

## Authorised Version No. 111

# Wildlife Act 1975

No. 8699 of 1975

Authorised Version incorporating amendments as at  
1 March 2017

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**Authorised Version No. 111**

**Wildlife Act 1975**

**No. 8699 of 1975**

Authorised Version incorporating amendments as at  
1 March 2017

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repealed by  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  
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repealed by  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—

*aircraft* means any machine or equipment that is designed to be flown by a person who has control over its speed and direction of movement, but does not include a hovercraft;

S. 3(1) def. of *aircraft* inserted by No. 45/2008 s. 3(1)(a).

*appointed land*, in relation to a Traditional Owner Land Management Board, has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

S. 3(1) def. of *appointed land* inserted by No. 62/2010 s. 132(1).

*authorisation order* means an order made under section 28G or 28H;

S. 3(1) def. of *authorisation order* inserted by No. 45/2008 s. 3(2)(a).

*authorised officer* means—

S. 3(1) def. of *authorised officer* inserted by No. 41/1987 s. 103(Sch. 4 item 76.2), substituted by No. 24/2014 s. 28(2).

- (a) a person appointed as an authorised officer under the **Conservation, Forests and Lands Act 1987** for the purposes of this Act; or
- (b) a person appointed as an authorised officer under the **Game Management Authority Act 2014** for the purposes of this Act;

*banning notice* means a notice given under section 58G;

S. 3(1) def. of *banning notice* inserted by No. 11/2014 s. 17(3).

*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;

S. 3(1) def. of *close season* amended by No. 87/1997 s. 42(Sch. item 1(a)), substituted by No. 11/2014 s. 17(1).

*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—

- (a) by a notice under section 86; or
- (b) by the regulations;

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

*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 *Department* inserted by No. 41/1987 s. 103(Sch. 4 item 76.3).

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

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).

\* \* \* \* \*

Wildlife Act 1975  
No. 8699 of 1975  
Part I—Preliminary

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*	*	*	*	*	
					S. 3(1) def. of <i>endangered wildlife</i> inserted by No. 87/1997 s. 5(1)(a), repealed by No. 45/2008 s. 3(2)(b).
					S. 3(1) def. of <i>exclusion order</i> inserted by No. 11/2014 s. 17(3).
					S. 3(1) def. of <i>film friendly principles</i> inserted by No. 51/2014 s. 9(Sch. 2 item 22.1).
					S. 3(1) def. of <i>film permit</i> inserted by No. 51/2014 s. 9(Sch. 2 item 22.1).
					S. 3(1) def. of <i>firearm</i> inserted by No. 87/1997 s. 5(1)(a).
					S. 3(1) def. of <i>game</i> amended by No. 87/1997 s. 42(Sch. item 1(c)).
					S. 3(1) def. of <i>game licence</i> inserted by No. 90/1989 s. 12.

S. 3(1) def. of  
*Game  
Management  
Authority*  
inserted by  
No. 24/2014  
s. 28(1).

*Game Management Authority* means the Game  
Management Authority established under  
Part 2 of the **Game Management Authority  
Act 2014**;

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;

S. 3(1) def. of  
*joint  
management  
plan*  
inserted by  
No. 62/2010  
s. 132(1).

*joint management plan* has the same meaning as  
in the **Conservation, Forests and Lands  
Act 1987**;

S. 3(1) def. of  
*limited permit  
area*  
inserted by  
No. 45/2008  
s. 3(1)(a).

*limited permit area* means an area that is the  
subject of a limited permit area  
determination;

S. 3(1) def. of  
*limited permit  
area  
determination*  
inserted by  
No. 45/2008  
s. 3(1)(a).

*limited permit area determination* means a  
determination under section 83F;

S. 3(1) def. of  
*member of  
the police  
force*  
inserted by  
No. 87/1997  
s. 5(1)(a),  
repealed by  
No. 37/2014  
s. 10(Sch.  
item 184.1(b)).

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Wildlife Act 1975  
No. 8699 of 1975  
Part I—Preliminary

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*	*	*	*	*	S. 3(1) def. of <i>notable wildlife</i> inserted by No. 87/1997 s. 5(1)(a), repealed by No. 45/2008 s. 3(2)(b).
<p><i>open season</i> 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—</p> <p>(a) by an order under section 28G; or</p> <p>(b) by a notice under section 86; or</p> <p>(c) by the regulations;</p>					S. 3(1) def. of <i>open season</i> amended by No. 87/1997 s. 42(Sch. item 1(d)), substituted by No. 11/2014 s. 17(2).
<p><i>police officer</i> has the same meaning as in the <b>Victoria Police Act 2013</b>;</p>					S. 3(1) def. of <i>police officer</i> inserted by No. 37/2014 s. 10(Sch. item 184.1(a)).
<p><i>prescribed</i> means prescribed by regulations under this Act;</p>					
<p><i>proclamation</i> means any proclamation of the Governor in Council made under or continued in force by this Act;</p>					
<p><i>protected wildlife</i> means all wildlife other than those kinds or taxon which—</p> <p>(i) is a pest animal within the meaning of the <b>Catchment and Land Protection Act 1994</b>; or</p> <p>(ii) the Governor in Council from time to time by Order published in the Government Gazette declares to be unprotected wildlife; or</p>					S. 3(1) def. of <i>protected wildlife</i> 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)).

(iii) are specified by Order of the Governor in Council published in the Government Gazette pursuant to section 7A;

S. 3(1) def. of *seal* inserted by No. 45/2008 s. 3(1)(a).

*seal* means any wildlife that is a member of the family Otariidae or the family Phocidae;

S. 3(1) def. of *seal tour* inserted by No. 45/2008 s. 3(1)(a).

*seal tour* means an activity conducted for profit that involves—

- (a) one or more persons, on land, observing or interacting with seals; or
- (b) one or more persons being in a vessel on water or being in water to observe or swim with one or more seals;

S. 3(1) def. of *seal tour permit* inserted by No. 45/2008 s. 3(1)(a).

*seal tour permit* means a permit granted under section 85C;

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 birds* inserted by No. 24/2014 s. 28(1).

*specified birds* means the birds prescribed in the Schedule;



<p><i>specified hunting area</i> means an area declared to be a specified hunting area by regulation under section 58C(2);</p>	<p>S. 3(1) def. of <i>specified hunting area</i> inserted by No. 87/1997 s. 5(1)(a).</p>
<p><i>structure</i> includes a hide or blind or other similar structure erected for the purpose of facilitating the hunting, watching or taking of wildlife;</p>	<p>S. 3(1) def. of <i>structure</i> inserted by No. 87/1997 s. 5(1)(a).</p>
<p><i>taxon</i> means any species, sub-species, hybrid, genetic grouping or other taxonomic group of any rank into which organisms are categorised;</p>	<p>S. 3(1) def. of <i>taxon</i> inserted by No. 87/1997 s. 5(1)(a).</p>
<p><i>the wild</i> 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;</p>	<p>S. 3(1) def. of <i>the wild</i> inserted by No. 70/1990 s. 6(1)(a).</p>
<p><i>this Act</i> includes regulations and proclamations made or continued in force under this Act and notices under section 86 or 86A;</p>	<p>S. 3(1) def. of <i>this Act</i> amended by Nos 7/1988 s. 8(2) (as amended by No. 90/1989 s. 18(2)), 90/1989 s. 17(2).</p>
<p><i>threatened wildlife</i> means protected wildlife that is specified in any list made under section 10(1) of the <b>Flora and Fauna Guarantee Act 1988</b>;</p>	<p>S. 3(1) def. of <i>threatened wildlife</i> inserted by No. 45/2008 s. 3(2)(a).</p>
<p><i>tour operator licence</i> means a licence granted under section 21B;</p>	<p>S. 3(1) def. of <i>tour operator licence</i> inserted by No. 40/2009 s. 41.</p>

S. 3(1) def. of *traditional owner group entity* inserted by No. 62/2010 s. 132(1), amended as *traditional owner group* by No. 4/2013 s. 35(1).

*traditional owner group* has the same meaning as in the **Traditional Owner Settlement Act 2010**;

S. 3(1) def. of *Traditional Owner Land Management Board* inserted by No. 62/2010 s. 132(1).

*Traditional Owner Land Management Board* has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

S. 3(1) def. of *vessel* inserted by No. 45/2008 s. 3(1)(a).

*vessel* means any kind of vessel that is used, or capable of being used, in navigation by water, however propelled or moved, and includes—

- (a) a barge, lighter, floating restaurant or other floating vessel; and
- (b) an air-cushion vehicle or other similar craft, that is used in navigation by water; and
- (c) any aeroplane that is designed for and capable of being waterborne, for so long as that aeroplane is waterborne;

S. 3(1) def. of *whale sightseeing permit* inserted by No. 3/2002 s. 3, repealed by No. 45/2008 s. 3(1)(b).

\* \* \* \* \*

<p><b><i>whale swim tour</i></b> means an activity conducted for profit that involves one or more persons being in water to observe or swim with one or more whales;</p>	<p>S. 3(1) def. of <i>whale swim tour</i> inserted by No. 45/2008 s. 3(1)(a).</p>
<p><b><i>whale swim tour permit</i></b> means a permit granted under section 83D;</p>	<p>S. 3(1) def. of <i>whale swim tour permit</i> inserted by No. 3/2002 s. 3, substituted by No. 45/2008 s. 3(1)(c).</p>
<p><b><i>whale watching tour</i></b> means an activity conducted for profit that involves causing a vessel or aircraft to approach one or more whales at a distance, that is less than the prescribed minimum distance for the kind of aircraft or vessel, for the purpose of enabling persons on the vessel or aircraft to observe the whale or whales;</p>	<p>S. 3(1) def. of <i>whale watching tour</i> inserted by No. 45/2008 s. 3(1)(a).</p>
<p><b><i>whale watching tour permit</i></b> means a permit granted under section 83A;</p>	<p>S. 3(1) def. of <i>whale watching tour permit</i> inserted by No. 45/2008 s. 3(1)(a).</p>
<p><b><i>wildlife</i></b> means—</p> <p>(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;</p> <p>(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;</p>	<p>S. 3(1) def. of <i>wildlife</i> 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)).</p>

(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)—

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(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.

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

**Note**

Land under this Act may be the subject of a land use activity agreement within the meaning of Part 4 of the **Traditional Owner Settlement Act 2010**.

Note to s. 3  
inserted by  
No. 62/2010  
s. 132(2).

**4 Transport Integration Act 2010**

This Act is interface legislation within the meaning of the **Transport Integration Act 2010**.

S. 4  
repealed by  
No. 87/1997  
s. 6,  
new s. 4  
inserted by  
No. 6/2010  
s. 25(5)(Sch. 2  
item 14) (as  
amended by  
No. 45/2010  
s. 6).

**4A Filming Approval Act 2014**

This Act is filming approval legislation within the meaning of the **Filming Approval Act 2014**.

S. 4A  
inserted by  
No. 9694 s. 3,  
repealed by  
No. 87/1997  
s. 6, new s. 4A  
inserted by  
No. 51/2014  
s. 9(Sch. 2  
item 22.2).

**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.<sup>1</sup>

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

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

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

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

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

- (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(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.

- (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.

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

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).

\* \* \* \* \*

**S. 11**  
amended by  
Nos 41/1987  
s. 103(Sch. 4  
item 76.9),  
87/1997  
s. 42(Sch.  
item 3),  
repealed by  
No. 24/2014  
s. 29.

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, other than a licence for a purpose relating to apiculture, 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.
- (3) A licence is taken to be granted for a purpose relating to apiculture if it permits the holder of the licence—
- (a) to keep bee hives on the land described in the licence; or
  - (b) to enable the licensee's bees to forage over the licensed land for nectar or pollen.

S. 16(2)(a)  
amended by  
No. 12/2016  
s. 36(1).

S. 16(3)  
inserted by  
No. 12/2016  
s. 36(2).

## 16A Secretary to manage and control Nature Reserves

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

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

(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**.

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

(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 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. 16A(4)  
inserted by  
No. 51/2014  
s. 9(Sch. 2  
item 22.3).

(4) Any regulations made under subsection (3) for or with respect to the issuing of film permits must not be inconsistent with the film friendly principles.

## 17 Moneys received paid to Consolidated Fund

- (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.

\* \* \* \* \*

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

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

Ss 17(2)–17A  
repealed.<sup>2,3</sup>

## 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.

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)).

- (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.

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

- (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(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.

S. 18(5)  
inserted by  
No. 62/2010  
s. 133.

- (5) In the case of any appointed land of a Traditional Owner Land Management Board, a plan of management under this section of any State Wildlife Reserve or Nature Reserve does not have effect if a joint management plan (within the meaning of the **Conservation, Forests and Lands Act 1987**) is in effect for that land.

S. 18A  
inserted by  
No. 82/2009  
s. 41.

#### **18A Power to enter into management agreements with Traditional Owner Land Management Boards**

- (1) The Secretary may enter into a management agreement with a Traditional Owner Land Management Board for or relating to—
- (a) the management of any land in a State Wildlife Reserve or Nature Reserve that is appointed land of that Board; or
  - (b) the carrying out of specified functions, powers or duties in relation to the management of any land in a State Wildlife Reserve or Nature Reserve that is appointed land of that Board.

- (2) In entering into a management agreement under subsection (1), the Secretary must have regard to any agreement entered into under Division 5 of Part 8A of the **Conservation, Forests and Lands Act 1987** in relation to the land.

\* \* \* \* \* S. 18A(3)  
repealed by  
No. 62/2010  
s. 134.

**18B Land to be managed consistently with joint management plan**

S. 18B  
inserted by  
No. 62/2010  
s. 135.

If any appointed land of a Traditional Owner Land Management Board constitutes the whole or any part of a State Wildlife Reserve or Nature Reserve under this Act, the person responsible for the management of that appointed land under this Act must ensure that the land is managed in a way that is not inconsistent with any joint management plan for the land.

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

- (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(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).

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—

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.

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

(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.



- (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. 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.

## 20 Offence to take wildlife from State Wildlife Reserve

- (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.
- S. 20(1)  
amended by  
Nos 70/1990  
s. 12(1)(b),  
3/2002 s. 4.
- Penalty: 25 penalty units.
- (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.
- S. 20(2)  
amended by  
No. 70/1990  
s. 12(1)(b).
- 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.

S. 21(1A)  
inserted by  
No. 53/2014  
s. 15.

- (1A) Subsection (1) does not apply to a person if the person is acting under and in accordance with a levee maintenance permit within the meaning of the **Water Act 1989**.

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)).

- (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.

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)).

- (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.

**21AAA Offence to construct, remove, alter, or carry out maintenance on, a levee within a State Wildlife Reserve or Nature Reserve**

S. 21AAA  
inserted by  
No. 53/2014  
s. 14.

- (1) A person must not—
- (a) construct, remove or alter a levee within a State Wildlife Reserve or a Nature Reserve;  
or
  - (b) carry out maintenance on a levee within a State Wildlife Reserve or a Nature Reserve.

Penalty: Level 8 imprisonment (12 months maximum) or a level 8 fine (120 penalty units maximum) or both.

- (2) Subsection (1)(a) and (b) do not apply to a person if the person constructs, removes, alters, or carries out maintenance on, a levee—
- (a) in the performance of a function under this Act or the regulations; or
  - (b) that the person is authorised under this Act or the regulations to construct, remove, alter or carry out maintenance on in the performance of a function under another Act or regulations made under another Act.

