

AUSTRALIAN CAPITAL TERRITORY

No. 20 of 1980

NATURE CONSERVATION ORDINANCE 1980

TABLE OF PROVISIONS

PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Repeal
4. Crown to be bound
5. Interpretation
6. Application of Careless Use of Fire Ordinance
7. The Conservator of Wildlife
8. Powers of Conservator
9. Resignation of Conservator
10. Termination of office of Conservator
11. Conservation officers
12. Return of identity card
13. Exercise of powers
14. Delegation
15. The Nature Conservation Service

PART II THE NATURE CONSERVATION ADVISORY COUNCIL

16. Establishment and function of Council
17. Membership of Council
18. Chairman of Council
19. Vacation of office of Chairman
20. Fees and allowances
21. Resignation
22. Termination of appointment
23. Acting Chairman and members
24. Meetings

PART III - PROTECTION OF ANIMALS

Division 1—Permits

25. Killing of animals
26. Taking of animals
27. Keeping of animals
28. Selling of animals
29. Import and export of animals
30. Dealing in live fish

Division 2—Licences

31. Taking of animals
32. Selling of animals
33. Import and export of animals
34. Dealing in live fish

TABLE OF PROVISIONS—continued

Division 3—Importation and exportation of animals and fish

- Section
35. Interpretation
36. Inspection of animals after importation
37. Sale of animals after importation
38. Inspection of animals prior to exportation

Division 4—General

39. Animals not to be released from captivity
40. Escape of animals
41. Special safeguards applicable to birds

PART IV—PROTECTION OF PLANTS

42. Picking of plants
43. Preservation of timber
44. Protection of plants generally
45. Attachment of tags to plants

PART V—PROTECTION OF WILDLIFE GENERALLY

46. Entry onto land for purpose of carrying out examination
47. Conservator may give advice regarding conservation
48. Compliance with advice of Conservator
49. Diseased wildlife
50. Matters to be taken into account prior to issuing notices

PART VI—RESERVED AREAS AND WILDERNESS ZONES

51. Declaration of reserved areas
52. Declaration of wilderness zones
53. Access to reserved area may be prohibited or restricted
54. Erection of, and compliance with, signs
55. Activities prohibited in reserved areas
56. Activities prohibited in reserved areas except with consent of Conservator
57. Certain animals and plants not to be taken into reserved areas
58. Requirements by conservation officers
59. Offences in wilderness zone
60. Compensation

PART VII—PERMITS AND LICENCES

61. Application for permit or licence
62. Grant of permit
63. Grant of licence
64. Refusal of permit or licence
65. Matters to be taken into account in determining applications
66. Contents of permits and licences
67. Nature of rights conferred by permits and licences
68. Duration of permits and licences
69. Cancellation of permits and licences
70. Production of permits and licences
71. Records to be kept by holders of permits
72. Records to be kept by holders of licences
73. Production of records

PART VIII—REVIEW BY THE ADMINISTRATIVE APPEALS TRIBUNAL

74. Review of decisions of Conservator and conservation officers

TABLE OF PROVISIONS—continued**PART IX—MISCELLANEOUS**

Section	
75.	Royalty
76.	Certain provisions not to apply to conservation officers
77.	Power of entry and search
78.	Power to require person to state name, & c.
79.	Seizure and forfeiture of animals and plants
80.	Court may order release of animals in special circumstances
81.	Evidence
82.	Manner of giving notices
83.	Annual report
84.	Regulations

PART X- TRANSITIONAL

85.	Transitional
-----	--------------

SCHEDULE 1

Ordinances repealed

SCHEDULE 2

Restricted animal wildlife

SCHEDULE 3

Restricted plant wildlife

SCHEDULE 4

Protected fish and invertebrates

SCHEDULE 5

Exempt animals, being animals that are wildlife

SCHEDULE 6

Exempt animals, being animals that are not wildlife

AUSTRALIAN CAPITAL TERRITORY

No. 20 of 1980

An Ordinance to make provision for the protection and conservation of wildlife, and for the reservation of areas for those purposes

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this eighth day of July 1980.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

R. ELLICOTT
Minister of State for the Capital Territory

NATURE CONSERVATION ORDINANCE 1980

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Nature Conservation Ordinance 1980*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for the Capital Territory by notice in the *Gazette*.

Repeal

3. The Ordinances specified in Schedule 1 are repealed.

Crown to be bound

4. This Ordinance binds the Crown.

Interpretation

5. In this Ordinance, unless the contrary intention appears—

“animal” means any member, alive or dead, of the animal kingdom (other than man, invertebrates or fish) and includes—

(a) eggs or parts of eggs;

- (b) the skin, feathers, horns, shell, or any part of the skin or shell, of an animal;
 - (c) any other part of an animal; and
 - (d) the fish and invertebrates specified in Schedule 4;
- “Chairman” means the Chairman of the Council;
- “conservation officer” means a person appointed under sub-section 11 (1) to be a conservation officer;
- “Conservator” means the Conservator of Wildlife appointed under section 7;
- “Council” means the Nature Conservation Advisory Council of the Australian Capital Territory established by section 16;
- “Department” means the Department of State administered by the Minister of State for the time being administering this Ordinance;
- “fish” includes the eggs of fish;
- “licence” means a licence granted under section 63;
- “motor vehicle” has the same meaning as in the *Motor Traffic Ordinance 1936*;
- “noxious animal” means an animal that has been declared under the *Rabbit Destruction Ordinance 1919* to be a noxious animal;
- “noxious weed” means a plant that has been declared under the *Noxious Weeds Ordinance 1921* to be a noxious weed;
- “permit” means a permit granted under section 62;
- “pick”, in relation to a plant, means gather, pluck, cut, pull up, take, dig up or remove the plant;
- “plant” means—
- (a) any member, alive or dead, of the plant kingdom or the fungus kingdom;
 - (b) any part of such a member; and
 - (c) seeds;
- “reserved area” means an area declared under section 51 to be a reserved area;
- “restricted animal wildlife” means an animal specified in Schedule 2;
- “restricted plant wildlife” means a plant specified in Schedule 3;
- “seed” includes the fruit or spore of a plant;
- “sell” includes expose for sale;
- “statutory authority” means an authority established by or under a law of the Commonwealth or of the Territory;
- “timber” means all timber, whether fallen or standing, from a tree that is wildlife, other than a tree seedling;
- “tree seedling” means a tree that is not more than 1 metre high;
- “Tribunal” means the Administrative Appeals Tribunal established by the *Administrative Appeals Tribunal Act 1975*;
- “unleased land” does not include—

- (a) land held in fee simple; or
- (b) land that is occupied by a person in pursuance of a licence granted to him by the Commonwealth;

“vessel” includes hovercraft;

“wilderness zone” means an area declared under section 52 to be a wilderness zone;

“wildlife” means—

- (a) animals and plants that are indigenous to Australia;
- (b) animals and plants that are indigenous to the Australian coastal sea or the sea-bed and sub-soil beneath that sea;
- (c) animals and plants that are indigenous to the continental shelf of Australia or the superjacent waters;
- (d) migratory animals that periodically or occasionally visit Australia, the Australian coastal sea or the sea over the continental shelf of Australia; and
- (e) animals and plants of a kind introduced into Australia, directly or indirectly, by Aboriginals before the year 1788,

other than noxious animals or noxious weeds;

“working day” means a day other than a Saturday, Sunday or public holiday.

Application of Careless Use of Fire Ordinance

6. This Ordinance shall have effect subject to the *Careless Use of Fire Ordinance* 1936.

The Conservator of Wildlife

7. (1) There shall be a Conservator of Wildlife who shall be appointed by the Minister.

(2) The Conservator shall be appointed for such period, not exceeding 7 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(3) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Conservator, and a person shall not be appointed or re-appointed as the Conservator for a period that extends beyond the date on which he will attain the age of 65 years.

Powers of Conservator

8. In addition to the powers conferred on him under any other provision of this Ordinance, the Conservator has, and may exercise, any of the powers of a conservation officer.

Resignation of Conservator

9. The Conservator may resign his office by writing signed by him and delivered to the Minister.

Termination of office of Conservator

10. (1) The Minister may terminate the appointment of the Conservator by reason of misbehaviour or physical or mental incapacity.

(2) If the Conservator—

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(b) is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Council,

the Minister shall terminate his appointment.

Conservation officers

11. (1) The Minister may, by instrument in writing, appoint such persons as he considers necessary to be conservation officers for the purposes of this Ordinance.

(2) The Minister shall cause to be issued to each conservation officer an identity card that specifies the name of the officer and the appointment that he holds and to which is attached a recent photograph of the officer.

Return of identity card

12. A conservation officer shall, upon ceasing to be such an officer, return his identity card to the Minister.

Penalty: \$100.

