulations made under that Act continue in force for the unexpired period of that licence.

⁶ S. 22A: Section 13(2) of the **Conservation, Forests and Lands Acts (Amendment) Act 1989**, No. 90/1989 reads as follows:

13 New section 22A inserted and transitional provisions

- (2) Any authority to hunt issued under section 22AA(4)(c) or 22A(1)(d) of the **Firearms Act 1958** and in force immediately before the commencement of this section shall be deemed to be a game licence issued under section 22A of the Principal Act and shall subject to that Act and regulations and notices made under that Act, continue in force for the unexpired period of the authority.

⁷ S. 59(2)–(4):

S. 59(2) amended by Nos 9549 s. 2(1)(Sch. item 253), 41/1987 s. 103(Sch. 4 item 76.57), substituted by No. 57/1989 s. 3(Sch. item 219.2), repealed by No. 87/1997 s. 21(2).

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S. 59(3) amended by No. 41/1987 s. 103(Sch. 4 item 76.57), repealed by No. 87/1997 s. 21(2).

S. 59(4) amended by No. 41/1987 s. 103(Sch. 4 item 76.57), repealed by No. 87/1997 s. 21(2).