- (2A) Subsection (1)(a) does not apply to a person if the person constructs, removes or alters a levee in accordance with section 32AC of the **Victoria State Emergency Service Act 2005**.

S. 21AAA(2A)  
inserted by  
No. 43/2015  
s. 40.

- (3) Subsection (1)(b) does not apply to a person if the person carries out maintenance on a levee under and in accordance with a levee maintenance permit.

- (4) In this section—

*levee* has the same meaning as in Part 5AA of the **Water Act 1989**;

*levee maintenance permit* has the same meaning as in the **Water Act 1989**;

*maintenance* has the same meaning as in Part 5AA of the **Water Act 1989**.

S. 21AA  
inserted by  
No. 46/2012  
s. 23.

**21AA Offence to cut or take away fallen or felled trees**

- (1) A person must not cut or take away 2 cubic metres or less of fallen or felled trees in a State Wildlife Reserve or a Nature Reserve.

Penalty: 20 penalty units.

- (2) A person must not cut or take away more than 2 cubic metres of fallen or felled trees in a State Wildlife Reserve or a Nature Reserve.

Penalty: 50 penalty units or imprisonment for 1 year or both.

- (3) Subsections (1) and (2) do not apply to a person who—

(a) cuts or takes away fallen or felled trees in a State Wildlife Reserve or a Nature Reserve in accordance with a lease, licence, permit or authorisation held by the person under this Act or any other Act; or

(b) cuts or takes away fallen or felled trees in a State Wildlife Reserve or a Nature Reserve in accordance with the regulations or regulations under any other Act.

- (4) In this section—

*fallen or felled trees* includes parts of fallen or felled trees;

*tree* or *trees* has the same meaning as in section 3(1) of the **Forests Act 1958**.

## **Part IIA—Tour operator licences**

Pt 2A  
(Heading and  
ss 21A–21J)  
inserted by  
No. 40/2009  
s. 42.

### **21A Offence to conduct organised tour or recreational activity on State Wildlife Reserve if unlicensed**

S. 21A  
inserted by  
No. 40/2009  
s. 42.

- (1) A person must not conduct an organised tour or recreational activity for profit on a State Wildlife Reserve unless that person holds a tour operator licence.

Penalty: In the case of a natural person,  
20 penalty units;

In the case of a body corporate,  
100 penalty units.

- (2) Subsection (1) does not apply to a person who conducts an activity on a State Wildlife Reserve and who holds a lease, licence (other than a tour operator licence) or permit under this Act or the regulations to conduct that particular activity.
- (3) On the recommendation of the Minister, the Governor in Council may, by Order published in the Government Gazette, exempt classes of persons from the requirement to hold a tour operator licence under subsection (1).

### **21B Grant of tour operator licence**

S. 21B  
inserted by  
No. 40/2009  
s. 42.

- (1) The Secretary may grant a licence to a person to conduct an organised tour or recreational activity for profit on a State Wildlife Reserve to a person who has applied under section 21C.
- (2) The Secretary may grant a licence under subsection (1) for a period not exceeding 10 years.

S. 21C  
inserted by  
No. 40/2009  
s. 42.

### **21C Application for tour operator licence**

- (1) A person may apply for a tour operator licence to the Secretary in respect of the land on which the proposed tour or recreational activity is to take place.
- (2) An application under subsection (1) must be accompanied by the fee payable for the first year of the licence as determined in accordance with the regulations unless the regulations otherwise provide.
- (3) The fee paid by a person under subsection (2) must be refunded to the person if the person is not granted a tour operator licence under section 21B.

S. 21D  
inserted by  
No. 40/2009  
s. 42.

### **21D Requirement to pay annual licence fee after grant of tour operator licence**

- (1) If the regulations provide for the determination of an annual licence fee for a tour operator licence or a class of tour operator licence, the holder of such a licence must pay the fee determined in accordance with the regulations in respect of each year for which the licence is in force.
- (2) A licence fee to which subsection (1) applies is payable at the time specified in the regulations.

S. 21E  
inserted by  
No. 40/2009  
s. 42.

### **21E Tour operator licence conditions**

A licence granted under section 21B is subject to—

- (a) any conditions, determined by the Secretary, that are specified or referred to in the licence; and
- (b) any prescribed conditions.

**21F Contravention of condition an offence**

A holder of a tour operator licence must not contravene the conditions of the licence.

Penalty: In the case of a natural person,  
20 penalty units;

In the case of a body corporate,  
100 penalty units.

S. 21F  
inserted by  
No. 40/2009  
s. 42.

**21G Variation of tour operator licence**

- (1) The holder of a tour operator licence may apply to the Secretary for a variation of the licence or a condition of the licence.
- (2) On receiving the application under subsection (1), the Secretary may vary the licence or condition in accordance with the application.
- (3) A variation made by the Secretary under subsection (2) has effect on the Secretary giving written notice of the variation to the licence holder.
- (4) The Secretary may vary a tour operator licence, or vary a condition of that licence, of the Secretary's own motion if the Secretary is of the opinion that a variation is required.
- (5) A variation made by the Secretary under subsection (4) has effect on the Secretary giving written notice of the variation to the licence holder.

S. 21G  
inserted by  
No. 40/2009  
s. 42.

**21H Suspension of tour operator licence**

- (1) If the Secretary is satisfied that there are reasonable grounds to do so, the Secretary may suspend the tour operator licence by notice in writing given to the holder of the licence.

S. 21H  
inserted by  
No. 40/2009  
s. 42.

- (2) A suspension under this section has effect—
  - (a) from the time specified in the notice under subsection (1), which must be no earlier than the day after the day the notice is given; and
  - (b) subject to section 21I, for the period (not exceeding 90 days) specified in the notice.
- (3) In addition to the details required under subsection (2), a notice of suspension of licence given under subsection (1) must—
  - (a) state that the holder of the tour operator licence may make submissions regarding the suspension under section 21I;
  - (b) specify a date or period by which the submissions must be made.

S. 21I  
inserted by  
No. 40/2009  
s. 42.

#### **21I Making submissions on suspension**

- (1) The holder of a tour operator licence whose licence has been suspended under section 21H may make written submissions in respect of that suspension to the Secretary within the period specified in the notice of suspension of licence.
- (2) The Secretary must review the decision to suspend the licence on receipt of any submissions made under subsection (1).
- (3) In carrying out a review under subsection (2), the Secretary—
  - (a) must have regard to the submissions made under subsection (1); and
  - (b) may decide to continue, revoke or amend the suspension.
- (4) The Secretary must notify the person whose licence has been suspended of the outcome of review.



## **21J Cancellation of tour operator licence**

S. 21J  
inserted by  
No. 40/2009  
s. 42.

- (1) The Secretary may cancel a tour operator 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 the regulations; or
  - (b) the holder of the licence has contravened a condition of the licence.
- (2) Before cancelling a tour operator licence, the Secretary must—
  - (a) notify the holder of the licence 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 tour operator 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 the Secretary's decision.
- (5) The cancellation of a licence 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.

## Part III—Licences

### 22 Wildlife licences

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).

- (1) Subject to subsection (2), the Secretary may license a person to do all or any of the following—

S. 22(1)  
substituted by  
No. 87/1997  
s. 8(1),  
amended by  
Nos 10/2005  
s. 3(Sch. 1  
item 27.1),  
24/2014  
s. 30(1)(a).

- (a) take or destroy wildlife (other than specified birds);

S. 22(1)(a)  
amended by  
No. 24/2014  
s. 30(1)(b).

- (b) buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process or display wildlife (other than specified birds).

S. 22(1)(b)  
amended by  
No. 24/2014  
s. 30(1)(b).

- (2) The Game Management Authority may license a person to do all or any of the following in respect of specified birds—

S. 22(2)  
repealed by  
No. 87/1997  
s. 8(1), new  
s. 22(2)  
inserted by  
No. 24/2014  
s. 30(2).

- (a) take or destroy the birds;  
(b) buy, sell, acquire, receive, dispose of, keep, possess, control, breed or display the birds.

(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 or the Game Management Authority (as appropriate) imposes on the licence or on that category of licence; and

S. 22(3)(b)(ii)  
substituted by  
No. 87/1997  
s. 8(2)(a),  
amended by  
No. 24/2014  
s. 30(3).

- (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 or the Game Management Authority (as appropriate) giving notice of the variation to the holder of the licence.

S. 22(3A)  
inserted by  
No. 87/1997  
s. 8(3),  
amended by  
No. 24/2014  
s. 30(3).

(4) A person seeking the issue of a licence must apply to the Secretary or the Game Management Authority (as appropriate) 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  
Nos 87/1997  
s. 42(Sch.  
item 14),  
24/2014  
s. 30(3).

(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.

S. 22(6)  
amended by  
No. 87/1997  
s. 8(4).

- (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.
- (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.

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

## 22A Game licences

S. 22A(1)  
amended by  
No. 70/1990  
s. 12(2),  
substituted by  
No. 87/1997  
s. 9(1),  
amended by  
Nos 10/2005  
s. 3(Sch. 1  
item 27.2),  
24/2014  
s. 31(1).

- (1) The Game Management Authority may license a person to hunt, take or destroy game.

S. 22A(2)  
amended by  
Nos 87/1997  
s. 42(Sch.  
item 15(a)),  
24/2014  
s. 31(1).

- (2) A person seeking a game licence must apply to the Game Management Authority in the prescribed manner for the game licence and must lodge the prescribed fee with the application.

S. 22A(3)  
amended by  
Nos 87/1997  
s. 42(Sch.  
item 15(b)),  
24/2014  
s. 31(2).

- (3) The Game Management Authority may, subject to any conditions, limitations and restrictions that are prescribed or as the Authority 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. **S. 22A(4) amended by No. 87/1997 s. 42(Sch. item 15(c)).**
- (4A) Despite anything to the contrary in any other Act, if the Game Management Authority 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. **S. 22A(4A) inserted by No. 87/1997 s. 9(2), amended by No. 24/2014 s. 31(3).**
- (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 Game Management Authority giving notice of the variation to the holder of the licence. **S. 22A(4B) inserted by No. 87/1997 s. 9(2), amended by No. 24/2014 s. 31(3).**
- (5) Subject to subsection (6), the Game Management Authority must grant any application for a game licence unless the Authority is satisfied that— **S. 22A(5) amended by Nos 87/1997 s. 42(Sch. item 15(d)(i)), 24/2014 s. 31(4).**
- (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)).**

- S. 22A(5)(d)  
inserted by  
No. 87/1997  
s. 9(3).
- (d) the applicant is already the holder of a licence under this section; or
- S. 22A(5)(e)  
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(6)  
amended by  
Nos 87/1997  
s. 42(Sch.  
item 15(e)),  
24/2014  
s. 31(5),  
48/2016 s. 20.
- (6) The Game Management Authority may refuse to grant any application for a game licence if the applicant has been found guilty of any offence against this Act.
- S. 22A(7)  
amended by  
No. 87/1997  
s. 9(4)(a)(b).
- (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(7A)  
inserted by  
No. 87/1997  
s. 9(5),  
amended by  
No. 24/2014  
s. 31(6).
- (7A) The Game Management Authority must renew a licence upon application from the holder of the licence unless the Authority 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),  
amended by  
No. 24/2014  
s. 31(7).
- (7B) Upon application made in writing and upon payment of any additional prescribed fee, the Game Management Authority 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.

- (7C) In considering an application under subsection (7B) the Game Management Authority may refuse to grant the application if the Authority is satisfied that any of the grounds set out in subsection (5)(a), (b), (c) or (e) applies. S. 22A(7C) inserted by No. 87/1997 s. 9(5), amended by No. 24/2014 s. 31(8).
- (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(7D) inserted by No. 87/1997 s. 9(5).
- (8) The holder of a game licence must not contravene any condition, limitation or restriction to which the licence is subject. S. 22A(8) amended by No. 70/1990 s. 12(2).
- 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).
- 23 Grant of wildlife licences may be refused in certain cases** S. 23 (Heading) inserted by No. 24/2014 s. 32(1).
- (1) The Secretary may refuse to grant any application for a licence referred to in section 22 (except a licence in respect of specified birds) or to renew any such licence if the Secretary is satisfied that— 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)), 24/2014 s. 32(2).
- (a) the applicant is not a fit and proper person to hold the licence applied for;

S. 23(1)(b)  
substituted by  
No. 87/1997  
s. 10(a).

(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—

(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;

S. 23(1)(c)  
amended by  
Nos 70/1990  
s. 6(1)(b),  
87/1997  
s. 42(Sch.  
item 16(a)(ii)).

(c) the issue of the licence would be deleterious to the welfare or conservation of any wild life or of any taxon of wildlife;

(d) the number of such licences in force ought to be limited; or

S. 23(1)(e)  
substituted by  
No. 87/1997  
s. 10(b).

(e) the applicant has been found guilty of an offence against this Act or a corresponding previous enactment; or

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

(f) the applicant is already the holder of a wildlife licence; or

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(1A)  
inserted by  
No. 24/2014  
s. 32(3).

(1A) The Game Management Authority may refuse to grant any application for a licence referred to in section 22 in respect of specified birds or to renew a licence in respect of specified birds if the Authority is satisfied that—



- (a) the applicant is not a fit and proper person to hold a licence in respect of specified birds;  
or
  - (b) the premises specified in the application for grant or renewal as being the premises which is to house the specified birds—
    - (i) are not suitable for housing specified birds; or
    - (ii) are premises in respect of which a licence has already been issued; or
  - (c) the issue of the licence would be deleterious to the welfare of specified birds; or
  - (d) the number of 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
  - (f) the applicant is already a holder of a wildlife licence in respect of specified birds; or
  - (g) the applicant has failed to comply with this Act, the regulations or the conditions of his or her licence.
- (2) Upon application made in writing and upon payment of any additional prescribed fees the Secretary may vary a licence in force under section 22 (other than a licence in respect of specified birds) 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(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)),**  
**24/2014**  
**s. 32(4).**

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),  
new s. 23(3)  
inserted by  
No. 24/2014  
s. 32(5).

- (3) The Game Management Authority may vary a licence in respect of specified birds in force under section 22 in any respect—
- (a) on an application made in writing by the holder of the licence; and
  - (b) on payment of any additional prescribed fees.

S. 23(4)  
inserted by  
No. 24/2014  
s. 32(5).

- (4) On the date of variation of a licence in respect of specified birds under subsection (3), the licence is deemed to have been granted as varied.

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.