Exercise of powers

13. The Conservator or a conservation officer, in exercising a power conferred on him under this Ordinance, other than a power conferred by Part VII, may exercise the power with such assistance as he considers necessary.

Delegation

14. (1) The Conservator may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a conservation officer any of his powers under this Ordinance, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Ordinance, be deemed to have been exercised by the Conservator.

(3) A delegation under this section does not prevent the exercise of a power by the Conservator.

The Nature Conservation Service

15. (1) There is established by this Ordinance a Service by the name of the Nature Conservation Service.

(2) The Nature Conservation Service shall consist of the conservation officers appointed under sub-section 11 (1).

(3) It is the function of the Nature Conservation Service to assist the Conservator in the performance of his functions and the exercise of his powers under this Ordinance.

PART II—THE NATURE CONSERVATION ADVISORY COUNCIL

Establishment and function of Council

16. (1) There is established by this Ordinance a Council by the name of the Nature Conservation Advisory Council of the Australian Capital Territory.

(2) The function of the Council is to make recommendations to the Minister on all aspects of nature conservation in the Territory.

Membership of Council

17. (1) The Council shall consist of—

- (a) the Conservator;
- (b) not less than 3, nor more than 8, persons, being persons who—
 - (i) are residents of the Territory; and
 - (ii) are not officers or employees of the Department; and
- (c) 2 persons who are officers or employees of the Department.

(2) The members of the Council referred to in paragraphs (1) (b) and (c) shall be appointed by the Minister.

(3) Subject to this Ordinance, a member of the Council appointed under paragraph (1) (b) or (c) holds office for such period, not exceeding 3 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(4) The performance of the functions or the exercise of the powers of the Council is not affected by reason only of there being a vacancy or vacancies in the membership of the Council.

Chairman of Council

18. The Minister shall appoint the Conservator or one of the members referred to in paragraph 17 (1) (c) to be the Chairman of the Council.

Vacation of office of Chairman

19. Where the person holding office as Chairman ceases to be a member of the Council, he shall cease to be the Chairman of the Council.

Fees and allowances

20. The Council is a prescribed authority for the purposes of the *Remuneration Ordinance 1976*.

Resignation

21. A member of the Council, other than the Conservator, may resign his office by writing signed by him and delivered to the Minister.

Termination of appointment

22. (1) The Minister may terminate the appointment of a member of the Council, other than the Conservator, by reason of misbehaviour or physical or mental incapacity.

(2) If a member of the Council, other than the Conservator—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (b) is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Council,

the Minister shall terminate the appointment of the member.

Acting Chairman and members

23. (1) The Minister may appoint a person, including a member of the Council, to act as Chairman—

- (a) during a vacancy in the office of Chairman, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Chairman is absent from duty or from the Territory or, for any other reason, is unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) Where a person is acting as Chairman in accordance with paragraph (1) (b) and the office of Chairman becomes vacant while that person is so acting, then, subject to sub-section (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(4) The Minister may appoint a person to act as a member of the Council (otherwise than as Chairman) -

- (a) during a vacancy in an office of member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when a member is acting as Chairman, is absent from duty or from the Territory or, for any other reason, is unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(5) The Minister may at any time terminate the appointment of a person appointed to act in accordance with sub-section (1) or (4).

(6) The appointment of a person under this section ceases to have effect if he resigns the appointment by writing signed by him and delivered to the Minister.

(7) While a person is acting as Chairman or as a member of the Council in accordance with this section, he has, and may exercise, all the powers and shall perform all the functions of the Chairman or a member, as the case may be, and, if he is not a member, shall be deemed to be a member for the purposes of section 24.

(8) The validity of anything done by a person purporting to act in accordance with this section shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

Meetings

24. (1) The Chairman shall convene such meetings of the Council as he considers necessary for the performance of its function, but so that an interval longer than 6 months does not occur between any 2 consecutive meetings.

(2) The Chairman shall, on receipt of a request in writing signed by not less than 2 members of the Council, convene a meeting of the Council.

(3) The Chairman shall preside at all meetings of the Council at which he is present.

(4) At a meeting of the Council at which the Chairman is not present, the members present shall elect one of their number to preside at the meeting.

(5) At a meeting of the Council, a quorum is constituted by a majority of the members of the Council for the time being holding office.

(6) A question arising at a meeting of the Council shall be determined by a majority of votes of the members present and voting.

(7) The person presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(8) In this section, a reference to the Chairman shall, if a person has been appointed to act as Chairman, be read as including a reference to the person so acting.

PART III—PROTECTION OF ANIMALS

Division 1—Permits

Killing of animals

25. (1) A person shall not, except in accordance with a permit held by him, kill an animal that is wildlife.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to or in relation to the killing of an animal in circumstances in which the animal constitutes a danger to a person.

Taking of animals

26. (1) A person shall not, except in accordance with a permit held by him, take an animal that is wildlife.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to or in relation to—

- (a)** the taking of an animal by a person who is the holder of a licence by virtue of which the taking is authorized; or
- (b)** the taking of an animal that is suffering from a disease, illness or injury for the purpose of treating the animal or delivering it to a conservation officer.

Keeping of animals

27. (1) A person shall not, except in accordance with a permit held by him, keep an animal, whether wildlife or not, other than an animal specified in Schedule 5 or 6.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to or in relation to—

- (a)** the keeping of an animal by a person who is the holder of a permit authorizing him—
 - (i)** to take that animal;
 - (ii)** to sell that animal; or
 - (iii)** to import that animal into, or export that animal from, the Territory; or
- (b)** the keeping of an animal by a person who is the holder of a licence authorizing him to sell that animal.

(3) Sub-section (1) does not apply to or in relation to an animal kept by a person if—

- (a)** the animal is the progeny of an animal in respect of which the person has or had lawful possession; or
- (b)** the animal is suffering from a disease, illness or injury and is in the possession of the person for the purpose of receiving treatment or being delivered to a conservation officer.

Selling of animals

28. (1) A person shall not, except in accordance with a permit held by him, sell an animal, whether wildlife or not, other than an animal specified in Schedule 5 or 6.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to or in relation to the sale of an animal by a person who is the holder of a licence authorizing him to sell that animal.

Import and export of animals

29. (1) A person shall not, except in accordance with a permit held by him, import into, or export from, the Territory an animal, whether wildlife or not, other than an animal specified in Schedule 5 or 6.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to or in relation to the importation into, or exportation from, the Territory of an animal by a person who is the holder of a licence by virtue of which that importation or exportation, as the case may be, is authorized.

Dealing in live fish

30. (1) A person shall not, except in accordance with a permit held by him—

- (a) sell live fish; or
- (b) import live fish into, or export live fish from, the Territory.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to or in relation to—

- (a) the sale of live fish by a person who is the holder of a licence authorizing him to sell the fish;
- (b) the importation into, or exportation from, the Territory of live fish by a person who is the holder of a licence by virtue of which that importation, or exportation, as the case may be, is authorized; or
- (c) the sale of live fish, or the importation into, or exportation from, the Territory of live fish, by a person who took the fish in pursuance of a professional fisherman's licence held by him under the *Fishing Ordinance 1967*.

Division 2—Licences

Taking of animals

31. A person shall not, except in accordance with a licence held by him, take, for the purposes of sale or trade, an animal that is wildlife.

Penalty: \$1,000, or imprisonment for 6 months, or both.

Selling of animals

32. (1) A person shall not, except in accordance with a licence authorizing him to sell an animal—

- (a) sell an animal, whether wildlife or not; or
- (b) keep, for the purposes of sale or trade, an animal, whether wildlife or not.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to or in relation to an animal specified in Schedule 5 or 6.

(3) Sub-section (1) does not apply to or in relation to—

- (a) the sale of an animal; or
- (b) the keeping of an animal for the purposes of sale or trade,

by a person who is the holder of a permit authorizing him to sell that animal.

Import and export of animals

33. (1) A person shall not, except in accordance with a licence held by him, import into, or export from, the Territory, for the purposes of sale or trade, an animal, whether wildlife or not, other than an animal specified in Schedule 5 or 6.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to or in relation to the importation into, or exportation from, the Territory of an animal for the purposes of sale or trade by a person who is the holder of a permit by virtue of which that importation or exportation, as the case may be, is authorized.

Dealing in live fish

34. (1) A person shall not, except in accordance with a licence held by him—

- (a) sell live fish; or
- (b) import live fish into, or export live fish from, the Territory for the purposes of sale or trade.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to or in relation to—

- (a) the sale of live fish by a person who is the holder of a permit by virtue of which that sale is authorized;
- (b) the importation into, or exportation from, the Territory of live fish for the purposes of sale or trade by a person who is the holder of a permit by virtue of which that importation, or exportation, as the case may be, is authorized; or
- (c) the sale of live fish, or the importation into, or exportation from, the Territory of live fish, by a person who took the fish in pursuance of a professional fisherman's licence held by him under the *Fishing Ordinance* 1967.