- |   |   |
|---|---|
| <p>(2) An application for the renewal of a wildlife licence must be—</p> <p style="margin-left: 40px;">(a) made in the prescribed manner; and</p> <p style="margin-left: 40px;">(b) made to—</p> <p style="margin-left: 80px;">(i) if the wildlife licence is in respect of specified birds, the Game Management Authority; or</p> <p style="margin-left: 80px;">(ii) in any other case, the Secretary.</p> | <p>S. 25(2)<br/>amended by<br/>Nos 41/1987<br/>s. 103(Sch. 4<br/>item 76.30),<br/>90/1989<br/>s. 14(c),<br/>substituted by<br/>No. 70/1990<br/>s. 6(7),<br/>amended by<br/>No. 87/1997<br/>s. 42(Sch.<br/>item 17(a)),<br/>substituted by<br/>No. 24/2014<br/>s. 33(1).</p> |
| <p>(3) Every renewal shall be subject to such conditions, limitations, and restrictions as are prescribed or as the Secretary or the Game Management Authority (as appropriate) thinks fit and are expressed or referred to in the licence.</p>   | <p>S. 25(3)<br/>amended by<br/>Nos 41/1987<br/>s. 103(Sch. 4<br/>item 76.30),<br/>70/1990<br/>s. 6(1)(g),<br/>87/1997<br/>s. 42(Sch.<br/>item 17(b)),<br/>24/2014<br/>s. 33(2).</p>   |
| <p>(4) The Secretary may vary a wildlife licence (other than a wildlife licence in respect of specified birds) at any time by notice in writing sent by post to the holder of the licence.</p>  | <p>S. 25(4)<br/>amended by<br/>Nos 41/1987<br/>s. 103(Sch. 4<br/>item 76.30),<br/>90/1989<br/>s. 14(c),<br/>87/1997<br/>s. 42(Sch.<br/>item 17(c)),<br/>substituted by<br/>No. 24/2014<br/>s. 33(3).</p>  |
| <p>(5) The Game Management Authority may vary a wildlife licence in respect of specified birds at any time by notice in writing sent by post to the holder of the licence.</p>  | <p>S. 25(5)<br/>inserted by<br/>No. 24/2014<br/>s. 33(3).</p>   |

## **25A Mandatory cancellation of certain licences by Secretary**

S. 25A  
(Heading)  
inserted by  
No. 24/2014  
s. 34(1).

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

S. 25A(1)  
amended by  
No. 24/2014  
s. 34(2).

- (1) The Secretary must cancel a wildlife licence (other than a wildlife licence in respect of specified birds) 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—
  - (a) notify the holder in writing that it is proposed to cancel the licence; and
  - (b) allow the holder 14 days within which to make oral or written submissions about the proposal.
- (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 (other than a wildlife licence in respect of specified birds, a game licence or a tour operator licence); and
  - (b) specify a time within which the person may not apply for another licence under this Act (other than a wildlife licence in respect of specified birds, a game licence or a tour operator licence).

S. 25A(4)(a)  
amended by  
Nos 40/2009  
s. 43(a),  
24/2014  
s. 34(3).

S. 25A(4)(b)  
amended by  
Nos 40/2009  
s. 43(b),  
24/2014  
s. 34(3).

**25AB Mandatory cancellation of certain licences by Game Management Authority**

S. 25AB  
inserted by  
No. 24/2014  
s. 35.

- (1) The Game Management Authority must cancel a wildlife licence in respect of specified birds or a game licence if the Authority 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 Game Management Authority must—
  - (a) notify the holder in writing that it is proposed to cancel the licence; and
  - (b) allow the holder 14 days within which to make oral or written submissions about the proposal.
- (3) In making a decision, the Game Management Authority must—
  - (a) have regard to the submissions; and
  - (b) notify the holder of the decision.
- (4) In addition to cancelling the licence, the Game Management Authority may—
  - (a) cancel any other game licence or wildlife licence in respect of specified birds issued to that person; and
  - (b) specify a time within which the person may not apply for another game licence or wildlife licence in respect of specified birds.

S. 25B  
(Heading)  
inserted by  
No. 24/2014  
s. 36(1).

## **25B Power of Secretary to suspend certain licences**

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

S. 25B(1)  
amended by  
Nos 40/2009  
s. 44, 24/2014  
s. 36(2).

- (1) The Secretary may suspend a wildlife licence (other than a wildlife licence in respect of specified birds), 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 (other than specified birds) held under a licence which has been suspended under this section must be dealt with in accordance with the directions of the Secretary.

S. 25B(3)  
amended by  
No. 24/2014  
s. 36(3).

S. 25BA  
inserted by  
No. 24/2014  
s. 37.

## **25BA Power of Game Management Authority to suspend certain licences**

- (1) The Game Management Authority may suspend a wildlife licence in respect of specified birds or a game licence, by notice in writing given to the holder of the licence, if the Authority 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 specified birds held under a licence which has been suspended under this section must be dealt with in accordance with the directions of the Game Management Authority.

### **25C Making submissions on suspension**

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

- (1) Immediately on suspending a licence under this Part, the Secretary or Game Management Authority (as appropriate) must allow the holder of the licence 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 or Game Management Authority (as appropriate) 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.

**S. 25C(1)**  
amended by  
Nos 40/2009  
s. 44, 24/2014  
s. 38.

**S. 25C(3)**  
amended by  
No. 24/2014  
s. 38.

S. 25C(4)  
amended by  
No. 24/2014  
s. 38.

- (4) The Secretary or Game Management Authority (as appropriate) must notify the holder of the licence of the outcome of the review.

S. 25D  
(Heading)  
inserted by  
No. 24/2014  
s. 39(1)

## **25D Power of Secretary to cancel certain licences**

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

S. 25D(1)  
amended by  
Nos 40/2009  
s. 44, 24/2014  
s. 39(2).

- (1) The Secretary may cancel a wildlife licence (other than a wildlife licence in respect of specified birds) 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.



(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 (other than specified birds) held under a licence which has been cancelled under this section must be disposed of in accordance with the directions of the Secretary.

S. 25D(6)  
amended by  
No. 24/2014  
s. 39(3).

**25DA Power of the Game Management Authority to cancel certain licences**

S. 25DA  
inserted by  
No. 24/2014  
s. 40.

(1) The Game Management Authority may cancel a wildlife licence in respect of specified birds or a game licence if the Authority 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.

(1A) In addition to cancelling a licence under subsection (1), the Game Management Authority may specify a time not exceeding 5 years within which the person may not apply for either a wildlife licence in respect of specified birds or a game licence.

S. 25DA(1A)  
inserted by  
No. 48/2016  
s. 21(1).

(2) Before cancelling a licence the Game Management Authority must—

(a) notify the holder that the Authority proposes to cancel the licence; and

(ab) if the Authority proposes to specify a time within which the person may not apply for a wildlife licence in respect of specified birds, or a game licence, notify the holder that the Authority proposes to do so and of the proposed time; and

S. 25DA(2)(ab)  
inserted by  
No. 48/2016  
s. 21(2).

S. 25DA(4)  
amended by  
No. 48/2016  
s. 21(3).

- (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 under subsection (1) or specify a time under subsection (1A), the Game Management Authority 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 Authority's decision.

S. 25DA(5)  
amended by  
No. 48/2016  
s. 21(4).

- (5) A cancellation under subsection (1) and a time specified under subsection (1A) have effect from the time specified in the notice of the Game Management's Authority's decision under subsection (4), which must be after the day on which the notice was given.

S. 25DA(5A)  
inserted by  
No. 48/2016  
s. 21(5).

- (5A) A notice under subsection (4) may direct the holder to return the licence to the Game Management Authority within the period specified in the notice.

S. 25DA(5B)  
inserted by  
No. 48/2016  
s. 21(5).

- (5B) A person to whom a notice under subsection (4) is given must comply with any direction in the notice of a kind referred to in subsection (5A).

Penalty: 5 penalty units.

- (6) Any specified birds held under a licence which has been cancelled under this section must be disposed of in accordance with the directions of the Game Management Authority.

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

## 28 Production of licence

- (1) The holder of any licence, permit, or other authority under this Act shall on demand by an authorised officer or by a police officer produce the licence, permit, or other authority for inspection by the authorised officer or police officer 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 authorised officer or police officer directs.

S. 28(1)  
amended by  
Nos 41/1987  
s. 103(Sch. 4  
item 76.31),  
70/1990  
s. 12(1)(f),  
37/2014  
s. 10(Sch.  
item 184.2).

Penalty: 5 penalty units.

- (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;

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

- (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.

## Part IIIA—Authorisations

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

### 28A Authorisation to take etc. wildlife

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

(1) Subject to subsection (1AA), the Secretary may give written authorisation to a person to do all or any of the following—

S. 28A(1)  
amended by  
No. 24/2014  
s. 4(1).

(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;

S. 28A(1)(b)  
amended by  
No. 45/2008  
s. 4(1)(a).

(ba) mark wildlife, handle wildlife for the purpose of marking it and interfere with the markings on wildlife—

S. 28A(1)(ba)  
inserted by  
No. 45/2008  
s. 4(1)(b).

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
- (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.

S. 28(1AA)  
inserted by  
No. 24/2014  
s. 41(2).

(1AA) The Secretary must consult with the Game Management Authority before giving written authorisation to a person under subsection (1)(a) to hunt, take or destroy specified birds or game.

S. 28(1AB)  
inserted by  
No. 24/2014  
s. 41(2).

(1AB) The Game Management Authority may give written authorisation to a person to do all or any of the following—

- (a) hunt, take or destroy game;
- (b) buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process, display, take samples from or experiment on game;
- (c) mark game, handle game for the purpose of marking it and interfere with the markings on game—

if the Authority is satisfied that the authorisation is necessary—

- (d) for the purposes of the management, conservation, protection or control of game or for the purposes of education about game, research into game or scientific or other study of game; or

- (e) for aboriginal cultural purposes; or
- (f) for the purposes of ensuring the health or safety of any person or class of persons; or
- (g) to support a recognised wildlife management plan; or
- (h) to make provision for the custody, care and management of game, held under another authorisation or a licence which has been suspended, during the period of that suspension.

(1A) The Secretary may give written authorisation to a person to disturb wildlife or cause wildlife to be disturbed if the Secretary is satisfied that the authorisation is necessary—

**S. 28A(1A)**  
inserted by  
No. 45/2008  
s. 4(2).

- (a) because the 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
- (b) to support a recognised wildlife management plan.

(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
- (ab) by the Game Management Authority; or

**S. 28A(2)(ab)**  
inserted by  
No. 24/2014  
s. 41(3).

- (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 or the Game Management Authority (as appropriate) for the authorisation in the prescribed manner; and
  - (b) provide any information required by the Secretary or the Game Management Authority (as appropriate) to accompany the application; and
  - (c) pay the prescribed fee (if any) for the authorisation.

S. 28A(4)(a)  
amended by  
No. 24/2014  
s. 41(4).

S. 28A(4)(b)  
amended by  
No. 24/2014  
s. 41(4).

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

**28B Offence of failing to comply with conditions of authorisation**

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  
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.



## 28D Suspension of authorisation

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

(1) If the Secretary is satisfied that there are reasonable grounds to do so, the Secretary may suspend an authorisation the Secretary has given, by notice in writing given to the holder of an authorisation.

S. 28D(1)  
amended by  
No. 24/2014  
s. 42(1).

(1A) If the Game Management Authority is satisfied that there are reasonable grounds to do so, the Authority may suspend an authorisation the Authority has given, by notice in writing given to the holder of an authorisation.

S. 28D(1A)  
inserted by  
No. 24/2014  
s. 42(2).

(2) A suspension under this section has effect—

(a) from the time specified in the notice under subsection (1) or (1A), which must be after the day on which the notice is given; and

S. 28D(2)(a)  
amended by  
No. 24/2014  
s. 42(3).

(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 by the Secretary must be dealt with in accordance with the directions of the Secretary.

S. 28D(3)  
amended by  
No. 24/2014  
s. 42(4).

(4) The custody, care and management of any game or specified birds held under an authorisation which has been suspended under this section by the Game Management Authority must be dealt with in accordance with the directions of the Authority.

S. 28D(4)  
inserted by  
No. 24/2014  
s. 42(5).

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

## **28E Making submissions on suspension**

S. 28E(1)  
amended by  
No. 24/2014  
s. 43.

(1) Immediately on suspending an authorisation, the Secretary or Game Management Authority (as appropriate) 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.

S. 28E(3)  
amended by  
No. 24/2014  
s. 43.

(3) On receiving any submissions under subsection (2), the Secretary or Game Management Authority (as appropriate) must review the decision to suspend the authorisation, 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.

S. 28E(4)  
amended by  
No. 24/2014  
s. 43.

(4) The Secretary or Game Management Authority (as appropriate) must notify the holder of the authorisation of the outcome of the review.

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

## **28F Cancellation of authorisation**

S. 28F(1)  
amended by  
No. 24/2014  
s. 44(1).

(1) If the Secretary is satisfied that there are reasonable grounds to do so, the Secretary may cancel an authorisation that the Secretary has given.

S. 28F(1A)  
inserted by  
No. 24/2014  
s. 44(2).

(1A) If the Game Management Authority is satisfied that there are reasonable grounds to do so, the Authority may cancel an authorisation it has given.

Wildlife Act 1975  
No. 8699 of 1975  
Part IIIA—Authorisations

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- (2) Before cancelling an authorisation the Secretary or Game Management Authority (as appropriate) 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 or Game Management Authority (as appropriate) 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 the Secretary has given which has been cancelled under this section must be disposed of in accordance with the directions of the Secretary.
- (7) Any game or specified birds held under an authorisation which has been cancelled under this section must be disposed of in accordance with the directions of the Game Management Authority.

**S. 28F(2)**  
amended by  
**No. 24/2014**  
s. 44(3).

**S. 28F(4)**  
amended by  
**No. 24/2014**  
s. 44(3).

**S. 28F(6)**  
amended by  
**No. 24/2014**  
s. 44(4).

**S. 28F(7)**  
inserted by  
**No. 24/2014**  
s. 44(5).

Pt 3B  
(Heading and  
ss 28G–28K)  
inserted by  
No. 45/2008  
s. 5.

## Part IIIB—Authorisation Orders

S. 28G  
inserted by  
No. 45/2008  
s. 5.

### 28G Authorisation Orders as to taking etc. wildlife

- (1) The Governor in Council, on the recommendation of the Minister, may make an order authorising a class of 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;
  - (c) mark wildlife, handle wildlife for the purpose of marking it and interfere with the markings on wildlife.
- (2) The Minister must not make a recommendation under subsection (1) unless he or she is satisfied that the making of the order is necessary—
  - (a) because wildlife is damaging buildings, vineyards, orchards, crops, trees, pastures, habitats or other property and authority is to be given by the order to owners, occupiers or administrators of such property or persons living in the vicinity of such property; or
  - (b) for the purposes of—
    - (i) the management, conservation, protection or control of wildlife; or
    - (ii) education about wildlife, research into wildlife or scientific or other study of wildlife; or
    - (iii) recreational hunting of game; or

S. 28G(2)(b)  
substituted by  
No. 11/2014  
s. 18.

- (c) for aboriginal cultural purposes; or
- (d) for the purposes of enabling the care, treatment or rehabilitation of sick, injured or orphaned wildlife; or
- (e) for the purposes of ensuring the health or safety of any person or class of persons; or
- (f) to support a recognised wildlife management plan.

**28H Authorisation Orders as to disturbing wildlife**

S. 28H  
inserted by  
No. 45/2008  
s. 5.

- (1) The Governor in Council, on the recommendation of the Minister, may make an order authorising a class of person to disturb wildlife or cause wildlife to be disturbed.
- (2) The Minister must not make a recommendation under subsection (1) unless he or she is satisfied that the making of the order is necessary—
  - (a) because wildlife is damaging buildings, vineyards, orchards, crops, trees, pastures, habitats or other property and authority is to be given by the order to owners, occupiers or administrators of such property or persons living in the vicinity of such property; or
  - (b) to support a recognised wildlife management plan.

**28I Conditions in authorisation orders**

S. 28I  
inserted by  
No. 45/2008  
s. 5.

- (1) The Governor in Council may impose conditions on the carrying out of any activity under an authorisation order.
- (2) Regulations made under this Act may impose conditions on the carrying out of any activity under an authorisation order.

S. 28J  
inserted by  
No. 45/2008  
s. 5.

**28J Publication and commencement of authorisation order**

- (1) An authorisation order must be published in the Government Gazette.
- (2) An authorisation order comes into operation on—
  - (a) the day specified in the order, which must not be before the day on which the order is published in the Government Gazette; or
  - (b) if no day is specified in the order, the day after the day on which the order is published in the Government Gazette.

S. 28K  
inserted by  
No. 45/2008  
s. 5.

**28K Period of authorisation order**

An authorisation order remains in force for the period specified in the order, or for 3 years from the commencement of the order (whichever is the earlier).

## 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)).

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

- (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.

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

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

- (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.



**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

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

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

(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(3)  
amended by  
Nos 41/1987  
s. 103(Sch. 4  
item 76.34),  
87/1997  
s. 42(Sch.  
item 19(b)  
(i)(ii)), 24/2014  
s. 45(1).

(3) In respect of land declared under subsection (1) to be a Wildlife Management Co-operative Area the Secretary or the Game Management Authority (as appropriate) 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.

Wildlife Act 1975  
No. 8699 of 1975  
Part V—Wildlife Management Co-operative  
Areas, prohibited areas, and sanctuaries

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- (4) The working plan for any Wildlife Management Co-operative Area may be prepared in consultation between the Secretary or the Game Management Authority, 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.
- (5) The plan may contain provisions requiring the involvement and participation of officers of the Department or the Game Management Authority 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.
- (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.
- (7) Any dispute arising with respect to a working plan under this section between the Department or the Game Management Authority 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

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)),  
24/2014  
s. 45(2).

S. 32(5)  
amended by  
Nos 41/1987  
s. 103(Sch. 4  
item 76.36),  
24/2014  
s. 45(3).

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

S. 32(7)  
amended by  
Nos 41/1987  
s. 103(Sch. 4  
item 76.37),  
24/2014  
s. 45(4).

Governor in Council whose decision thereon shall be final.

### 33 Prohibited areas

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

(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.

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

(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.

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

(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.

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)).

(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.

### 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

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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).

- (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.

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).

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## Part VII—Offences

### 41 Hunting, taking or destroying threatened wildlife

S. 41  
(Heading)  
inserted by  
No. 45/2008  
s. 6(1).  
S. 41  
amended by  
No. 70/1990  
ss 4(2),  
12(1)(h)(i)(ii),  
substituted by  
No. 87/1997  
s. 14.

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

S. 41(1)  
amended by  
No. 45/2008  
s. 6(2).

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—

S. 41(2)  
substituted by  
No. 45/2008  
s. 6(3).

- (a) who holds a licence or authorisation that authorises the hunting, taking or destroying of threatened wildlife, when that person is acting in accordance with the licence or authorisation; or
- (b) who is a member of a class of person in respect of whom an authorisation order has been made that authorises the hunting, taking or destroying of threatened wildlife, when that person is acting in accordance with the order.

S. 42  
amended by  
No. 70/1990  
ss 4(2),  
12(1)(i)(i)(ii),  
substituted by  
No. 87/1997  
s. 14,  
repealed by  
No. 45/2008  
s. 7.

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

### 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.

S. 43(2)  
substituted by  
No. 45/2008  
s. 8(1).

- (2) Subsection (1) does not apply to a person—
- (a) who holds a licence or authorisation that authorises the hunting, taking or destroying of other protected wildlife, when that person is acting in accordance with the licence or authorisation; or
- (b) who is a member of a class of person in respect of whom an authorisation order has been made that authorises the hunting, taking or destroying of other protected wildlife, when that person is acting in accordance with the order.

S. 43(3)  
amended by  
No. 45/2008  
s. 8(2).

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



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

#### 44 Hunting, taking or destroying game

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.

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

S. 44(1)  
amended by  
No. 11/2014  
s. 19(1).

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.

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

S. 44(2)  
substituted by  
No. 45/2008  
s. 9(1).

- (a) who holds an authorisation that authorises the hunting, taking or destroying of that taxon of game, when that person is acting in accordance with the authorisation; or
- (b) who is a member of a class of person in respect of whom an authorisation order has been made that authorises the hunting, taking or destroying of that taxon of game, when that person is acting in accordance with the order.

S. 44(3)  
amended by  
No. 11/2014  
s. 19(2).

- (3) During an 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.

S. 44(4)  
substituted by  
No. 45/2008  
s. 9(2).

- (4) Subsection (3) does not apply to a person—
- (a) who holds a licence or authorisation that authorises the hunting, taking or destroying of that taxon of game, when that person is acting in accordance with the licence or authorisation; or
  - (b) who is a member of a class of person in respect of whom an authorisation order has been made that authorises the hunting, taking or destroying of that taxon of game, when that person is acting in accordance with the order.

S. 45  
(Heading)  
inserted by  
No. 45/2008  
s. 10(1).

#### **45 Acquiring etc. threatened wildlife**

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

S. 45(1)  
amended by  
No. 45/2008  
s. 10(2).

- (1) A person must not buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process, display, take samples from or experiment on threatened 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 holds a licence or authorisation that authorises the buying, selling, acquiring, receiving, disposing of, keeping, possessing, controlling, breeding, processing, displaying, taking samples from or experimenting on threatened wildlife, when that person is acting in accordance with the licence or authorisation; or
- (b) who is a member of a class of person in respect of whom an authorisation order has been made that authorises the buying, selling, acquiring, receiving, disposing of, keeping, possessing, controlling, breeding, processing, displaying, taking samples from or experimenting on threatened wildlife, when that person is acting in accordance with the order.

S. 45(2)  
substituted by  
No. 45/2008  
s. 10(3).

\* \* \* \* \*

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,  
repealed by  
No. 45/2008  
s. 11.

#### **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

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

wildlife in respect of which an offence has been committed.

S. 47(2)  
substituted by  
No. 45/2008  
s. 12(1).

- (2) Subsection (1) does not apply to a person—
- (a) who holds a licence or authorisation that authorises the buying, selling, acquiring, receiving, disposing of, keeping, possessing, controlling, breeding, processing, displaying, taking samples from or experimenting on other protected wildlife, when that person is acting in accordance with the licence or authorisation; or
  - (b) who is a member of a class of person in respect of whom an authorisation order has been made that authorises the buying, selling, acquiring, receiving, disposing of, keeping, possessing, controlling, breeding, processing, displaying, taking samples from or experimenting on other protected wildlife, when that person is acting in accordance with the order.

S. 47(3)  
amended by  
No. 45/2008  
s. 12(2).

- (3) In this section *other protected wildlife* means protected wildlife which is not threatened wildlife.

S. 47A  
(Heading)  
inserted by  
No. 45/2008  
s. 13(1).

#### **47A Exemptions from certain sections**

S. 47A  
inserted by  
No. 87/1997  
s. 14,  
amended by  
No. 45/2008  
s. 13(2).

Sections 41, 43, 44, 45 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.

**47B Offences not to apply for authorised traditional owners**

Sections 41, 43, 44, 45 and 47 do not apply to a person who is a member of a traditional owner group when that person is acting under and in accordance with an authorisation order given under section 83 of the **Traditional Owner Settlement Act 2010**.

S. 47B inserted by No. 87/1997 s. 14, repealed by No. 45/2008 s. 14, new s. 47B inserted by No. 62/2010 s. 136, amended by No. 4/2013 s. 35(2).

**47C Employees of licence holders**

- (1) Sections 41, 43, 45 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.

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

S. 47C(1) amended by No. 45/2008 s. 15.

**47D Wildlife unlawfully taken**

- (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,

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

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.

S. 47E  
inserted by  
No. 87/1997  
s. 14,  
amended by  
No. 45/2008  
s. 16.

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

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, 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.

**48A Seizure of dogs or cats**

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

- (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.

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

#### **48C Recovery or disposal of animal**

- (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**

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

- (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)(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.

- (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.

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

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—

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

without a permit issued by the Secretary.

Penalty: 100 penalty units.

- (1A) Subsection (1) does not apply to wildlife and wildlife products prescribed for the purposes of this section.
- (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(1A)  
inserted by  
No. 87/1997  
s. 16(2).

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
- (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

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)).

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. **S. 50(3) amended by No. 87/1997 s. 42(Sch. item 25(c)).**
- (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. **S. 50(5) inserted by No. 87/1997 s. 16(4).**
- (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 shall be guilty of an offence against this Act. **S. 51(1) amended by Nos 87/1997 s. 42(Sch. item 26), 45/2008 s. 17(1).**

Penalty: 100 penalty units.

- (1A) Subsection (1) does not apply to a person—
- (a) who holds a licence or authorisation that authorises the person to handle and mark the wildlife, when that person is acting in accordance with the licence or authorisation; or
- S. 51(1A) inserted by No. 45/2008 s. 17(2).**

(b) who is a member of a class of person in respect of whom an authorisation order has been made that authorises the handling and marking of the wildlife, when that person is acting in accordance with the order.

S. 51(2)  
inserted by  
No. 87/1997  
s. 17(2),  
substituted by  
No. 45/2008  
s. 17(3).

(2) A person must not interfere with a mark which has been placed on protected wildlife in accordance with this Act.

Penalty: 100 penalty units.

S. 51(3)  
inserted by  
No. 45/2008  
s. 17(3).

(3) Subsection (2) does not apply to—

(a) an authorised officer who is acting in the course of his or her duties; or

(b) a person who holds a licence or authorisation that authorises the interfering with markings on protected wildlife, when that person is acting in accordance with the licence or authorisation; or

(c) who is a member of a class of person in respect of whom an authorisation order has been made that authorises the interfering with markings on protected wildlife, when that person is acting in accordance with the order.

## **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.

### 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.

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).

### 54 Killing wildlife by poison

- (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(1)  
amended by  
Nos 70/1990  
s. 12(1)(c),  
87/1997  
s. 18.

- (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.

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)).

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).

### 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.

### 56 Punt guns

S. 56(1)  
amended by  
No. 70/1990  
s. 12(1)(a),  
substituted by  
No. 48/2016  
s. 22(1).

(1) A person must not—

- (a) use a punt gun in hunting or taking wildlife;  
or
- (b) possess a punt gun when hunting or taking wildlife.

Penalty: 50 penalty units.

(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 10 bore or gauge;

S. 56(2)(c)  
amended by  
No. 48/2016  
s. 22(2)(a).

- (d) a weight exceeding 7.50 kilograms;
- (e) more than 3 barrels;

S. 56(2)(e)  
amended by  
No. 48/2016  
s. 22(2)(b).

- (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. 56(3)  
amended by  
Nos 41/1987  
s. 103(Sch. 4  
item 76.56),  
87/1997  
s. 42(Sch.  
item 31),  
repealed by  
No. 48/2016  
s. 22(3).

**57 Interference with signs etc.**

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

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.

**58 Molesting and disturbing etc. protected wildlife**

S. 58  
(Heading)  
inserted by  
No. 45/2008  
s. 18(1).

(1) Any person who—

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

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

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

**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.

**S. 58(2)**  
inserted by  
No. 87/1997  
s. 19(2),  
substituted by  
No. 45/2008  
s. 18(2).

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

(a) who is disturbing wildlife or causing wildlife to be disturbed—

(i) who holds an authorisation under section 28A(1) that authorises the person to disturb wildlife or cause wildlife to be disturbed, when that person is acting in accordance with the authorisation; or

(ii) who is a member of a class of person in respect of whom an authorisation order has been made that authorises the disturbing of wildlife or the causing of wildlife to be disturbed, when that person is acting in accordance with the order; or

(b) who holds any other authorisation or a licence under this Act that authorises the person to—

(i) wilfully molest or injure protected wildlife or wilfully cause protected wildlife to be molested or injured; or

(ii) wilfully disturb, chase or herd protected wildlife or wilfully cause protected wildlife to be disturbed, chased or herded; or



(iii) wilfully separate protected wildlife from its young or cause it to be so separated—

when that person is acting in accordance with that authorisation or licence.

**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.

Penalty: 120 penalty units.

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

**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.

Penalty: 120 penalty units.

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

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

(1) A person must not enter on or remain in any specified hunting area at any of the following times—

- (a) from the beginning of the first day of an open season for ducks until 10 a.m. of that day;
- (b) from 2 hours before sunset of each day of an open season for ducks (other than the last day) until 10 a.m. of the following day;

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

S. 58C(1)  
substituted by  
No. 11/2014  
s. 20.

- (c) from 2 hours before sunset of the last day of an open season for duck until 30 minutes after sunset of that day;
- (d) at any other time in any open season for ducks that is specified in regulations made under subsection (2).

Penalty: 60 penalty units.

(1A) Subsection (1) does not apply to a person who—

- (a) is the holder of—
  - (i) a game licence that allows the hunting, taking or destroying of game birds; and
  - (ii) a longarm licence under the **Firearms Act 1996**; or
- (b) is a member of a traditional owner group when that person is hunting, taking or destroying game birds (including ducks) under and in accordance with an authorisation order given under section 83 of the **Traditional Owner Settlement Act 2010**; or
- (c) is an authorised officer or a police officer acting in the course of his or her duty; or
- (d) is acting in accordance with the authorisation of the Game Management Authority.

S. 58C(1A)  
inserted by  
No. 11/2014  
s. 20.

S. 58C(1A)(c)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.3).

S. 58C(1A)(d)  
amended by  
No. 24/2014  
s. 46.

(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).

**58D Offence to approach a person who is hunting**

During an 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 police officer acting in the course of his or her duty; or
- (d) is acting in accordance with the authorisation of the Game Management Authority.

S. 58D  
inserted by  
No. 87/1997  
s. 20,  
amended by  
No. 11/2014  
s. 21.

S. 58D(c)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.4).

S. 58D(d)  
amended by  
No. 24/2014  
s. 47.

Penalty: 60 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: 60 penalty units.

S. 58E  
inserted by  
No. 87/1997  
s. 20,  
amended by  
No. 11/2014  
s. 22.

## **Part VIIA—Banning notices and exclusion orders**

### **Division 1—Interpretation**

#### **58F Meaning of specified offence**

In this Part, *specified offence* means—

- (a) an offence against section 58C or 58D; or
- (b) an offence against section 58E that occurs in a specified hunting area.

### **Division 2—Banning notices**

#### **58G Issue of banning notice**

- (1) Subject to this section, an authorised officer or a police officer who suspects on reasonable grounds that a person has committed or is committing a specified offence may give the person a notice banning the person from any or all specified hunting areas—
  - (a) for the period specified in the notice; and
  - (b) for the times specified in the notice.
- (2) The period specified in the banning notice must not exceed the remaining period of the open season for duck as at the date on which the notice is given.
- (3) An authorised officer or a police officer must not give a banning notice to a person unless the authorised officer or police officer—
  - (a) believes on reasonable grounds that the giving of the notice may be effective in preventing or deterring the person from—

Pt 7A  
(Heading and  
ss 58F–58R)  
inserted by  
No. 11/2014  
s. 23.

S. 58F  
inserted by  
No. 11/2014  
s. 23.

S. 58G  
inserted by  
No. 11/2014  
s. 23.

S. 58G(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.5(a)).

S. 58G(3)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.5(b)).

- (i) continuing to commit the specified offence; or
- (ii) committing a further specified offence (whether in the same or another specified hunting area); or
- (b) believes on reasonable grounds that the continuation of the commission of the specified offence—
  - (i) may involve or give rise to a risk to the safety of any person; or
  - (ii) may hinder or obstruct a person who is engaged in hunting or taking game in accordance with this Act.
- (4) An authorised officer or a police officer, before giving a banning notice, must produce—
  - (a) in the case of an authorised officer, evidence of his or her identity; or
  - (b) in the case of a police officer, proof of his or her identity and official status (unless he or she is in uniform).
- (5) No more than one banning notice may be given to a person in respect of the same specified offence in the same specified hunting area.
- (6) A banning notice may be given to a person who is already subject to a banning notice if the subsequent notice is given in respect of another specified offence.