Division 3—Importation and exportation of animals and fish

Interpretation

35. In this Division, “animal” includes live fish.

Inspection of animals after importation

36. (1) Where a person, in accordance with a licence held by him, imports an animal into the Territory, he shall, not later than the working day next following the day of importation, notify the Conservator of the importation and of the place at which the animal may be inspected.

Penalty: \$1,000.

(2) Where a conservation officer inspects an animal in pursuance of this section, the conservation officer shall—

(a) issue to the person a certificate of compliance in respect of the animal if he is satisfied—

(i) that the animal was imported into the Territory by the person in accordance with a licence held by him;

(ii) that the condition of the animal is such that it would not, upon being introduced into the Territory, be likely to constitute a threat to the continuance of a species of wildlife or fish already found in the Territory; and

(iii) where the person proposes to sell the animal in pursuance of a licence held by him—that the animal is of a species that the person is, by virtue of the licence, permitted to sell; or

(b) if he is not so satisfied—refuse to issue to the person a certificate of compliance in respect of the animal.

(3) Where a conservation officer refuses to issue to a person a certificate of compliance, he shall notify the person in writing of the refusal.

Sale of animals after importation

37. Where a person, in accordance with a licence held by him, imports an animal into the Territory, he shall not, notwithstanding that he is the holder of a licence authorizing him to do so, sell the animal unless—

(a) he holds a certificate of compliance issued under sub-section 36 (2) in respect of the animal; or

(b) he has complied with sub-section 36 (1), not less than 2 working days have elapsed since such compliance and—

(i) the animal has not been inspected by a conservation officer; or

(ii) the animal has been inspected by a conservation officer but the conservation officer has not given to the person a notice under sub-section 36 (3).

Penalty: \$1,000.

Inspection of animals prior to exportation

38. (1) A person who holds a licence authorizing him to export from the Territory an animal that is wildlife shall not export the animal unless—

- (a) at least 2 working days before the day of the proposed exportation, he notifies the Conservator of the proposed exportation and of the place at which the animal may be inspected; and
- (b) a conservation officer has inspected the animal and issued to the person a certificate of compliance stating that the person is authorized by the licence to export the animal.

Penalty: \$1,000.

(2) Nothing in sub-section (1) applies to or in relation to a person who notifies the Conservator as required by that sub-section if—

- (a) a conservation officer does not, before the day of the proposed exportation, inspect the animal; or
- (b) a conservation officer, although having inspected the animal, does not, before the day of the proposed exportation, issue to the person a notice of refusal to issue a certificate of compliance.

Division 4—General**Animals not to be released from captivity**

39. (1) Subject to this section, a person shall not, without the consent in writing of the Conservator, release an animal from captivity.

Penalty: \$400.

(2) Sub-section (1) does not apply to or in relation to a person who—

- (a) finds and takes an animal that is wildlife, being an animal that is suffering from a disease, illness or injury; and
- (b) within 48 hours of having taken the animal—
 - (i) treats the animal; and
 - (ii) releases it within 500 metres of the place where it was taken.

Escape of animals

40. Where an animal, being an animal that is wildlife, in the possession of a person escapes—

- (a) the interest held by any person in the animal is divested from that person; and
- (b) any permit or licence held by a person in respect of the animal ceases to apply to the animal.

Special safeguards applicable to birds

41. (1) Notwithstanding section 79, where—

- (a) a person is found by a conservation officer to be in possession of a bird that is wildlife, not being—
 - (i) a bird that is on premises occupied by the person; or

- (ii) a bird specified in Schedule 5;
- (b) the conservation officer has reasonable grounds for suspecting that the bird is in the possession of the person in contravention of this Ordinance;
- (c) the person does not, upon being requested to do so by the conservation officer, produce for inspection by the conservation officer a permit or licence indicating that the person is entitled to have the bird in his possession; and
- (d) the conservation officer is of the opinion that—
 - (i) the bird is suffering pain or is in a state of distress; or
 - (ii) the keeping of the bird in captivity, or in captivity of the kind in which it is being kept by the person, is likely to endanger the life of, or to cause distress or otherwise be harmful to, the bird,the conservation officer may, subject to sub-section (2), seize the bird and, if the conservation officer is of the opinion that the welfare of the bird can be best provided for by releasing the bird from captivity, he may release it.

(2) A conservation officer is not entitled to seize a bird under sub-section (1) if, upon being requested by the person in whose possession the bird is found to produce, for inspection by that person, the identity card issued to the conservation officer under sub-section 11 (2), the conservation officer fails to do so.

PART IV—PROTECTION OF PLANTS

Picking of plants

42. (1) Subject to this section, a person shall not, except in accordance with a permit or licence held by him—

- (a) pick a plant that is wildlife that is growing on unleased land; or
- (b) pick a plant that is restricted plant wildlife.

Penalty: \$200.

(2) Sub-section (1) does not apply to or in relation to a person who—

- (a) being the occupier of land, cultivates or takes seeds from a plant that is restricted plant wildlife growing on the land;
- (b) being the occupier of land, picks a plant that is restricted plant wildlife growing on the land, being a plant that the person planted or caused to be planted;
- (c) takes seeds from a plant that is wildlife (other than a plant that is restricted plant wildlife) that is growing on unleased land;
- (d) being the occupier of land in the City Area, picks a plant that is restricted plant wildlife growing on the land;
- (e) being the occupier of land outside the City Area, picks a plant that is restricted plant wildlife in the course of preparing or using the land for primary production; or
- (f) being an officer or employee of the Department engaged in the administration of parks and gardens in the City Area, picks a plant

that is wildlife in the performance of his duties as such an officer or employee.

(3) Nothing in sub-section (1) applies to or in relation to timber.

(4) Where, in a prosecution for an offence against sub-section (1), the plant to which the offence relates is seaweed, it is a defence to the prosecution that the quantity of seaweed picked by the defendant was not reasonably sufficient to enable the seaweed to be used for commercial purposes.

(5) In sub-section (2), "cultivates", in relation to a plant, means trims, lops or digs up the plant—

- (a) for a purpose reasonably beneficial to the plant, or another plant, being restricted plant wildlife, growing in close proximity to the first-mentioned plant; or
- (b) for the purpose of propagating the plant.

Preservation of timber

43. (1) Sub-section (2) applies to the following land:

- (a) land held under lease from the Commonwealth, being land outside the City Area;
- (b) land that is occupied by a person in pursuance of a licence granted to him by the Commonwealth; and
- (c) unleased land.

(2) Subject to this section, a person shall not—

- (a) damage or destroy timber on land to which this sub-section applies; or
- (b) except in accordance with a permit or licence held by him—
 - (i) fell timber on; or
 - (ii) remove timber from,
 land to which this sub-section applies.

Penalty: \$500.

(3) Sub-section (2) does not apply to or in relation to a person who, being the occupier of land—

- (a) damages, destroys or fells timber on, or removes timber from, the land—
 - (i) being timber that the person planted or caused to be planted on the land; or
 - (ii) in order to eliminate a hazard;
- (b) damages or fells timber on the land for the purpose of using the timber on the land;
- (c) damages or destroys timber on the land in the process of using the timber on the land;
- (d) fells dead timber on, or removes dead timber from, the land for a purpose other than the purpose of sale or trade; or
- (e) damages or destroys dead timber on the land.

(4) Sub-section (2) does not apply to or in relation to—

- (a) a person who damages or destroys dead timber on unleased land; or
- (b) a person who, being the holder of a permit or licence authorizing him to fell or remove timber, while acting in accordance with his permit or licence, as the case may be, accidentally damages or destroys timber.

(5) In addition to the penalty that may be imposed for an offence against this section involving the felling of timber on land or the removal of timber from land, the court may order the defendant to pay to the Commonwealth an amount equal to the value of the timber felled or removed in contravention of this section.

(6) Where the court makes an order under sub-section (5), the same proceedings may be taken upon the order as if it were a judgment of the Court of Petty Sessions entered in civil proceedings in favour of the Commonwealth.

Protection of plants generally

44. (1) A person shall not, except in accordance with a licence held by him—

- (a) sell a plant that is restricted plant wildlife;
- (b) grow or cultivate a plant that is restricted plant wildlife for the purposes of sale or trade;
- (c) import into, or export from, the Territory for the purposes of sale or trade a plant that is wildlife; or
- (d) export from the Territory a plant that is restricted plant wildlife, other than a seed or part of a plant lawfully picked or cultivated.

Penalty: \$1,000, or imprisonment for 6 months, or both.

(2) Nothing in sub-section (1) applies to or in relation to the importation into the Territory of wildlife that is timber.