S. 58G(4)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.5(c)).

S. 58G(4)(b)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.5(c)).

**58H Content of banning notice**

S. 58H  
inserted by  
No. 11/2014  
s. 23.

- (1) A banning notice must state—
  - (a) the name of the person to whom the notice is given; and

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S. 58H(1)(b)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.6(a)).

(b) the specified offence that the authorised officer or police officer giving the notice suspects that the person has committed and the grounds for the suspicion; and

S. 58H(1)(c)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.6(b)(i)).

(c) the name of the authorised officer or police officer giving the notice and—

(i) in the case of a notice given by an authorised officer, the officer's employer and place of duty; or

S. 58H(1)(c)(ii)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.6(b)).

(ii) in the case of a notice given by a police officer, the police officer's rank and place of duty; and

(d) the specified hunting area in which the banning notice applies; and

(e) the specified period for which, and the times during which, the notice applies; and

(f) that the person must not enter or re-enter the specified hunting area in which the notice applies during the specified period; and

(g) that if the person is in the specified hunting area to which the notice applies, the person must leave the area without delay; and

(h) that it is an offence to refuse or fail to comply with the notice; and

S. 58H(1)(i)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.6(c)).

(i) that it is an offence to refuse or fail to comply with a direction given by an authorised officer or police officer to leave the specified hunting area to which the notice applies; and

(j) the maximum penalties for those offences; and

(k) that the notice may be varied or revoked.

**58I Variation and revocation of banning notice**

S. 58I  
inserted by  
No. 11/2014  
s. 23.

- (1) The Game Management Authority or a police officer of or above the rank of sergeant may vary or revoke a banning notice at any time, by notice in writing given to the person to whom the notice applies.
- (2) A banning notice cannot be varied under this section to extend the period for which the notice applies.

S. 58I(1)  
amended by  
Nos 24/2014  
s. 48, 37/2014  
s. 10(Sch.  
item 184.7).

**58J Offence to contravene banning notice**

S. 58J  
inserted by  
No. 11/2014  
s. 23.

A person to whom a banning notice is given must not in contravention of the notice—

- (a) enter or re-enter the specified hunting area;  
or
- (b) remain in the specified hunting area.

Penalty: For a first offence, 20 penalty units;  
For a second or subsequent offence,  
60 penalty units.

**58K Direction to leave area to which banning notice applies**

S. 58K  
inserted by  
No. 11/2014  
s. 23.

- (1) This section applies if a person to whom a banning notice is given is in a specified hunting area in contravention of the notice.
- (2) Subject to subsection (3), an authorised officer or a police officer may direct the person to leave the specified hunting area in the manner (if any) specified in the direction.

S. 58K(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

S. 58K(3)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

(3) An authorised officer or a police officer must—

(a) before giving a direction under subsection (2), produce—

(i) in the case of an authorised officer, evidence of his or her identity; or

S. 58K(3)(a)(ii)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

(ii) in the case of a police officer, proof of his or her identity and official status (unless he or she is in uniform); and

(b) inform the person that—

S. 58K(3)(b)(i)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

(i) the authorised officer or police officer is empowered to direct the person to leave the specified hunting area; and

(ii) it is an offence to refuse or fail to comply with the direction.

(4) A direction under subsection (2)—

(a) may be given orally or in writing; and

(b) must be reasonable in all the circumstances.

S. 58L  
inserted by  
No. 11/2014  
s. 23.

**58L Offence to refuse or fail to comply with direction to leave area to which banning notice applies**

(1) A person to whom a direction under section 58K is given must not refuse or fail to comply with that direction.

Penalty: For a first offence, 20 penalty units;

For a second or subsequent offence, 60 penalty units.

S. 58L(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

(2) Despite subsection (1), it is not an offence for a person to refuse or fail to comply with a direction under section 58K if the authorised officer or police officer did not comply with section 58K(3).



- (3) Section 72 of the **Criminal Procedure Act 2009** applies in the circumstances referred to in subsection (2).

### **Division 3—Exclusion orders**

#### **58M Exclusion orders**

- (1) A court may make an order excluding a person (the *offender*) from a specified hunting area specified in the order, for the period specified in the order, if the court—
- (a) finds the offender guilty of a specified offence; and
  - (b) is satisfied that the order may be an effective and reasonable means of preventing the offender from committing a further specified offence.
- (2) An exclusion order may be made—
- (a) on the application of—
    - (i) a police officer; or
    - (ii) an authorised officer; or
    - (iii) a person authorised by section 96 of the **Conservation, Forests and Lands Act 1987** to take proceedings for an offence against this Act; or
  - (b) on the court's own motion.
- (3) The exclusion period specified in the exclusion order must not exceed 12 months.

S. 58M  
inserted by  
No. 11/2014  
s. 23.

S. 58M(2)(a)(i)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

- (4) An exclusion order—
- (a) may exclude the offender from a specified hunting area—
    - (i) during any open season for ducks (as at the date on which the exclusion order is made); and
    - (ii) for the whole of the first day or the last day of any open season for ducks; and
  - (b) at all times during the period of the order or at the times specified in the order; and
  - (c) unless otherwise prohibited by this or any other Act, may (subject to any conditions the court thinks fit) allow the offender to enter the specified hunting area for a specified purpose—
    - (i) during the period of the order; or
    - (ii) at the times specified in the order; and
  - (d) may be made subject to any other conditions the court thinks fit.
- (5) In determining whether it is satisfied under subsection (1)(b), the court must consider—
- (a) the nature and gravity of the specified offence; and
  - (b) whether the offender has previously been found guilty of a specified offence; and
  - (c) whether the offender is or has been the subject of a banning notice or an exclusion order in relation to—
    - (i) another specified offence; or
    - (ii) a specified offence committed in another specified hunting area; and

- (d) the likely impact of the exclusion order on—
  - (i) the offender; and
  - (ii) any alleged victim of the specified offence; and
  - (iii) public safety and public order; and
- (e) any other matters that the court considers relevant.

**58N Variation of exclusion order**

- (1) Any of the following may apply to the court that made an exclusion order for variation of the order—
  - (a) the person in respect of whom the order was made;
  - (b) a police officer;
  - (c) an authorised officer;
  - (d) a person authorised by section 96 of the **Conservation, Forests and Lands Act 1987** to take proceedings for an offence against this Act.
- (2) On an application under subsection (1), the court may vary the exclusion order in any way that the court considers appropriate, if the court is satisfied that facts or circumstances have arisen since the making or the last variation of the order that make it appropriate for the order to be varied.

S. 58N  
inserted by  
No. 11/2014  
s. 23.

S. 58N(1)(b)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

S. 58O  
inserted by  
No. 11/2014  
s. 23.

**58O Offence to contravene exclusion order**

- (1) A person in respect of whom an exclusion order is made must not in contravention of the order—
- (a) enter or re-enter the specified hunting area;  
or
  - (b) remain in the specified hunting area.
- Penalty: For a first offence, 60 penalty units;  
For a second or subsequent offence,  
120 penalty units.
- (2) Nothing in this section affects the powers of the court, or of the Supreme Court, in relation to contempt of court.

S. 58P  
inserted by  
No. 11/2014  
s. 23.

**58P Direction to leave area to which exclusion order applies**

- (1) This section applies if a person in respect of whom an exclusion order is made is in the specified hunting area in contravention of the order.
- (2) Subject to subsection (3), an authorised officer or a police officer may direct the person to leave the specified hunting area in the manner (if any) specified in the direction.
- (3) An authorised officer or a police officer must—
- (a) before giving a direction under subsection (2), produce—
    - (i) in the case of an authorised officer, evidence of his or her identity; or
    - (ii) in the case of a police officer, proof of his or her identity and official status (unless he or she is in uniform); and

S. 58P(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

S. 58P(3)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

S. 58P(3)(a)(ii)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.7).

(b) inform the person that—

(i) the authorised officer or police officer is empowered to direct the person to leave the specified hunting area; and

S. 58P(3)(b)(i) amended by No. 37/2014 s. 10(Sch. item 184.7).

(ii) it is an offence to refuse or fail to comply with the direction.

(4) A direction under subsection (2)—

(a) may be given orally or in writing; and

(b) must be reasonable in all the circumstances.

**58Q Offence to refuse or fail to comply with direction to leave area to which exclusion order applies**

S. 58Q inserted by No. 11/2014 s. 23.

(1) A person to whom a direction under section 58P is given must not refuse or fail to comply with that direction.

Penalty: For a first offence, 60 penalty units;  
For a second or subsequent offence, 120 penalty units.

(2) Despite subsection (1), it is not an offence for a person to refuse or fail to comply with a direction given under section 58P if the authorised officer or police officer did not comply with section 58P(3).

S. 58Q(2) amended by No. 37/2014 s. 10(Sch. item 184.7).

(3) Section 72 of the **Criminal Procedure Act 2009** applies in the circumstances referred to in subsection (2).

(4) Nothing in this section affects the powers of the court, or of the Supreme Court, in relation to contempt of court.

## Division 4—General

### 58R Disclosure of information for enforcement purposes

S. 58R  
inserted by  
No. 11/2014  
s. 23,  
amended by  
Nos 24/2014  
s. 49, 37/2014  
s. 10(Sch.  
item 184.8(a)).

The Game Management Authority may disclose to a police officer, or a police officer may disclose to the Game Management Authority, the following information—

- (a) the fact that a banning notice or an exclusion order has been given or made that bans or excludes the person to whom it is given or in respect of whom it was made from a specified hunting area;
- (b) the name of the person to whom the notice was given or in respect of whom the order was made;
- (c) the period for which the notice or order applies;
- (d) a copy of the notice or order and of any variation or revocation of the notice or order;
- (e) any other information in relation to the notice or order that the Game Management Authority or the police officer thinks fit for the purposes of the effective and efficient enforcement of the notice or order.

S. 58R(e)  
amended by  
Nos 24/2014  
s. 49, 37/2014  
s. 10(Sch.  
item 184.8(b)).

## Part VIII—Enforcement and legal proceedings

### 59 Powers of authorised officers

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

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

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

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

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

(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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|---|--|
| <b>S. 59(1)(bb)</b><br>inserted by<br>No. 87/1997<br>s. 21(1)(b).               | (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;  |
| <b>S. 59(1)(bc)</b><br>inserted by<br>No. 87/1997<br>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;  |
| <b>S. 59(1)(bd)</b><br>inserted by<br>No. 87/1997<br>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— <ul style="list-style-type: none"><li>(i) its concealment, loss or destruction; or</li><li>(ii) its use in committing, continuing or repeating an offence against this Act;</li></ul>   |
| <b>S. 59(1)(e)</b><br>repealed by<br>No. 52/1994<br>s. 97(Sch. 3<br>item 36.4). | (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;<br><br>(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;<br><br>*            *            *            *            *<br><br>(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; |



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

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

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

\* \* \* \* \*

S. 59(2)-(4) repealed.

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

S. 59(5) amended by Nos 41/1987 s. 103(Sch. 4 item 76.57), 37/2014 s. 10(Sch. item 184.4).

### **59A Searches of personal property**

An authorised officer or a police officer 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—

S. 59A inserted by No. 87/1997 s. 22, amended by No. 37/2014 s. 10(Sch. item 184.9(a)).

(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 or police 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. 59A(e)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.9(b)).

S. 59B  
inserted by  
No. 87/1997  
s. 22,  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.10(a)(b)).

### **59B Searches of vehicles and boats**

An authorised officer or a police officer 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 authorised officer or police officer 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;
- (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 or police 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. 59B(e)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.10(c)).

**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.

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

- (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.
- (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.

#### **59D Announcement before entry**

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

- (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.**

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,  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.11(a)(b)).

- (1) If an authorised officer or a police officer believes on reasonable grounds that an offence against this Act has been, is being or is about to be committed, the authorised officer or police officer may do all or any of the following—
  - (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 authorised officer or police officer reasonably believes has been or is likely to be used in or to assist in the offence; or  | S. 60(1)(a)(ii) amended by No. 37/2014 s. 10(Sch. item 184.11(b)).  |
| (iii) any thing which the authorised officer or police officer reasonably believes has been taken or held in contravention of this Act or the law of another State or Territory of the Commonwealth;   | S. 60(1)(a)(iii) amended by No. 37/2014 s. 10(Sch. item 184.11(b)). |
| (b) inspect and take photographs (including video recordings) of any thing which the authorised officer or police officer believes on reasonable grounds to be involved in the commission of the offence;  | S. 60(1)(b) amended by No. 37/2014 s. 10(Sch. item 184.11(b)).      |
| (c) with whatever assistance is required, take and keep samples of—<br>(i) the blood, any bodily fluids or other matter from any wildlife; or<br>(ii) any other thing—<br>which the authorised officer or police officer believes on reasonable grounds to be required to prove the offence; | S. 60(1)(c) amended by No. 37/2014 s. 10(Sch. item 184.11(c)).      |
| (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 authorised officer or police officer believes, on reasonable grounds, to be evidence of the commission of the offence.   | S. 60(1)(e) amended by No. 37/2014 s. 10(Sch. item 184.11(b)).      |

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

- (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.

**S. 60(4)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 135.1).

- (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 accused or to the owner (as the case requires) but where the person convicted is proved to have been previously 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.

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

- (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.



**60A Power to require production of firearms licence**

(1) An authorised officer who—

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

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

S. 60B(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.12(a)).

(2) If the authorised officer or police officer is unable  
to ascertain the identity of the owner or custodian  
of the thing seized or sampled, the authorised  
officer or police officer must leave a receipt with  
or post it to the person apparently in charge of the  
thing seized.

S. 60B(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.12(b)).

S. 60B(3)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.12(b)).

- (3) If an authorised officer or police officer 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,  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.13(a)).

### 60C Samples

If an authorised officer or a police officer 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 authorised officer or police 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. 60C(b)  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.13(b)).

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

### 60D Retention notices

S. 60D(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.14).

- (1) If an authorised officer or a police officer 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 authorised officer or police officer 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 or the Game Management Authority (as appropriate) is of the opinion that it is reasonably necessary to do so, the Secretary or the Authority may extend the period for which a notice has effect under subsection (2).
- (4) If the Secretary or the Game Management Authority extends the period for which a notice has effect, the Secretary or the Game Management Authority (as appropriate) 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.

S. 60D(3)  
amended by  
No. 24/2014  
s. 50(1).

S. 60D(4)  
amended by  
No. 24/2014  
s. 50(2).

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),  
37/2014  
s. 10(Sch.  
item 184.15).

- (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 police officer 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(2A)  
inserted by  
No. 11/2014  
s. 24,  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.16).

- (2A) An authorised officer or a police officer who intends to give a banning notice to a person may request the person to state the person's name and place of residence.

S. 61(2B)  
inserted by  
No. 11/2014  
s. 24,  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.17).

- (2B) An authorised officer or a police officer who makes a request under subsection (2A) must inform the person of the authorised officer's or police officer's intention to give the person a banning notice.

- (3) Any person who refuses to give his name or place of residence upon demand by an authorised officer or police officer 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(3) amended by Nos 41/1987 s. 103(Sch. 4 item 76.61), 70/1990 s. 12(1)(g), 37/2014 s. 10(Sch. item 184.18).
- (4) Any person who on demand by an authorised officer or by a police officer refuses to give his name or address or gives a name or place of residence which the authorised officer or police officer reasonably suspects to be false may be arrested by the authorised officer or police officer without warrant and taken before a bail justice or the Magistrates' Court to be dealt with according to law.
- S. 61(4) amended by Nos 41/1987 s. 103(Sch. 4 item 76.61), 57/1989 s. 3(Sch. item 219.3), 37/2014 s. 10(Sch. item 184.19).

## 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 a police officer in the execution of his duty under this Act or who threatens any such authorised officer or police officer shall be guilty of an offence against this Act.
- Penalty: 120 penalty units or 12 months imprisonment or both the fine and imprisonment.
- 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), 37/2014 s. 10(Sch. item 184.20(a)).

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S. 62(2)  
amended by  
Nos 41/1987  
s. 103(Sch. 4  
item 76.62),  
70/1990  
s. 12(1)(q),  
37/2014  
s. 10(Sch.  
item  
184.20(b)) (as  
amended by  
No. 21/2015  
s. 3(Sch. 1  
item 62.4)).

- (2) Any person who uses threatening, insulting or abusive words to an authorised officer or police officer in the execution of his duty under this Act shall be guilty of an offence against this Act.

Penalty: 10 penalty units.

S. 62(3)  
inserted by  
No. 87/1997  
s. 25(2),  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.20(b)) (as  
amended by  
No. 21/2015  
s. 3(Sch. 1  
item 62.4)).

- (3) An authorised officer or police officer 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.

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

- (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.

S. 62(5)  
inserted by  
No. 87/1997  
s. 25(2),  
amended by  
No. 37/2014  
s. 10(Sch.  
item  
184.20(b)) (as  
amended by  
No. 21/2015  
s. 3(Sch. 1  
item 62.4)).

- (5) An authorised officer or a police officer 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.

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

Penalty: 10 penalty units.

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

#### **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. 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).

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S. 63  
repealed by  
No. 41/1987  
s. 103(Sch. 4  
item 76.65),  
new s. 63  
inserted by  
No. 87/1997  
s. 26,  
amended by  
No. 45/2008  
s. 19,  
repealed by  
No. 16/2004  
s. 50.

#### **64 Statements of the Secretary or the Game Management Authority as evidence**

(1) 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

S. 64  
(Heading)  
inserted by  
No. 24/2014  
s. 51(1).

S. 64  
repealed by  
No. 9861  
s. 3(1),  
new s. 64  
inserted by  
No. 87/1997  
s. 26,  
amended by  
No. 24/2014  
s. 51(2) (ILA  
s. 39B(1)).

(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(2)  
inserted by  
No. 24/2014  
s. 51(2).

(2) A statement in writing purporting to be under the seal of the Game Management Authority 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. 65  
(Heading)  
inserted by  
No. 45/2008  
s. 20(1).  
S. 65  
repealed by  
No. 41/1987  
s. 103(Sch. 4  
item 76.65),  
new s. 65  
inserted by  
No. 87/1997  
s. 26,  
amended by  
No. 45/2008  
s. 20(2).

## 65 Eggs presumed to be threatened 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 threatened wildlife unless the contrary is proven.

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.
- (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;

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

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

- (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 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.

## **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.

## **70 Cancellation of licence upon conviction for offence**

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

- (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.

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

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

- (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).

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

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

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

#### **70A Disposal of seized things**

- (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.

## Part IX—Controlled operations

New Pt 9  
(Heading and  
ss 71–74V)  
inserted by  
No. 16/2004  
s. 51 (as  
amended by  
Nos 87/2005  
s. 7, 45/2008  
s. 35).

### Division 1—Introduction

#### 71 Definitions

In this Part—

*authorised operation* means a controlled operation for which an authority is in force;

*authority* means an authority in force under this Part, and includes any variation of such an authority;

*conduct* includes any act or omission;

*controlled conduct* means conduct which, but for section 74H, would constitute a relevant offence;

*controlled operation* means an operation that—

- (a) is conducted, or intended to be conducted, for the purpose of obtaining evidence that may lead to the prosecution of a person for a relevant offence; and
- (b) involves, or may involve, controlled conduct;

*criminal activity* means conduct that involves the commission of a relevant offence by one or more persons;

New s. 71  
inserted by  
No. 16/2004  
s. 51 (as  
amended by  
Nos 87/2005  
s. 7(a),  
45/2008 s. 35).

S. 71 def. of  
*law  
enforcement  
officer*  
amended by  
No. 37/2014  
s. 10(Sch.  
item 184.21).

*illicit goods* means goods the possession, taking, receiving, buying, selling, consigning, storing or trafficking of which is a contravention of this Act;

*law enforcement officer* means—

- (a) an authorised officer; or
- (b) a police officer; or
- (c) a member of a police force or police service of the Commonwealth or of another State or a Territory;

*participant* in an authorised operation means a law enforcement officer who is authorised under an authority to engage in controlled conduct for the purposes of the operation;

*principal law enforcement officer* for a controlled operation means the law enforcement officer who is responsible for the conduct of the operation;

S. 71 def. of  
*relevant  
offence*  
amended by  
No. 48/2016  
s. 23.

*relevant offence* means an offence against section 41, 43, 44(1), 45, 47, 47D, 50, 51 or 76;

S. 71 def. of  
*Special  
Investigations  
Monitor*  
repealed by  
No. 82/2012  
s. 142(2).

\* \* \* \* \*

*suspect* means a person reasonably suspected of having committed or being likely to have committed, or of committing or being likely to be committing, a relevant offence.

*Victorian Inspectorate* has the same meaning as it has in the **Victorian Inspectorate Act 2011**;

S. 71 def. of *Victorian Inspectorate* inserted by No. 82/2012 s. 142(1).

## 72 Evidentiary matters

New s. 72 inserted by No. 16/2004 s. 51.

- (1) Subject to subsection (2), this Part is not intended to limit a discretion that a court has—
  - (a) to admit or exclude evidence in any proceedings; or
  - (b) to stay criminal proceedings in the interests of justice.
- (2) In determining whether evidence should be admitted or excluded in any proceedings, the fact that the evidence was obtained as a result of a person engaging in criminal activity is to be disregarded if—
  - (a) the person was a participant acting in the course of an authorised operation; and
  - (b) the criminal activity was controlled conduct.

## Division 2—Authorisation of controlled operations

### 73 Applications for authorities to conduct controlled operations

New s. 73 inserted by No. 16/2004 s. 51.

- (1) The proposed principal law enforcement officer for a controlled operation may apply to the Secretary or the Game Management Authority for authority to conduct the operation.
- (2) An application for authority must—
  - (a) be in writing signed by the applicant; and

S. 73(1) amended by No. 24/2014 s. 52(1).

S. 73(2)(b)  
amended by  
No. 24/2014  
s. 52(2).

- (b) contain sufficient information to enable the Secretary or the Game Management Authority (as appropriate) to decide whether or not to grant the application; and
- (c) state whether or not the proposed operation, or any other controlled operation with respect to the same criminal activity, has been the subject of an earlier application for an authority or variation of an authority and, if so, whether or not the authority was given or variation granted.

S. 73(3)  
amended by  
No. 24/2014  
s. 52(3).

- (3) The Secretary or the Game Management Authority (as appropriate) may require the applicant to furnish any additional information concerning the proposed operation that is necessary for the Secretary's or the Authority's proper consideration of the application.

New s. 74  
inserted by  
No. 16/2004  
s. 51,  
amended by  
No. 24/2014  
s. 53.

#### **74 Determination of applications**

After considering an application for authority to conduct a controlled operation, and any additional information furnished under section 73(3), the Secretary or the Game Management Authority (as appropriate)—

- (a) may authorise the operation by granting the authority, either unconditionally or subject to conditions; or
- (b) may refuse the application.

New s. 74A  
inserted by  
No. 16/2004  
s. 51,  
amended by  
No. 24/2014  
s. 54.

#### **74A Matters to be taken into account**

An authority to conduct a controlled operation may not be granted unless the Secretary or the Game Management Authority (as appropriate) is satisfied on reasonable grounds—

- (a) that a relevant offence has been, is being or is likely to be, committed; and



- (b) that the nature and extent of the suspected criminal activity are such as to justify the conduct of a controlled operation; and
- (c) that any unlawful conduct involved in conducting the operation will be limited to the maximum extent consistent with conducting an effective controlled operation; and
- (d) that the operation will be conducted in a way that will minimise the risk of more illicit goods being under the control of persons (other than law enforcement officers) at the end of the operation than are reasonably necessary to enable the officers to achieve the purpose of the controlled operation; and
- (e) that the proposed controlled conduct will be capable of being accounted for in a way that will enable the reporting requirements of Division 6 to be complied with; and
- (f) that the operation will not be conducted in such a way that a person is likely to be induced to commit an offence that the person would not otherwise have intended to commit; and
- (g) that any conduct involved in the operation will not—
  - (i) seriously endanger the health or safety of any person; or
  - (ii) cause the death of, or serious injury to, any person; or
  - (iii) result in unlawful loss of or serious damage to property (other than illicit goods).

New s. 74B  
inserted by  
No. 16/2004  
s. 51.

## **74B Form of authority**

S. 74B(1)  
amended by  
No. 24/2014  
s. 55(1).

- (1) An authority to conduct a controlled operation granted by the Secretary must—
  - (a) be in writing under the seal of the Secretary; and
  - (b) identify the principal law enforcement officer for the operation; and
  - (c) identify each law enforcement officer who may engage in controlled conduct for the purposes of the operation; and
  - (d) identify the nature of the controlled conduct that the participants may engage in; and
  - (e) identify the nature of the criminal activity (including the suspected offences) in respect of which the controlled conduct is to be engaged in; and
  - (f) identify (to the extent known) any suspect; and
  - (g) specify the period of validity of the authority (which must be a period not exceeding 3 months); and
  - (h) specify any conditions to which the conduct of the operation is subject; and
  - (i) state the date and time when the authority is granted; and
  - (j) identify (to the extent known)—
    - (i) the nature and quantity of any illicit goods that will be involved in the operation; and

- (ii) the route through which those goods will pass in the course of the operation.
- (2) A person is sufficiently identified for the purposes of subsection (1)(b) or (c) if the person is identified—
- (a) by an assumed name under which the person is operating; or
  - (b) by a code name or code number—  
so long as the assumed name, code name or code number can be matched to the person's identity by the Department.
- (3) An authority to conduct a controlled operation granted by the Game Management Authority must—
- (a) be in writing under the seal of the Game Management Authority; and
  - (b) identify the principal law enforcement officer for the operation; and
  - (c) identify each law enforcement officer who may engage in controlled conduct for the purposes of the operation; and
  - (d) identify the nature of the controlled conduct that the participants may engage in; and
  - (e) identify the nature of the criminal activity (including the suspected offences) in respect of which the controlled conduct is to be engaged in; and
  - (f) identify (to the extent known) any suspect; and
  - (g) specify the period of validity of the authority (which must be a period not exceeding 3 months); and

**S. 74B(3)  
inserted by  
No. 24/2014  
s. 55(2).**

- (h) specify any conditions to which the conduct of the operation is subject; and
- (i) state the date and time when the authority is granted; and
- (j) identify (to the extent known)—
  - (i) the nature and quantity of any illicit goods that will be involved in the operation; and
  - (ii) the route through which those goods will pass in the course of the operation.

S. 74B(4)  
inserted by  
No. 24/2014  
s. 55(2).

- (4) A person is sufficiently identified for the purposes of subsection (3)(b) or (c) if the person is identified—

- (a) by an assumed name under which the person is operating; or

- (b) by a code name or code number—

so long as the assumed name, code name or code number can be matched to the person's identity by the Game Management Authority.

### **Division 3—Variation and cancellation of authorities**

#### **74C When can an authority be varied?**

New s. 74C  
inserted by  
No. 16/2004  
s. 51.

- (1) The Secretary may vary an authority the Secretary has granted—

- (a) at any time on the Secretary's own initiative;  
or

- (b) on application under section 74D.

S. 74C(1)  
amended by  
No. 24/2014  
s. 56(1).

- (1A) The Game Management Authority may vary an authority it has granted—
- (a) at any time on the Game Management Authority's own initiative; or
  - (b) on application under section 74D.
- (2) An authority cannot be varied unless the Secretary or the Game Management Authority (as appropriate) is satisfied on reasonable grounds that the variation will not authorise a significant alteration of the nature of the authorised operation concerned.

S. 74C(1A) inserted by No. 24/2014 s. 56(2), amended by No. 21/2015 s. 3(Sch. 1 item 67).

S. 74C(2) amended by No. 24/2014 s. 56(3).

**74D Application for variation of authority**

New s. 74D inserted by No. 16/2004 s. 51.

- (1) The principal law enforcement officer for an authorised operation, or any other law enforcement officer on behalf of the principal law enforcement officer, may apply to the Secretary or the Game Management Authority (as appropriate) for a variation of authority for any one or more of the following purposes—
- (a) to extend the period of validity of the authority;
  - (b) to authorise additional or alternative persons to engage in controlled conduct for the purposes of the operation;
  - (c) to authorise participants in the operation to engage in additional or alternative controlled conduct;
  - (d) to identify additional suspects (to the extent known).

S. 74D(1) amended by No. 24/2014 s. 57(1).

- (2) More than one application for a variation may be made in respect of the same authority, but no single variation may extend the period of validity of an authority for more than 3 months at a time.
- (3) An application for a variation of authority must be in writing signed by the applicant.
- (4) The Secretary or the Game Management Authority (as appropriate) may require the applicant to furnish such information concerning the proposed variation as is necessary for the proper consideration of the application.

S. 74D(4)  
amended by  
No. 24/2014  
s. 57(2).

New s. 74E  
inserted by  
No. 16/2004  
s. 51.

#### **74E Determination of application to vary authority**

- (1) After considering an application for a variation of authority, and any additional information furnished under section 74D(4), the Secretary or the Game Management Authority—
  - (a) may vary the authority in accordance with the application; or
  - (b) may refuse the application.
- (2) Section 74A applies to an application for a variation of authority under this section in the same way as it applies to an application for authority under section 73.

S. 74E(1)  
amended by  
No. 24/2014  
s. 58.

**74F Form of variation of authority**

New s. 74F  
inserted by  
No. 16/2004  
s. 51,  
amended by  
No. 24/2014  
s. 59(2) (ILA  
s. 39B(1)).

- (1) A variation of authority, granted by the Secretary, must—
- (a) be in writing under the seal of the Secretary; and
  - (b) identify the authorised operation for which the authority is in force; and
  - (c) state the date and time when the authority was varied; and
  - (d) if the authority was varied on an application under section 74D, state the name of the applicant; and
  - (e) describe the variation having regard, if an application for variation was made, to the purposes referred to in section 74D(1) in respect of which the application was made.
- (2) A variation of authority, granted by the Game Management Authority, must—
- (a) be in writing under the seal of the Game Management Authority; and
  - (b) identify the authorised operation for which the authority is in force; and
  - (c) state the date and time when the authority was varied; and
  - (d) if the authority was varied on an application under section 74D, state the name of the applicant; and

S. 74F(1)  
amended by  
No. 24/2014  
s. 59(1).

S. 74F(2)  
inserted by  
No. 24/2014  
s. 59(2).

- (e) describe the variation having regard, if an application for variation was made, to the purposes referred to in section 74D(1) in respect of which the application was made.