Attachment of tags to plants

45. (1) A person shall not sell or export from the Territory a plant that is restricted plant wildlife, other than a seed or a dead plant, unless there is attached to the plant a tag of an approved kind on which the particulars referred to in sub-section (2) are clearly and indelibly marked.

Penalty: \$500.

(2) The particulars to be marked on a tag for the purpose of sub-section (1) are—

- (a) the name of the person proposing to sell or export the plant; and
- (b) the botanical name and common name (if any) of the plant.

(3) For the purposes of sub-section (1), a tag shall be taken to be a tag of an approved kind if it is made of metal, plastic, cloth or some other durable material.

PART V—PROTECTION OF WILDLIFE GENERALLY

Entry onto land for purpose of carrying out examination

46. (1) Subject to sub-section (2), a conservation officer may enter land and carry out on the land such investigations and examinations in relation to wildlife on the land as the conservation officer considers necessary or desirable for the purpose of ensuring the protection and conservation of that wildlife.

(2) A conservation officer shall not enter occupied land, or exercise a power conferred by sub-section (1) in relation to occupied land, unless—

- (a) he has received permission in writing to do so from the occupier of the land; or
- (b) he has, not less than 24 hours before he enters the land, given to the occupier of the land notice in writing of his intention to enter the land.

(3) Where an occupier (not being the Commonwealth or a statutory authority) of land suffers loss or damage by reason of the exercise, in relation to the land, of a power conferred by this section, there is due to the person by the Commonwealth such amount as is necessary to compensate the person for the loss or damage suffered by him.

Conservator may give advice regarding conservation

47. (1) The Conservator may, whether or not an investigation or examination has been carried out on land in pursuance of section 46, give to the occupier of the land advice, in writing, with respect to the protection and conservation of wildlife on the land.

(2) Without limiting the generality of sub-section (1), the advice referred to in sub-section (1) may include advice with respect to—

- (a) the manner in which the protection and conservation of wildlife may be achieved consistently with other uses of the land; and
- (b) the harm that may result from the indiscriminate or excessive use of insecticides, herbicides, poisons, fertilizers and other chemicals potentially harmful to wildlife.

Compliance with advice of Conservator

48. (1) Where—

- (a) the Conservator, in pursuance of section 47, gives advice to a person with respect to the use of a substance referred to in paragraph 47 (2) (b);
- (b) the person does not, within a reasonable time, follow that advice; and
- (c) the Conservator is of the opinion that it is necessary or desirable for the advice to be followed,

the Conservator may, by notice in writing, require the person, within such period as is specified in the notice, being a period of not less than 2 working days after the notice is given, to comply with such requirements concerning the

use of a substance referred to in paragraph 47 (2) (b) as are specified in the notice.

(2) A person to whom a notice is given under sub-section (1) shall not refuse or fail to comply with the notice.

Penalty: \$400.

Diseased wildlife

49. (1) In this section, "wildlife" includes live fish.

(2) Where the Conservator is satisfied—

(a) that wildlife is suffering from a disease; and

(b) that it is necessary or desirable to treat the wildlife for the disease,

the Conservator may, by notice in writing, require the owner of the wildlife, within such period as is specified in the notice, to carry out in respect of the wildlife such treatment as is specified in the notice.

(3) Where a notice is given to a person under sub-section (2) and—

(a) the person does not comply with the notice; or

(b) the notice is complied with but the wildlife does not, within a reasonable time, respond satisfactorily to the treatment received by it,

the Conservator may, by notice in writing, require the person, within such period as is specified in the notice, to deliver up the wildlife to the Conservator or to destroy it.

(4) Where a person to whom a notice in respect of wildlife, other than wildlife that is a plant, is given under sub-section (3) does not comply with the notice, the Conservator may enter the land or premises upon or in which the wildlife is being kept and seize the wildlife.

(5) The Conservator may, in respect of wildlife seized by him under sub-section (4)—

(a) carry out such treatment, and dispose of the wildlife in such manner, as he thinks fit; or

(b) destroy the wildlife.

Matters to be taken into account prior to issuing notices

50. (1) In this section, "wildlife" includes live fish.

(2) In determining whether—

(a) for the purpose of section 48, it is necessary or desirable for advice given under section 47 to be followed; or

(b) for the purpose of sub-section 49 (2), it is necessary or desirable for wildlife to receive treatment,

the Conservator shall have regard to—

(c) the effect the failure to follow the advice or carry out the treatment, as the case may be, is likely to have on—

(i) a species of wildlife already found in the Territory; and

- (ii) the major ecosystems of the Territory; and
- (d) the costs likely to be incurred by a person in following the advice or carrying out the treatment, as the case may be.

PART VI—RESERVED AREAS AND WILDERNESS ZONES

Declaration of reserved areas

51. (1) Subject to this section, the Minister may, by notice published in the *Gazette*, declare an area to be a reserved area.

(2) A notice referred to in sub-section (1) shall—

- (a) describe the area that is to constitute the reserved area; and
- (b) specify the name by which the reserved area is to be known.

(3) A declaration under sub-section (1)—

- (a) shall not be made in respect of an area of land held in fee simple; and
- (b) may be made in respect of an area that is, or includes, an area of water.

(4) Where a declaration is made in respect of an area referred to in paragraph (3) (b), the area includes the bed beneath the water.

(5) Where a declaration under sub-section (1) is made in respect of occupied land, nothing in this Part applies to or in relation to anything done on that land by the occupier or by any person who is on the land with the authority or consent of the occupier.

(6) Notwithstanding any other law in force in the Territory but subject to sub-section (7), a lease of land shall not be granted by or in the name of the Commonwealth, and a licence to occupy land shall not be granted by the Commonwealth, in respect of land that is, or forms part of, a reserved area.

(7) Where, at the time a declaration is made under sub-section (1), there exists a lease or licence in respect of the land, or a part of the land, to which the declaration applies, upon the termination of the lease or licence, a new lease or licence, as the case may be, may be granted in respect of the land, or a part of the land, the subject of the first-mentioned lease or licence.

Declaration of wilderness zones

52. (1) Subject to this section, the Minister may, by notice published in the *Gazette*, declare a reserved area, or part of a reserved area, to be a wilderness zone.

(2) A notice referred to in sub-section (1) shall—

- (a) describe the area that is to constitute the wilderness zone; and
- (b) specify the name by which the wilderness zone is to be known.

(3) A declaration under sub-section (1) shall not be made in respect of—

- (a) leased land; or

- (b) land occupied by a person in pursuance of a licence granted to him by the Commonwealth.

(4) Subject to section 59, the Conservator shall cause such things to be done in a wilderness zone as are, in his opinion, necessary for the management of the wilderness zone.

Access to reserved area may be prohibited or restricted

53. (1) The Conservator may—

- (a) restrict access to a reserved area, or part of a reserved area, to certain persons or persons included in a class of persons; or
- (b) prohibit access to a reserved area, or part of a reserved area,

where he is of the opinion that

- (c) public safety would be endangered; or
- (d) the management of the reserved area, or that part of the reserved area, would be interfered with,

by public access to the reserved area, or that part of the reserved area.

(2) Notice of a restriction or prohibition under sub-section (1) shall—

- (a) be published in a newspaper circulating in the Territory; and
- (b) be prominently displayed at all entrances to the reserved area or part of the reserved area.

(3) A person who, or a person included in a class of persons which, is, by virtue of sub-section (1), prohibited from entering a reserved area or part of a reserved area shall not enter the reserved area or that part of the reserved area.

Penalty: \$1,000.

(4) It is a defence to a prosecution for an offence against sub-section (3) that—

- (a) the presence of the defendant in the reserved area, or the part of the reserved area, as the case may be—
 - (i) was due to the existence of an emergency; or
 - (ii) was unavoidable by the taking of reasonable care; or
- (b) the defendant had no reasonable grounds for suspecting that his entry into the reserved area, or part of the reserved area, was prohibited under sub-section (1).

Erection of, and compliance with, signs

54. (1) The Conservator may authorize the erection, at or near the entrances to a reserved area or a part of a reserved area, of signs containing directions to be followed by, warnings for the guidance of, and requirements to be observed by, persons entering the reserved area or that part of the reserved area.

(2) A person in a reserved area shall not contravene or fail to comply with a direction or requirement on a sign erected in pursuance of sub-section (1).

Penalty: \$200.

(3) Unless the contrary is proved, evidence that a sign was erected at or near the entrance to a reserved area or a part of a reserved area is evidence that it was erected with the authority of the Conservator.

Activities prohibited in reserved areas

55. (1) A person shall not, in a reserved area, cause any rubbish or litter to be placed elsewhere than in a receptacle provided for the purpose by the Conservator.