S. 74G  
inserted by  
No. 16/2004  
s. 51.

#### **74G Cancellation of authorities**

S. 74G(1)  
amended by  
No. 24/2014  
s. 60.

- (1) The Secretary or the Game Management Authority (as appropriate) may, by order in writing given to the principal law enforcement officer for an authorised operation, cancel the authority at any time and for any reason.

S. 74G(2)  
amended by  
No. 24/2014  
s. 60.

- (2) Without limiting subsection (1), the Secretary or the Game Management Authority (as appropriate) may cancel an authority for an authorised operation at any time at the request of the principal law enforcement officer for the operation.
- (3) Cancellation of an authority for a controlled operation takes effect at the time the order is made or at the later time specified in the order.

### **Division 4—Effect of authorities**

S. 74H  
inserted by  
No. 16/2004  
s. 51.

#### **74H Effect of authorities**

Conduct engaged in by a participant in an authorised operation which, but for this section would constitute a relevant offence, does not have that consequence if the conduct is engaged in in accordance with the authority for the operation.

S. 74I  
inserted by  
No. 16/2004  
s. 51.

#### **74I Defect in authority**

An application for authority or variation of authority, and any authority or variation of authority granted on the basis of such an application, is not invalidated by any defect, other



than a defect that affects the application, authority or variation in a material particular.

**74J Effect of being unaware of variation or cancellation of authority**

S. 74J  
inserted by  
No. 16/2004  
s. 51.

- (1) If an authority for a controlled operation is varied in a way that limits its scope, this Part continues to apply to a participant in the operation as if the authority had not been varied in that way, for so long as the participant—
  - (a) is unaware of the variation; and
  - (b) is not reckless about the existence of the variation.
- (2) If an authority for a controlled operation is cancelled, this Part continues to apply to a participant in the operation as if the authority had not been cancelled in that way, for so long as the participant—
  - (a) is unaware of the cancellation; and
  - (b) is not reckless about the existence of the cancellation.
- (3) For the purposes of this section, a person is reckless about the existence of the variation or cancellation of an authority if—
  - (a) the person is aware of a substantial risk that the variation or cancellation has happened; and
  - (b) having regard to the circumstances known to the person, it is unjustifiable to take the risk.

**74K Protection from criminal responsibility for certain ancillary conduct**

S. 74K  
inserted by  
No. 16/2004  
s. 51.

- (1) This section applies to conduct such as aiding and abetting the commission of a relevant offence or of conspiring to commit a relevant offence (*ancillary conduct*) for which a person

may be criminally responsible because it involves conduct engaged in by another person that is controlled conduct for which the other person would (but for section 74H) be criminally responsible (the *related controlled conduct*).

- (2) Despite any other Act or law, a person who engages in ancillary conduct that is an offence (whether or not the person is a participant in a controlled operation) is not criminally responsible for the offence if at the time the person engaged in the ancillary conduct he or she believed the related controlled conduct was being engaged in, or would be engaged in, by a participant in an authorised operation.

### **Division 5—Notification of third parties**

#### **74L Notification requirements**

S. 74L  
inserted by  
No. 16/2004  
s. 51.

S. 74L(1)  
amended by  
No. 24/2014  
s. 61(1).

- (1) If any loss of or serious damage to property occurs in the course of or as a direct result of an authorised operation (other than property of the Department, the Game Management Authority or a participant in the operation), the principal law enforcement officer for the operation must report the loss or damage to the Secretary or the Game Management Authority (as appropriate) as soon as practicable.

S. 74L(2)  
amended by  
No. 24/2014  
s. 61(2).

- (2) The Secretary or the Game Management Authority must take all reasonable steps to notify the owner of the property of the loss or damage.

S. 74L(3)  
amended by  
No. 24/2014  
s. 61(3).

- (3) The Secretary or the Game Management Authority is not required to notify the owner of property under this section until the Secretary or the Game Management Authority is satisfied that notification would not—

- (a) compromise or hinder the authorised operation; or
  - (b) compromise the identity of a participant in the authorised operation; or
  - (c) endanger the life or safety of any person; or
  - (d) prejudice any legal proceeding; or
  - (e) otherwise be contrary to the public interest.
- (4) If any personal injury occurs in the course of or as a direct result of an authorised operation, the principal law enforcement officer for the operation must report the injury to the Secretary or the Game Management Authority (as appropriate) as soon as practicable.

S. 74L(4)  
amended by  
No. 24/2014  
s. 61(4).

## **Division 6—Compliance and monitoring**

### **74M Unauthorised disclosure of information**

- (1) A person is guilty of an offence if—
- (a) the person intentionally, knowingly or recklessly discloses any information; and
  - (b) the person knows that, or is reckless as to whether, the information relates to an authorised operation; and
  - (c) the person knows that, or is reckless as to whether, the disclosure is not made—
    - (i) in connection with the administration or execution of this Act; or
    - (ii) for the purposes of any legal proceeding arising out of or otherwise related to this Act or of any report of any such proceedings; or
    - (iii) in accordance with any requirement imposed by law; or

S. 74M  
inserted by  
No. 16/2004  
s. 51.

S. 74M  
(1)(c)(iv)  
amended by  
Nos 29/2011  
s. 3(Sch. 1  
item 109),  
82/2012 s. 143,  
37/2014  
s. 10(Sch.  
item 184.22),  
60/2014  
s. 140(Sch. 3  
item 52).

- (iv) in accordance with Part 9 of the **Victoria Police Act 2013**, the **Independent Broad-based Anti-corruption Commission Act 2011**, the **Victorian Inspectorate Act 2011** or Division 8 or 9 of Part 3 of the **Privacy and Data Protection Act 2014**.

Penalty: Imprisonment for 2 years.

- (2) A person is guilty of an offence against this subsection if the person commits an offence against subsection (1) in circumstances in which the person—
- (a) intends to endanger the health or safety of any person or prejudice the effective conduct of an authorised operation or a corresponding authorised operation; or
  - (b) knows that, or is reckless as to whether, the disclosure of the information—
    - (i) endangers or will endanger the health or safety of any person; or
    - (ii) prejudices or will prejudice the effective conduct of an authorised operation or a corresponding authorised operation.

Penalty: Imprisonment for 10 years.

- (3) An offence against subsection (2) is an indictable offence.

**74N Principal law enforcement officers' reports**

S. 74N  
inserted by  
No. 16/2004  
s. 51.

- (1) Within 2 months after the completion of an authorised operation, the principal law enforcement officer for the operation must make a report in accordance with this section to the Secretary or Game Management Authority (as appropriate).
- (2) The report must include the following details—
- (a) the date and time when the authorised operation began and its duration; and
  - (b) the nature of the controlled conduct engaged in for the purposes of the operation; and
  - (c) details of the outcome of the operation; and
  - (d) if the operation involved illicit goods, a statement (to the extent known) of—
    - (i) the nature and quantity of the illicit goods; and
    - (ii) the route through which the illicit goods passed in the course of the operation; and
  - (e) details of any loss of or serious damage to property, or any personal injuries, occurring in the course of or as a direct result of the operation.

S. 74N(1)  
amended by  
No. 24/2014  
s. 62.

**S. 74O**  
inserted by  
No. 16/2004  
s. 51 (as  
amended by  
No. 87/2005  
s. 7(b)).

## **74O Secretary's reports**

**S. 74O(1)**  
amended by  
Nos 7/2010  
s. 15, 82/2012  
s. 144.

- (1) As soon as practicable, after 30 June and 31 December but no more than 2 months after each date in each year, the Secretary must submit a report to the Victorian Inspectorate setting out the details required by subsection (2) in relation to authorised operations conducted during the previous 6 months.
- (2) The report must include the following details—
  - (a) the number of authorities that have been granted or varied by the Secretary, and the number of applications for the granting or variation of authorities that have been refused by the Secretary, during the period to which the report relates; and
  - (b) the nature of the criminal activities against which the authorised operations were directed; and
  - (c) the nature of the controlled conduct engaged in for the purposes of the authorised operations; and
  - (d) if any of the authorised operations involved illicit goods, a statement (to the extent known) of—
    - (i) the nature and quantity of the illicit goods; and
    - (ii) the route through which the illicit goods passed in the course of the operations; and

- (e) details of any loss of or serious damage to property, or any personal injuries, occurring in the course of or as a direct result of the authorised operations; and
  - (f) the number of authorities cancelled by the Secretary or that have expired during the period to which the report relates.
- (3) The Victorian Inspectorate may require the Secretary to furnish additional information covering any authorised operation to which a report relates.
- (4) Nothing in subsection (2)(c) or (d) requires particulars of an authorised operation to be included in a report for a period of 6 months if the operation had not been completed during that period, but the particulars must instead be included in the report for the period of 6 months in which the operation is completed.

S. 74O(3)  
amended by  
No. 82/2012  
s. 144.

**74OA Game Management Authority's reports**

S. 74OA  
inserted by  
No. 24/2014  
s. 63.

- (1) As soon as practicable, after 30 June and 31 December but no more than 2 months after each date in each year, the chief executive officer of the Game Management Authority must submit a report to the Victorian Inspectorate setting out the details required by subsection (2) in relation to authorised operations conducted during the previous 6 months.
- (2) The report must include the following details—
- (a) the number of authorities that have been granted or varied by the Game Management Authority, and the number of applications for the granting or variation of authorities that have been refused by the Game Management

S. 74OA(1)  
amended by  
No. 48/2016  
s. 24.

- Authority, during the period to which the report relates; and
- (b) the nature of the criminal activities against which the authorised operations were directed; and
  - (c) the nature of the controlled conduct engaged in for the purposes of the authorised operations; and
  - (d) if any of the authorised operations involved illicit goods, a statement (to the extent known) of—
    - (i) the nature and quantity of the illicit goods; and
    - (ii) the route through which the illicit goods passed in the course of the operations; and
  - (e) details of any loss or serious damage to property, or any personal injuries, occurring in the course of or as a direct result of the authorised operations; and
  - (f) the number of authorities cancelled by the Game Management Authority or that have expired during the period to which the report relates.
- (3) The Victorian Inspectorate may require the chief executive officer of the Game Management Authority to furnish additional information covering any authorised operation to which a report relates.
- (4) Nothing in subsection (2)(c) or (d) requires particulars of an authorised operation to be included in a report for a period of 6 months if the operation had not been completed during that period, but the particulars must instead be

**S. 74OA(3)**  
amended by  
**No. 48/2016**  
s. 24.



included in the report for the period of 6 months  
in which the operation is completed.

**74P Annual report by Victorian Inspectorate**

S. 74P  
(Heading)  
amended by  
No. 82/2012  
s. 145(1).

S. 74P  
inserted by  
No. 16/2004  
s. 51 (as  
amended by  
No. 87/2005  
s. 7(b)).

- (1) The Victorian Inspectorate must, as soon as practicable after receipt of the report under section 74O of 30 June in each year—
- (a) prepare a report of the work and activities of law enforcement officers under this Part granted authorities by the Secretary for the preceding 12 months; and
  - (b) give a copy of the report to the Minister and the Secretary.

S. 74P(1)  
amended by  
Nos 7/2010  
s. 16, 82/2012  
s. 145(2),  
substituted by  
No. 24/2014  
s. 64(1).

- (1A) The Victorian Inspectorate must, as soon as practicable after receipt of the report under section 74OA of 30 June in each year—
- (a) prepare a report of the work and activities of law enforcement officers under this Part granted authorities by the Game Management Authority for the preceding 12 months; and
  - (b) give a copy of the report to the Minister and the Game Management Authority.

S. 74P(1A)  
inserted by  
No. 24/2014  
s. 64(1).

- (2) A report under subsection (1) or (1A)—
- (a) must include comments on the comprehensiveness and adequacy of the reports which were provided to the Victorian Inspectorate by—

S. 74P(2)  
amended by  
No. 82/2012  
s. 145(2),  
substituted by  
No. 24/2014  
s. 64(1).

S. 74P(3)  
amended by  
Nos 82/2012  
s. 145(2),  
24/2014  
s. 64(2).

- (i) the Secretary under section 74O; or
  - (ii) the Game Management Authority under section 74OA; and
- (b) must not disclose any information that identifies any suspect or a participant in an operation or that is likely to lead to such a person or participant being identified.
- (3) The Secretary or the Game Management Authority (as appropriate) must advise the Victorian Inspectorate of any information in the report that, in the Secretary's or the Authority's opinion, should be excluded from the report before the report is laid before Parliament because the information, if made public, could reasonably be expected to—
- (a) endanger a person's safety; or
  - (b) prejudice an investigation or prosecution; or
  - (c) compromise any law enforcement agency's operational activities or methodologies.

S. 74P(4)  
amended by  
Nos 82/2012  
s. 145(2),  
24/2014  
s. 64(3).

- (4) The Victorian Inspectorate must exclude information from the report if satisfied of any of the grounds set out in subsection (3).

S. 74P(5)  
amended by  
No. 82/2012  
s. 145(2).

- (5) The Victorian Inspectorate must transmit the report to each House of Parliament as soon as practicable after the earlier of—

S. 74P(5)(a)  
amended by  
Nos 82/2012  
s. 145(2),  
24/2014  
s. 64(4)(a).

- (a) the day on which the Victorian Inspectorate received advice under subsection (3);

- |  |  |
|--|--|
| <p>(b) 14 days after the day the Victorian Inspectorate gave the report to—</p> <p style="padding-left: 40px;">(i) the Secretary under subsection (1); or</p> <p style="padding-left: 40px;">(ii) the Game Management Authority under subsection (1A).</p>   | <p>S. 74P(5)(b) amended by No. 82/2012 s. 145(2), substituted by No. 24/2014 s. 64(4)(b).</p>  |
| <p>(6) Nothing in this section requires particulars of an authorised operation to be included in a report for a year if the operation had not been completed as at 30 June in that year, but the particulars must instead be included in the report for the year in which the operation is completed.</p>  |  |
| <p>(7) A report under this section may be combined with a report of the Victorian Inspectorate under section 39 of the <b>Crimes (Controlled Operations) Act 2004</b>.</p>   | <p>S. 74P(7) amended by No. 82/2012 s. 145(2).</p>   |
| <p><b>74Q Keeping documents connected with authorised operations</b></p>   | <p>S. 74Q inserted by No. 16/2004 s. 51, amended by No. 24/2014 s. 65(2) (ILA s. 39B(1)).</p>  |
| <p>(1) The Secretary must cause the following to be kept in respect of any authority granted by the Secretary under this Part—</p> <p style="padding-left: 40px;">(a) each application for authority;</p> <p style="padding-left: 40px;">(b) each authority;</p> <p style="padding-left: 40px;">(c) each application for variation of authority;</p> | <p>S. 74Q(1) amended by No. 24/2014 s. 65(1)(a).</p> <p>S. 74Q(1)(a) amended by No. 24/2014 s. 65(1)(b).</p> <p>S. 74Q(1)(b) amended by No. 24/2014 s. 65(1)(b).</p> <p>S. 74Q(1)(c) amended by No. 24/2014 s. 65(1)(b).</p> |

S. 74Q(1)(d)  
amended by  
No. 24/2014  
s. 65(1)(b).

(d) each variation of authority;

S. 74Q(1)(e)  
amended by  
No. 24/2014  
s. 65(1)(b).

(e) each order cancelling an authority;

(f) each report of a principal law enforcement officer under section 74L or 74N.