Penalty: \$200.

(2) A person shall not, in a reserved area, light, maintain or use a fire otherwise than in—

- (a) a portable barbecue or portable stove, being a barbecue or stove in which heat is provided by the combustion of liquefied petroleum gas;
- (b) a fireplace made available by the Conservator; or
- (c) a location approved by the Conservator.

Penalty: \$500.

(3) It is a defence to a prosecution for an offence against sub-section (2)—

- (a) that the fire was lit, maintained or used by the defendant in circumstances that constituted an emergency; or
- (b) that the defendant had no reasonable grounds for suspecting that he was within a reserved area.

Activities prohibited in reserved areas except with consent of Conservator

56. (1) A person shall not, in a reserved area, without the consent in writing of the Conservator—

- (a) drive or park a motor vehicle except on a road or track or in a part of the reserved area that is designated to be an area in which the driving or parking of motor vehicles is permitted;
- (b) moor a vessel except in a part of the reserved area that is designated to be an area in which the mooring of vessels is permitted;
- (c) camp except in a part of the reserved area that is designated to be an area in which camping is permitted;
- (d) erect a building, booth, stall, post, sign or other structure;
- (e) supply goods or services; or
- (f) plant a plant.

Penalty: \$200.

(2) A person shall not, in a reserved area, without the consent in writing of the Conservator, use or have in his possession—

- (a) a firearm of any kind;
- (b) a spear, spear gun, bow or arrow;
- (c) a trap, net, snare or other device designed, or capable of use, for the taking or capturing of animals; or

- (d) any substance that is capable of being used for the taking or capturing of animals.

Penalty: \$200.

(3) A person shall not, in a reserved area, without the consent in writing of the Conservator—

- (a) damage or destroy a natural or man-made structure or feature; or
- (b) damage or destroy a site, or remove an object, of historical, archaeological, palaeontological or geological interest.

Penalty: \$500.

(4) The Conservator shall not give his consent under sub-section (1) in respect of any of the matters referred to in paragraph (1) (d) or (e) where the reserved area is, or forms part of, a wilderness zone.

(5) Nothing in sub-section (2) applies to or in relation to the use or possession of a firearm by a member of the Australian Federal Police while acting in his capacity as such a member.

Certain animals and plants not to be taken into reserved areas

57. (1) A person shall not—

- (a) without the consent in writing of the Conservator, take into, or knowingly permit to enter, a reserved area an animal that is not wildlife; or
- (b) take a noxious weed into a reserved area.

Penalty: \$200.

(2) Sub-section (1) does not apply to or in relation to the taking by a blind person of his guide dog into a reserved area.

(3) In a prosecution for an offence against sub-section (1), evidence that a person had an animal in his possession in a reserved area is evidence that the person took the animal into or knowingly permitted the animal to enter, the reserved area.

Requirements by conservation officers

58. (1) A conservation officer may, in a reserved area—

- (a) require any person whom he finds acting, or whom he reasonably suspects of having acted, in an offensive manner, or in such a manner as to create a public nuisance, to leave the reserved area; and
- (b) require any person whom he reasonably suspects of having done an act in respect of which the person is required to hold a licence, permit or other authority under this Ordinance to produce such a licence or permit or evidence of such an authority.

(2) Where a conservation officer makes a requirement of a person under sub-section (1), the conservation officer shall produce the identity card issued to him under sub-section 11 (2) for inspection by that person and, if he fails to do so, that other person is not obliged to comply with the requirement.

(3) Subject to sub-section (2), a person shall not, without reasonable excuse, refuse or fail to comply with a requirement made of him by a conservation officer under sub-section (1).

Penalty: \$100.

(4) It is a defence to a prosecution for an offence against this section of refusing or failing to comply with a requirement to produce a licence or permit or evidence of an authority authorizing the doing of an act if the licence, permit or evidence is, within 2 working days after the requirement was made, produced at the office of the Conservator for inspection by a person apparently employed at that office.

Offences in wilderness zone

59. A person shall not, in a wilderness zone—

- (a) excavate;
- (b) establish a track or road; or
- (c) use a motor vehicle except on a track or road that—
 - (i) was formed for the use of vehicles having 4 or more wheels; and
 - (ii) was in existence at the time of the declaration of the wilderness zone.

Penalty: \$500.

Compensation

60. (1) In a prosecution for an offence against this Part involving damage to a reserved area or wilderness zone, the court may, in addition to the penalty that may be imposed, order the defendant to pay to the Commonwealth an amount equal to the amount incurred or to be incurred by the Commonwealth in making good the damage.

(2) Where the court makes an order under sub-section (1), the same proceedings may be taken upon the order as if it were a judgment of the Court of Petty Sessions entered in civil proceedings in favour of the Commonwealth.

PART VII—PERMITS AND LICENCES

Application for permit or licence

61. (1) An application for the grant of a permit or licence—

- (a) shall be in writing and signed by the applicant;
- (b) shall be lodged with the Conservator;
- (c) shall state the full name and address of the applicant;
- (d) shall clearly indicate the nature of the activity in respect of which the permit or licence is sought;
- (e) shall specify the species of animals, fish or plants in respect of which the permit or licence is sought;
- (f) shall specify the number of animals, fish or plants in respect of which the permit or licence is sought;

- (g) in the case of an application relating to the felling or removal of timber—shall specify the quantity of timber in respect of which the permit or licence is sought;
- (h) except in the case of an application referred to in paragraph (j) or (k)—shall specify each place at which the activity in respect of which the permit or licence is sought is proposed to be carried on;
- (j) in the case of an application relating to the taking of an animal that is wildlife—
 - (i) shall describe the land from which the animal is proposed to be taken; and
 - (ii) shall specify the place at which it is proposed to keep the animal;
- (k) in the case of an application relating to the importation into, or exportation from, the Territory of animals or live fish—shall specify the place at which, following importation, or prior to exportation, it is proposed to keep the animals or fish; and
- (l) shall contain such other information as is prescribed.

(2) In addition to complying with the requirements of sub-section (1), an application for a relevant authorization shall be accompanied by—

- (a) a certificate by the Minister that, in the opinion of the Minister, the carrying on of the activity in respect of which the application is made at each place specified in the application in pursuance of paragraph (1) (h), sub-paragraph (1) (j) (ii) or paragraph (1) (k), as the case may be, is not prohibited—
 - (i) if the place is situated on, or is constituted by, land held under a lease granted by or in the name of the Commonwealth—by the provisions of that lease or by the Ordinance under which that lease was granted; or
 - (ii) if the place is situated on, or is constituted by, land in relation to which a licence to occupy has been granted by the Commonwealth—by the terms of that licence; or
- (b) a copy of an order of the Supreme Court declaring that the carrying on of the activity in respect of which the application is made at each such place is not so prohibited.

(3) Jurisdiction to hear and determine an application for an order for the purposes of paragraph (2) (b) is vested in the Supreme Court.

(4) In this section, “relevant authorization” means—

- (a) a permit or licence authorizing the sale of animals or live fish;
- (b) a permit or licence authorizing the importation into, or exportation from, the Territory, for the purposes of sale or trade, of animals or live fish;
- (c) a licence authorizing the taking of an animal that is wildlife; and

- (d) a licence authorizing the felling or removal of timber where the applicant for the licence is the occupier of the land in respect of which the licence is sought.

Grant of permit

62. (1) Subject to this section, the Conservator may grant to a person who has made an application in accordance with section 61 a permit of the kind applied for.

(2) The Conservator shall not grant a permit authorizing—

- (a) the sale of more than 5 animals; or
- (b) the importation into, or exportation from, the Territory, for the purposes of sale or trade, of more than 5 animals.

(3) A permit authorizing—

- (a) the sale of an animal; or
- (b) the importation into, or exportation from, the Territory of an animal for the purposes of sale or trade,

shall not be granted for a period exceeding 12 months.

(4) The Conservator shall not grant a permit to a person authorizing—

- (a) the sale of live fish; or
- (b) the importation into, or exportation from, the Territory of live fish for the purposes of sale or trade.

except in connection with a hobby carried on by the person otherwise than for the purpose of profit or gain.

(5) The Conservator shall not grant a permit authorizing a person to fell timber on, or remove timber from, land that is, or forms part of, a wilderness zone.

(6) The Conservator shall not grant a permit authorizing the felling or removal of timber except in respect of land that is unleased land.

(7) The Conservator may grant a permit subject to such conditions as he thinks fit.

Grant of licence

63. (1) The Conservator may, upon payment of the prescribed fee, if any, grant to a person who has made an application in accordance with section 61 a licence of the kind applied for.

(2) The Conservator shall not grant a licence authorizing the felling of timber on, or the removal of timber from, land referred to in paragraph 43 (1) (c) unless the application for the licence is made by, or with the consent of, the Commonwealth.

(3) The Conservator shall not grant a licence authorizing a person to fell timber on, or remove timber from, land that is, or forms part of, a wilderness zone.

(4) The Conservator may grant a licence subject to such conditions as he thinks fit.

Refusal of permit or licence

64. Where the Conservator refuses an application for a permit or licence, the Conservator shall notify the applicant in writing of the refusal.

Matters to be taken into account in determining applications

65. For the purpose of determining an application for a permit or licence, the Conservator shall have regard to—

- (a) the effect the carrying on of the activity in respect of which the permit or licence is sought is likely to have on—
 - (i) a species of wildlife already found in the Territory; and
 - (ii) the major ecosystems of the Territory;
- (b) in the case of an application relating to animals that are wildlife or live fish—the degree of distress, and the rate of morbidity or mortality, that is likely to be suffered by the animals or fish;
- (c) in the case of an application for a licence to sell animals that are wildlife—the extent, if any, to which the applicant, for the purpose of carrying on the activity of selling animals of that kind, proposes to deal in animals raised in captivity;
- (d) in the case of an application for a permit or licence to sell an animal and in the case of an application for a permit or licence to import an animal into the Territory—the likelihood of the animal becoming a feral or noxious animal;
- (e) in the case of an application for a permit or licence to sell live fish and in the case of an application for a permit or licence to import live fish into the Territory—
 - (i) the likelihood of the fish becoming a threat to the continuance of a species of fish already found in waters of the Territory; and
 - (ii) the likelihood of the fish having any other harmful effect whatsoever;
- (f) in the case of an application for a permit or licence in pursuance of which the applicant proposes to keep animals or live fish—the place or places at which the animals or fish are proposed to be kept and the suitability of the facilities at that place or those places for the keeping of animals or fish, as the case requires;
- (g) in the case of an application by a person, being an individual, for a licence to sell animals or live fish—the qualifications and experience possessed by the applicant relating to the handling, keeping or breeding of animals or fish;
- (h) in the case of an application by a person, being a body corporate, for a licence to sell animals or live fish—the qualifications and experience possessed by the officers or employees of the applicant relating to the handling, keeping or breeding of animals or fish;

- (j) in the case of an application for a permit or licence to export an animal or live fish from the Territory—the degree to which exportation of animals or fish of the species to which the application relates is likely to threaten the continuance in the Territory of that, or another, species of animal or fish;
- (k) in the case of an application by a person, being an individual, for a permit or licence to pick plants that are wildlife—
 - (i) the purpose for which the plants are required; and
 - (ii) the qualifications possessed by the applicant relating to the science of botany;
- (l) in the case of an application by a person, being a body corporate, for a permit or licence to pick plants and that are wildlife—
 - (i) the purpose for which the plants are required; and
 - (ii) the qualifications possessed by the officers or employees of the applicant relating to the science of botany;
- (m) in the case of an application for a permit or licence to fell or remove timber—the effect the felling of timber on, or the removal of timber from, the land to which the application relates is likely to have on that land; and
- (n) in the case of an application for a permit or licence to pick plants that are restricted plant wildlife—the effect the picking of the plants will have on the area in which the plants are growing.

Contents of permits and licences

- 66.** A permit or licence shall be in writing and shall specify—
- (a) the name and address of the person to whom the permit or licence is granted;
 - (b) the period for which the permit or licence is granted;
 - (c) the activity in respect of which the permit or licence is granted;
 - (d) either the species of animals, fish or plants to which the permit or licence applies or the species of animals, fish or plants to which the permit or licence does not apply;
 - (e) the number of animals, fish or plants to which the permit or licence applies;
 - (f) the conditions, if any, to which the permit or licence is subject;
 - (g) in the case of a permit authorizing the killing of an animal that is wildlife—the land upon which, and the manner in which, the animal may be killed;
 - (h) in the case of a permit authorizing the keeping of an animal that is wildlife—the place at which the animal may be kept;
 - (j) in the case of a permit or licence authorizing the taking of an animal that is wildlife—
 - (i) the land from which the animal may be taken; and
 - (ii) the place at which the animal may be kept;

- (k) in the case of a permit or licence authorizing the sale of an animal or live fish—the place at which the animal or fish, as the case may be, may be kept for the purposes of sale;
- (l) in the case of a permit or licence authorizing the importation into, or exportation from, the Territory of an animal or live fish—the place at which the animal or fish, as the case may be, may, after importation, or prior to exportation, be kept;
- (m) in the case of a permit or licence authorizing the picking of plants that are wildlife—the land to which the permit or licence applies; and
- (n) in the case of a permit or licence authorizing the felling or removal of timber—the quantity of timber and the land to which the permit or licence applies.

Nature of rights conferred by permits and licences

67. The grant of a permit or licence does not authorize the holder of the permit or licence to enter upon

- (a) land held in fee simple;
- (b) land held under a lease granted by or in the name of the Commonwealth; or
- (c) land that is occupied by a person in pursuance of a licence granted to the person by the Commonwealth.

Duration of permits and licences

68. (1) A permit, unless sooner surrendered or cancelled, remains in force for such period as is specified in the permit.

(2) A licence, unless sooner surrendered or cancelled, remains in force for such period, being a period not exceeding 1 year, as is specified in the licence.

Cancellation of permits and licences

69. (1) The Conservator may cancel a permit where—

- (a) the holder of the permit is convicted of an offence against this Ordinance;
- (b) the holder of the permit fails to comply with a condition to which the permit is subject; or
- (c) since the granting of the permit, a change has occurred in relation to a matter that was taken into account in determining the application for the permit and the Conservator is of the opinion that the change is such as to necessitate the cessation of the activity in respect of which the permit was granted.

(2) Where the holder of a licence—

- (a) is convicted of an offence against this Ordinance; or
- (b) fails to comply with a condition to which the licence is subject,

the Conservator may cancel the licence.

Production of permits and licences

70. The holder of a permit or licence shall, within 2 working days of being so requested by a conservation officer, produce his permit or licence, as the case requires, at the office of the Conservator for inspection by a person apparently employed at that office.

Penalty: \$100.

Records to be kept by holders of permits

71. A person who, being the holder of a permit, keeps—

- (a) more than 5 animals, not being animals of a kind referred to in Schedule 5 or 6; or
- (b) an animal that is restricted animal wildlife,

shall keep such records as are prescribed.

Penalty: \$100.

Records to be kept by holders of licences

72. (1) A person who, being the holder of a licence relating to animals, keeps animals, other than animals of a kind referred to in Schedule 5 or 6, shall keep such records as are prescribed.

(2) A person who, being the holder of a licence relating to live fish, keeps live fish shall keep such records as are prescribed.

(3) A person who, in pursuance of a licence held by him, sells or exports from the Territory plants that are wildlife shall keep such records as are prescribed.

Penalty: \$500.

Production of records

73. A person who is, by virtue of section 71 or 72, required to keep records shall, within 2 working days of being so requested by a conservation officer, produce at the office of the Conservator for inspection by a person apparently employed at that office such records as the first-mentioned person is so required to keep.

Penalty: \$100.

PART VIII—REVIEW BY THE ADMINISTRATIVE APPEALS TRIBUNAL**Review of decisions of Conservator and conservation officers**

74. (1) Application may be made to the Tribunal for a review of a decision of the Conservator—

- (a) granting, refusing to grant or granting subject to a condition a permit under sub-section 62 (1);
- (b) granting, refusing to grant or granting subject to a condition a licence under sub-section 63 (1);

- (c) refusing to grant his consent under sub-section 39 (1), sub-section 56 (1), (2) or (3) or sub-section 57 (1);
- (d) making a requirement under section 48 or 49;
- (e) restricting or prohibiting access to a reserved area or part of a reserved area under section 53; or
- (f) cancelling a permit or licence under section 69.

(2) Application may be made to the Tribunal for a review of a decision of a conservation officer refusing to issue a certificate of compliance under sub-section 36 (2) or 38 (1).

PART IX—MISCELLANEOUS

Royalty

75. (1) In this section, "relevant licence" means—

- (a) a licence authorizing the taking of an animal that is wildlife;
- (b) a licence authorizing the picking of a plant that is wildlife; and
- (c) a licence authorizing the felling or removal of timber on or from land referred to in paragraph 43 (1) (a) or (b).

(2) Subject to this section, the holder of a relevant licence who sells or otherwise disposes of wildlife or timber taken or removed by him in accordance with his licence shall pay to the Commonwealth in respect of the wildlife or timber, as the case may be, royalty at such rate as is prescribed.

(3) A rate of royalty prescribed for the purposes of this section may be expressed—

- (a) as a flat rate in respect of each animal or plant; or
- (b) as a proportion of the amount received by the holder of the licence on the sale or other disposal of the wildlife or timber.

(4) In relation to a licence referred to in paragraph (1) (c), different rates of royalty may be prescribed depending on—

- (a) the type of timber to which the licence applies; and
- (b) whether the land to which the licence applies is—
 - (i) land held under lease from the Commonwealth; or
 - (ii) land that is occupied by a person in pursuance of a licence granted to him by the Commonwealth.

(5) Royalty is not payable in respect of wildlife or timber—

- (a) that is included in a prescribed class of wildlife or timber;
- (b) that is taken in a prescribed part of the Territory;
- (c) that is taken during a prescribed period; or
- (d) that is taken by a person included in a prescribed class of persons.

Certain provisions not to apply to conservation officers

76. Nothing in section 25, 26, 27, 39, 42, 43, 55, 56 or 57 applies to or in relation to the Conservator or a conservation officer acting in the performance of his duties as Conservator or a conservation officer, as the case may be.

Power of entry and search

77. (1) In this section—

“animal” means—

- (a) an animal, whether wildlife or not, other than an animal of a kind referred to in Schedule 5 or 6; and
- (b) live fish;

“plant” means a plant that is wildlife.

(2) A conservation officer may, at such times, and at such intervals, as are reasonable, enter land or premises on which any animal or plant is kept in accordance with a permit or licence and—

- (a) search the land or premises; and
- (b) inspect the accounts, books, documents and other records relating to the animal or plant.

(3) A conservation officer may—

- (a) where he has reasonable grounds for suspecting that an animal or plant is on land or premises in contravention of this Ordinance—at any reasonable time, enter the land or premises and carry out a search of the land or premises; and
- (b) where he has reasonable grounds for suspecting that an animal or plant is contained in a vehicle or vessel in contravention of this Ordinance—
 - (i) stop and search the vehicle or vessel; or
 - (ii) stop the vehicle or vessel and require it to be taken to another place in the Territory where a search may conveniently be carried out.

(4) Where a conservation officer, in pursuance of sub-section (2) or (3), enters land or premises, stops a vehicle or vessel or requires a person to take the action referred to in sub-paragraph (3) (b) (ii), the conservation officer shall, if requested by the occupier or person in charge of the land or premises, or the person in charge of the vehicle or vessel, produce the identity card issued to him under sub-section 11 (2) for inspection by that person and, if he fails to do so—

- (a) where the conservation officer has entered land or premises—he is not authorized to remain on the land or premises;
- (b) where the conservation officer has stopped a vehicle or vessel—he is not authorized to search the vehicle or vessel; and
- (c) where the conservation officer has required a person to take the action referred to in sub-paragraph (3) (b) (ii)—that person is not obliged to comply with the requirement.

(5) A person who, without reasonable excuse—

- (a) obstructs or hinders a conservation officer in the exercise of his powers under this section; or

(b) in a case in which the obligation to comply with a requirement made of him under this section by a conservation officer is not dispensed with by virtue of sub-section (4)—refuses or fails to comply with the requirement, is guilty of an offence punishable, upon conviction, by a fine not exceeding \$100.

Power to require person to state name, &c.

78. (1) A conservation officer—

- (a) may require any person whom he finds committing, or whom he reasonably suspects of having committed, an offence against this Ordinance to state his full name and usual place of residence; and
- (b) if the person is in a reserved area—may require the person to leave the reserved area.

(2) Where a conservation officer makes a requirement of a person under sub-section (1), the conservation officer shall produce the identity card issued to him under sub-section 11 (2) for inspection by that person and, if he fails to do so, that other person is not obliged to comply with the requirement.

(3) Subject to sub-section (2), a person who, without reasonable excuse, refuses or fails to comply with a requirement made of him by a conservation officer under sub-section (1) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$100.

Seizure and forfeiture of animals and plants

79. (1) In this section—

“animal” means—

- (a) an animal, whether wildlife or not, other than an animal of a kind referred to in Schedule 5 or 6; and
- (b) live fish;

“plant” means a plant that is wildlife.

(2) A conservation officer may seize any animal, plant, substance or thing in connection with which he believes, on reasonable grounds, an offence against this Ordinance has been committed.

(3) Where—

- (a) an animal, plant, substance or thing is seized under sub-section (2); and
- (b) a prosecution for an offence against this Ordinance relating to the animal, plant, substance or thing is not instituted within 60 days of the seizure,

the animal, plant, substance or thing shall, upon the expiration of that period, be returned to the person from whom it was seized.

(4) Where, in proceedings for an offence against this Ordinance—

- (a) the defendant is a person from whom an animal, plant, substance or thing has been seized under sub-section (2); and
- (b) the court does not find the offence proved,

the animal, plant, substance or thing, as the case may be, shall be returned to the defendant.

(5) Where, in proceedings for an offence against this Ordinance, the court finds the offence proved, any animal or plant the subject of the offence, or any substance or thing used in or in connection with the commission of the offence, is forfeited to the Commonwealth and may be disposed of in such manner as the Minister directs.

(6) This section has effect subject to section 80.

Court may order release of animals in special circumstances

80. (1) Where the Conservator is of the opinion that an animal seized under sub-section 79 (2) is likely to die or suffer pain or be subjected to distress unless it is released from captivity, the Conservator may apply to the Court of Petty Sessions for an order that the animal be released from captivity.

(2) An application under sub-section (1) shall clearly state the reasons for seeking the order.

(3) The court may, before determining an application under sub-section (1), require notice of the application to be given to such persons as the court thinks fit.

(4) On determining an application under sub-section (1), the court—

- (a) may make an order that the animal be released from captivity; or
- (b) dismiss the application.

(5) Where the court makes an order for the release of an animal, it may give such directions relating to observations to be made, and records to be kept, in respect of the animal as the court thinks fit and the animal shall not be released until those directions have been complied with.

(6) Where an animal is released from captivity in accordance with this section and—

- (a) a prosecution for an offence against this Ordinance relating to the animal is not instituted; or
- (b) where such a prosecution is instituted—the court does not find the offence proved,

there is due to the person from whom the animal was seized by the Commonwealth such amount as is necessary to compensate the person for the loss suffered by him as a result of the release of the animal.

Evidence

81. (1) In any proceedings for an offence against this Ordinance, a certificate signed by the Conservator stating—

- (a) that the person specified in the certificate was, on the date or during the period specified in the certificate, the holder of a permit or licence of the kind specified in the certificate; or

- (b) that a permit or licence of the kind specified in the certificate granted to the person specified in the certificate was granted subject to the conditions specified in the certificate,

is evidence of the matters so stated.

(2) For the purposes of sub-section (1), a document that purports to have been signed by the Conservator shall be taken to have been so signed unless the contrary is proved.

Manner of giving notices

82. A document that is required or permitted by this Ordinance to be given to a person may be so given by post at the address of the person last known to the person giving the document.

Annual report

83. The Conservator shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report of his operations, and of other matters and things arising or carried out under this Ordinance, during the year ended on that date.

Regulations

84. (1) The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and, in particular—

- (a) providing for the imposition of fees to be charged in respect of access to reserved areas; and
- (b) prescribing penalties not exceeding \$200 for offences against the regulations.

(2) In prescribing fees to be charged for access to a reserved area, the regulations may—

- (a) prescribe fees in respect of persons or vehicles, or persons and vehicles, entering a reserved area or a part of a reserved area; and
- (b) prescribe different fees in respect of access to different reserved areas or different parts of a reserved area.

PART X—TRANSITIONAL

Transitional

85. (1) Until the expiration of the period of 28 days commencing on the date of commencement of this Ordinance, Part III does not apply to or in relation to a person who, immediately before the commencement of this Ordinance, had in his possession, custody or control an animal, whether wildlife or not.

(2) If, within the period referred to in sub-section (1), a person referred to in that sub-section applies to the Conservator for a permit or licence in pursuance of which the keeping by the person of the animal kept by him immediately before the commencement of this Ordinance would be authorized, Part III does not apply to or in relation to the person until the expiration of—

- (a) the period of 14 days that commenced on the day on which the Conservator determined the application; or
 - (b) the period referred to in sub-section (1),
- whichever is the later.

SCHEDULE 1

Section 3

Animals and Birds Protection Ordinance 1918
Animals and Birds Protection Ordinance 1928
Seaweed Protection Ordinance 1974
Seaweed Protection Ordinance (No. 2) 1974
Timber Protection Ordinance 1919
Timber Protection Ordinance 1923
Timber Protection Ordinance 1927
Timber Protection Ordinance 1936
Timber Protection Ordinance 1940
Timber Protection Ordinance 1967
Wild Flowers and Native Plants Protection Ordinance 1936

SCHEDULE 2

Section 71

RESTRICTED ANIMAL WILDLIFE

Item No.	Zoological name	Common name
Birds		
1.	<i>Barnardius barnardi macgillivrayi</i>	Cloncurry parrot
2.	<i>Cacatua leadbeateri</i>	Major Mitchell's cockatoo
3.	<i>Cacatua tenuirostris</i>	Long-billed corella
4.	<i>Callocephalon fimbriatum</i>	Gang-Gang cockatoo
5.	CALYPTORHYNCHUS—all species	Black cockatoos
6.	<i>Eclactus roratus</i>	Eclactus parrot
7.	<i>Neophema chrysogaster</i>	Orange-bellied parrot
8.	OPOPSITTA—all species	Fig parrots
9.	<i>Pezoporus wallicus</i>	Ground parrot
10.	<i>Platycercus caledonicus</i>	Green rosella
11.	<i>Platycercus venustus</i>	Northern rosella
12.	<i>Psephotus chrysopterygius</i> <i>chrysopterygius</i>	Golden-shouldered parrot
13.	<i>Psephotus chrysopterygius dissimilis</i>	Hooded parrot
14.	<i>Psephotus haematogaster narethae</i>	Naretha blue bonnet
15.	<i>Psephotus pulcherrimus</i>	Paradise parrot
Reptiles		
16.	BOIDAE all species	Boas

SCHEDULE 3

Sections 42, 44, 45 and 65

RESTRICTED PLANT WILDLIFE

Item No.	Botanical name	Common name (if any)
1.	<i>Acacia alpina</i>	Alpine wattle
2.	<i>Acacia doratoxylon</i>	Currawang
3.	<i>Aegiceras corniculatum</i>	River mangrove
4.	<i>Alyxia buxifolia</i>	Sea-box
5.	<i>Arrhenechthites mixta</i>	
6.	<i>Asperula ambleia</i>	Stiff woodruff
7.	<i>Asplenium bulbiferum</i>	Mother spleenwort
8.	<i>Avicennia marina</i> var. <i>australasica</i>	Mangrove
9.	<i>Backhousia myrtifolia</i>	Ironwood
10.	<i>Banksia marginata</i>	Silver banksia
11.	<i>Banksia spinulosa</i>	Hairpin banksia
12.	<i>Bedfordia arborescens</i>	Blanket bush
13.	<i>Blandfordia nobilis</i>	Christmas bells
14.	<i>Bossiaea bracteosa</i>	Mountain leafless bossiaea
15.	<i>Bossiaea riparia</i>	River leafless bossiaea
16.	<i>Botrychium australe</i>	Australian moonwort
17.	<i>Botrychium lunaria</i>	Moonwort
18.	<i>Burchardia umbellata</i>	Milkmaids
19.	<i>Callicoma serratifolia</i>	
20.	<i>Callistemon citrinus</i>	Crimson bottlebrush
21.	<i>Callistemon pallidus</i>	Lemon bottlebrush
22.	<i>Casuarina cunninghamiana</i>	River oak
23.	<i>Casuarina glauca</i>	Swamp she-oak
24.	<i>Casuarina littoralis</i>	Black she-oak
25.	<i>Casuarina luehmannii</i>	Bull-oak
26.	<i>Casuarina stricta</i>	Drooping she-oak
27.	<i>Ceratopetalum gummiferum</i>	Christmas bush
28.	<i>Cheiranthra linearis</i>	Finger-flower
29.	<i>Cyathea australis</i>	Rough tree-fern
30.	<i>Danthonia duttoniana</i>	Brown-back wallaby grass
31.	<i>Dianella laevis</i>	Pale flax-lily
32.	<i>Dicksonia antarctica</i>	Soft tree-fern
33.	<i>Discaria pubescens</i>	Australian anchor plant
34.	<i>Doodia aspera</i>	Rasp fern
35.	<i>Drabastrum alpestre</i>	Mountain cress
36.	<i>Dryophila cyanocarpa</i>	Turquoise berry
37.	<i>Epacris robusta</i>	
38.	<i>Eriostemon myoporoides</i>	Long-leaf wax-flower
39.	<i>Eryngium rostratum</i>	Blue devil
40.	<i>Eryngium vesiculosum</i>	Prickfoot
41.	<i>Eucalyptus camphora</i>	Mountain swamp gum
42.	<i>Eucalyptus glaucescens</i>	Tingiringy gum
43.	<i>Eucalyptus perriniana</i>	Spinning gum
44.	<i>Exocarpos nanus</i>	Alpine ballart
45.	<i>Ficus coronata</i>	Sandpaper fig
46.	<i>Grevillea barklyana</i>	Gully grevillea
47.	<i>Grevillea diminuta</i>	
48.	<i>Grevillea juniperina</i>	
49.	<i>Hakea lissosperma</i>	Mountain needlewood
50.	<i>Hedycarya angustifolia</i>	Austral mulberry
51.	<i>Helichrysum collinum</i>	
52.	<i>Helichrysum conditum</i>	Pepper everlasting
53.	<i>Histiopteris incisa</i>	Bat's-wing fern
54.	<i>Hymenophyllum cupressiforme</i>	Common filmy-fern
55.	<i>Isoetes humilior</i>	Rock quillwort
56.	<i>Leptospermum micromyrtus</i>	Button tea-tree
57.	<i>Livistona australis</i>	Cabbage tree palm

SCHEDULE 3—continued

Item No.	Botanical name	Common name (if any)
58.	<i>Lomandra bracteata</i>	
59.	<i>Macrozamia communis</i>	Burrawang
60.	<i>Microsorium diversifolium</i>	Kangaroo fern
61.	<i>Muellerina bidwillii</i>	
62.	<i>Ophioglossum coriaceum</i>	Austral adder's tongue
63.	ORCHIDACEAE—all species	Orchids
64.	<i>Oreobolus pumilio</i>	Alpine tuft-rush
65.	<i>Pandorea pandorana</i>	Wonga-vine
66.	<i>Parantennaria uniceps</i>	
67.	<i>Persoonia subvetulina</i>	Velvety geebung
68.	<i>Phlebalium lamprophyllum</i>	Shiny phlebalium
69.	<i>Pilularia novae-hollandiae</i>	Austral pillwort
70.	<i>Platyserium bifurcatum</i>	Elk horn
71.	<i>Podocarpus lawrencei</i>	Mountain plum pine
72.	<i>Pomaderris pallida</i>	
73.	<i>Pultenaea boormanii</i>	
74.	<i>Pultenaea laxiflora</i>	
75.	<i>Pyrrosia rupestris</i>	Rock felt-fern
76.	<i>Ranunculus millanii</i>	Dwarf buttercup
77.	<i>Rumex dumosus</i>	Wiry dock
78.	<i>Rutidosia leptorrhynchoides</i>	Button wrinklewort
79.	<i>Sambucus gaudichaudiana</i>	White elderberry
80.	<i>Spyridium parvifolium</i>	Australian dusty miller
81.	<i>Stuartina hamata</i>	
82.	<i>Taraxacum aristum</i>	Austral dandelion
83.	<i>Telopea speciosissima</i>	Waratah
84.	<i>Todea barbara</i>	King fern
85.	<i>Viola caleyana</i>	Swamp violet
86.	<i>Xanthorrhoea australis</i>	Blackboy or Grass tree
87.	<i>Zornia dictyocarpa</i>	

SCHEDULE 4

Section 5

PROTECTED FISH AND INVERTEBRATES

Item No.	Zoological name	Common name
1.	<i>Achoerodus gouldii</i>	Blue groper
2.	<i>Ornithoptera priamus</i>	Cairns birdwing butterfly
3.	<i>Papilio ulysses</i>	Mountain blue butterfly

SCHEDULE 5

Sections 27, 28, 29, 32, 33,
41, 71, 72, 77 and 79

EXEMPT ANIMALS, BEING ANIMALS THAT ARE WILDLIFE

Item No.	Zoological name	Common name
1.	<i>Coturnix chinensis</i>	King quail
2.	<i>Melopsittacus undulatus</i>	Budgerygah
3.	<i>Poephila guttata</i>	Zebra finch

SCHEDULE 6

Sections 27, 28, 29, 32, 33,
71, 72, 77 and 79

EXEMPT ANIMALS, BEING ANIMALS THAT ARE NOT WILDLIFE

Item No.	Common name or other description	Zoological name (if any) or general description
1.	Canary	<i>Serinus canaria</i>
2.	European Gold Finch	<i>Carduelis carduelis</i>
3.	Cat	<i>Felis catus</i>
4.	Dog	<i>Canis familiaris</i>
5.	Guinea Pig	<i>Cavia porcellus</i>
6.	Poultry	Domestic varieties
7.	Stock	As defined in the <i>Stock Ordinance 1934</i>
8.	White Mice and Rats	Laboratory varieties

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 15 July 1980.