S. 74Q(2)  
inserted by  
No. 24/2014  
s. 65(2).

(2) The Game Management Authority must cause the following to be kept in respect of any authority granted by the Game Management Authority under this Part—

(a) each application for authority;

(b) each authority;

(c) each application for variation of authority;

(d) each variation of authority;

(e) each order cancelling an authority;

(f) each report of a principal law enforcement officer under section 74L or 74N.

S. 74R  
(Heading)  
amended by  
No. 24/2014  
s. 66(1).

#### **74R General register of the Secretary**

(1) The Secretary must cause a general register to be kept.

S. 74R  
inserted by  
No. 16/2004  
s. 51.

(2) The general register is to specify—

S. 74R(2)(a)  
amended by  
No. 24/2014  
s. 66(2)(a).

(a) for each application for authority or for variation of authority made to the Secretary—

(i) the date of the application; and

(ii) whether the application was granted, refused or withdrawn; and

- (iii) if the application was refused or withdrawn—the date and time of the refusal or withdrawal; and
- (b) for each authority granted by the Secretary—
  - (i) the date and time the authority was granted; and
  - (ii) each offence in respect of which controlled conduct under the authority was to be engaged in; and
  - (iii) the period of validity of the authority; and
  - (iv) if the authority was cancelled, the date and time of cancellation; and
  - (v) the date and time the authorised operation began and the date of completion of the operation; and
  - (vi) the date on which the principal law enforcement officer for the operation made a report on the operation under section 74N; and
  - (vii) if the authorised operation involved illicit goods, to the extent known—
    - (A) the nature and quantity of the illicit goods; and
    - (B) the route through which the illicit goods passed in the course of the operation; and
  - (viii) details of any loss of or serious damage to property, or any personal injuries, occurring in the course of or as a direct result of the operation; and
- (c) for each variation of authority made by the Secretary, the date and time the variation was made.

**S. 74R(2)(b)**  
**amended by**  
**No. 24/2014**  
**s. 66(2)(b).**

**S. 74R(2)(c)**  
**amended by**  
**No. 24/2014**  
**s. 66(2)(c).**

S. 74RA  
inserted by  
No. 24/2014  
s. 67.

**74RA General Register of the Game Management Authority**

- (1) The Game Management Authority must cause a general register to be kept.
- (2) The general register is to specify—
  - (a) for each application for authority or for variation of authority made to the Game Management Authority—
    - (i) the date of the application; and
    - (ii) whether the application was granted, refused or withdrawn; and
    - (iii) if the application was refused or withdrawn—the date and time of the refusal or withdrawal; and
  - (b) for each authority granted by the Game Management Authority—
    - (i) the date and time the authority was granted; and
    - (ii) each offence in respect of which controlled conduct under the authority was to be engaged in; and
    - (iii) the period of validity of the authority; and
    - (iv) if the authority was cancelled, the date and time of cancellation; and
    - (v) the date and time the authorised operation began and the date of completion of the operation; and
    - (vi) the date on which the principal law enforcement officer for the operation made a report on the operation under section 74N; and

- (vii) if the authorised operation involved illicit goods, to the extent known—
  - (A) the nature and quantity of the illicit goods; and
  - (B) the route through which the illicit goods passed in the course of the operation; and
- (viii) details of any loss of or serious damage to property, or any personal injuries, occurring in the course of or as a direct result of the operation; and
- (c) for each variation of authority made by the Game Management Authority, the date and time the variation was made.

**74S Inspection of Department records by Victorian Inspectorate**

S. 74S  
(Heading)  
amended by  
No. 24/2014  
s. 68.

S. 74S  
inserted by  
No. 16/2004  
s. 51 (as  
amended by  
No. 87/2005  
s. 7(b)),  
amended by  
No. 82/2012  
s. 145(1).

- (1) The Victorian Inspectorate must, from time to time and at least once every 12 months, inspect the records of the Department to determine the extent of compliance with this Part by the Secretary and law enforcement officers.
- (2) For the purpose of an inspection under this section, the Victorian Inspectorate—
  - (a) after notifying the Secretary, may enter at any reasonable time premises occupied by the Department; and

S. 74S(1)  
amended by  
No. 82/2012  
s. 145(3)(a).

S. 74S(2)  
amended by  
No. 82/2012  
s. 145(3)(b).

S. 74S(2)(c)  
amended by  
No. 82/2012  
s. 145(3)(b).

- (b) is entitled to have full and free access at all reasonable times to all records of the Department that are relevant to the inspection; and
- (c) may require a member of staff of the Department to give the Victorian Inspectorate any information that the Victorian Inspectorate considers necessary, being information that is in the member's possession, or to which the member has access, and that is relevant to the inspection.

S. 74S(3)  
amended by  
No. 82/2012  
s. 145(3)(c).

- (3) The Secretary must ensure that members of staff of the Department give the Victorian Inspectorate any assistance the Victorian Inspectorate reasonably requires to enable the Victorian Inspectorate to perform functions under this section.

S. 74SA  
inserted by  
No. 24/2014  
s. 69.

**74SA Inspection of Game Management Authority records by the Victorian Inspectorate**

- (1) The Victorian Inspectorate must, from time to time and at least once every 12 months, inspect the records of the Game Management Authority to determine the extent of compliance with this Part by the Game Management Authority and law enforcement officers.
- (2) For the purposes of an inspection under this section, the Victorian Inspectorate—
  - (a) after notifying the Chairperson of the Game Management Authority, may enter at any reasonable time premises occupied by the Game Management Authority; and
  - (b) is entitled to have full and free access at all reasonable times to all records of the Game Management Authority that are relevant to the inspection; and



- (c) may require a member of staff of the Game Management Authority to give the Victorian Inspectorate any information that the Victorian Inspectorate considers necessary, being information that is in the member's possession, or to which the member has access, and that is relevant to the inspection.
- (3) The Game Management Authority must ensure that members of staff of the Game Management Authority give the Victorian Inspectorate any assistance the Victorian Inspectorate reasonably requires to enable the Victorian Inspectorate to perform functions under this section.

### **Division 7—General**

#### **74T No delegations**

Despite any other Act or law to the contrary, the functions or powers of the Secretary and the Game Management Authority under this Part may not be delegated to any other person.

S. 74T  
inserted by  
No. 16/2004  
s. 51,  
amended by  
No. 24/2014  
s. 70.

#### **74U Evidence of authorities**

A document purporting to be an authority granted under section 74—

S. 74U  
inserted by  
No. 16/2004  
s. 51.

- (a) is admissible in any legal proceedings; and
- (b) in the absence of evidence to the contrary, is proof in any proceedings (not being criminal or disciplinary proceedings against a law enforcement officer) that (as appropriate)—
- (i) the Secretary was satisfied of the facts he or she was required to be satisfied of to grant the authority; or
  - (ii) the Game Management Authority was satisfied of the facts it was required to be satisfied to grant the authority.

S. 74U(b)  
substituted by  
No. 24/2014  
s. 71.

**S. 74V**  
inserted by  
**No. 16/2004**  
s. 51.

**74V Transitional provision**

An authority may be given under this Part for a controlled operation in relation to criminal activity occurring before, on or after the commencement of this Part.

Wildlife Act 1975  
No. 8699 of 1975

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*	*	*	*	*	<b>Pt 9 (Heading)</b> repealed by No. 70/1990 s. 6(5).
*	*	*	*	*	<b>S. 71</b> 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).
*	*	*	*	*	<b>S. 72</b> 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).
*	*	*	*	*	<b>S. 73</b> 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).

Wildlife Act 1975  
No. 8699 of 1975

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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).

\* \* \* \* \*

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).

\* \* \* \* \*

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).

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Wildlife Act 1975  
No. 8699 of 1975

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*	*	*	*	*	<b>S. 74D</b> 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).
*	*	*	*	*	<b>S. 74E</b> inserted by No. 9505 s. 18(1), amended by No. 70/1990 s. 12(1)(a), repealed by No. 3/2002 s. 5.
*	*	*	*	*	<b>S. 74F</b> inserted by No. 9505 s. 18(1), repealed by No. 9861 s. 3(1).

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

## Part X—Protection of whales

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

### Division 1—General

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

#### 75 Definitions

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

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

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

*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;

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

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

- (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.

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

**76 Killing, taking whales etc. an offence**

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

- (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.

- (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.

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

Penalty: 1000 penalty units.

Wildlife Act 1975  
No. 8699 of 1975  
Part X—Protection of whales

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S. 76(2A)  
inserted by  
No. 7/1988  
s. 9(e)(i),  
amended by  
No. 3/2002  
s. 8(1).

- (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(3)  
amended by  
Nos 70/1990  
s. 12(1)(r)(ii),  
3/2002 s. 8(2).

- (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(4)  
amended by  
No. 7/1988  
s. 9(e)(ii).

- (4) The provisions of subsections (1)(2) and (2A) shall not apply in relation to any action by a person if—

S. 76(4)(a)  
amended by  
No. 3/2002  
s. 8(3).

- (a) the action in question was done in accordance with a permit granted under section 78(1);

S. 76(4)(aa)  
inserted by  
No. 87/1997  
s. 31,  
substituted by  
No. 45/2008  
s. 21.

- (aa) the action in question was carried out by an authorised officer or under the direction of an authorised officer and was reasonably necessary for the welfare of the whale;

- (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;

S. 76(4)(c)  
amended by  
No. 7/1988  
s. 9(e)(iii).

- (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—



- (i) unavoidable in the course of those operations; or
- (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.

- (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.

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

Penalty: 1000 penalty units.

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

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

- (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

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

(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;

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

(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.

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

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

#### **77A Offence to approach whales**

(1) A person must not approach any whale at a distance that is less than the prescribed minimum distance.

Penalty: 20 penalty units.

S. 77A  
inserted by  
No. 45/2008  
s. 22.

- (2) Subsection (1) does not apply to—
- (a) a person who is acting in accordance with—
    - (i) a permit under section 78; or
    - (ii) a permit under Division 2; or
    - (iii) a written authorisation under section 28A; or
  - (b) an authorised officer who is acting in the course of his or her duties as an authorised officer, if the action is reasonably necessary for the welfare of the whale or to investigate a failure to comply with the Act.

**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).

\* \* \* \* \*

S. 78(1)(b)  
amended by  
No. 41/1987  
s. 103(Sch. 4  
Item 76.76),  
87/1997  
s. 42(Sch.  
item 41(a)),  
repealed by  
No. 45/2008  
s. 23.

- (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)(ii).**
- (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.
- 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.
- 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).

\* \* \* \* \*

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

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

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

## 79 Conditions of permit

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

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

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—

S. 79(3)(a)  
amended by  
No. 45/2008  
s. 24.

(a) the times between which, and the areas in which, a whale to which the permit relates may be 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.

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

### **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.

## 81 Power of authorised officer to give directions

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.

(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.

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

(2) A person must comply with a direction given under subsection (1).

Penalty: 50 penalty units.

(3) An authorised officer may direct a person—

S. 81(3)  
inserted by  
No. 45/2008  
s. 25.

(a) not to be within—

(i) a distance of less than 500 metres from any whale; or

(ii) the distance, that is specified by the authorised officer, from any whale—

whichever is the lesser; or

(b) to move to—

(i) a distance that is 500 metres from any whale; or

(ii) the distance, that is specified by the authorised officer, from any whale—

whichever is the lesser.

S. 81(4)  
inserted by  
No. 45/2008  
s. 25.

- (4) An authorised officer may direct the operator of a vessel to cause the vessel to be operated—
- (a) so as not to be within—
    - (i) a distance of less than 500 metres from any whale; or
    - (ii) the distance, that is specified by the authorised officer, from any whale—whichever is the lesser; or
  - (b) to move to—
    - (i) a distance that is 500 metres from any whale; or
    - (ii) the distance, that is specified by the authorised officer, from any whale—whichever is the lesser.

S. 81(5)  
inserted by  
No. 45/2008  
s. 25.

- (5) An authorised officer must not make a direction under subsection (3) or (4) unless the authorised officer reasonably believes it is necessary to do so to ensure the welfare of a whale or the safety of any person.

S. 81(6)  
inserted by  
No. 45/2008  
s. 25.

- (6) A person who has been given a direction by an authorised officer under subsection (3) or (4) must comply with the direction unless the person has a reasonable excuse for not doing so.

Penalty: 20 penalty units.

S. 81(7)  
inserted by  
No. 45/2008  
s. 25,  
amended by  
No. 65/2010  
s. 420(Sch. 3  
item 17(a)).

- (7) An authorised officer, before giving a direction under subsection (4) to a vessel that is in waters for which a harbour master is required to be engaged under section 220 of the **Marine Safety Act 2010**, must consult with the harbour master who is engaged for those waters.

S. 81(8)  
inserted by  
No. 45/2008  
s. 25.

- (8) Subsections (3) and (4) have effect despite anything to the contrary in any other section of this Part.



- (9) In this section *harbour master* has the same meaning as in the **Marine Safety Act 2010**.

S. 81(9)  
inserted by  
No. 45/2008  
s. 25,  
amended by  
No. 65/2010  
s. 420(Sch. 3  
item 17(b)) (as  
amended by  
No. 29/2011  
s. 3(Sch. 1  
item 57.9).

### **81A Variation of permits**

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

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

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

### **81B Suspension of permits**

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

- (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.

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

- (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

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

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

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

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

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

- (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.

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

## 82 Public notices in relation to permits

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

- (1) A person making an application for—
- (a) the grant of a permit under section 78(1)(b), (c), (e) or (f); or

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

- (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)(c)  
amended by  
No. 3/2002  
s. 17(b)(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))—

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)).
- (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(3) amended by Nos 41/1987 s. 103(Sch. 4 item 76.80), 87/1997 s. 42(Sch. item 44(c)).
- (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— 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)).
- (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)).
- (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(4)(b) amended by Nos 41/1987 s. 103(Sch. 4 item 76.80), 87/1997 s. 42(Sch. item 44(d)).

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.

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

(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.

Pt 10 Div. 2  
(Heading)  
substituted by  
No. 45/2008  
s. 26.

## Division 2—Whale watching and swim tour permits

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

### 83 Offence to conduct whale watching tour

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,  
substituted by  
No. 45/2008  
s. 27.

A person must not conduct a whale watching tour unless the person does so in accordance with a whale watching tour permit.

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

**83A Power to grant whale watching tour permits**

- (1) The Secretary may grant a permit to a natural person authorising the person to conduct a whale watching tour from the aircraft or vessel specified in the permit.
- (2) The Secretary may refuse to grant a whale watching tour permit if the Secretary is satisfied that—
  - (a) the applicant has been found guilty of an offence against this Act or regulations under this Act; or
  - (b) the applicant has failed to comply with this Act or regulations under this Act or the conditions of a permit under this Division; or
  - (c) the applicant 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; or
  - (d) for any other reason it is not suitable for the permit to be granted.

S. 83A  
inserted by  
No. 3/2002  
s. 18,  
substituted by  
No. 45/2008  
s. 27.

**83B Constraints on the granting of whale watching tour permits**

- (1) Where the Secretary has made a limited permit area determination for an area specifying the number of whale watching tour permits that may be in force in respect of the area, the Secretary must not grant such a number of whale watching tour permits for the area that the maximum number of permits that may be in force in the area is exceeded.

S. 83B  
inserted by  
No. 3/2002  
s. 18,  
substituted by  
No. 45/2008  
s. 27.

- (2) The Secretary must not grant a whale watching tour permit for a limited permit area for such permits unless the Secretary is satisfied that the applicant satisfies the criteria specified in the notice under section 83GC for that area.

S. 83C  
inserted by  
No. 3/2002  
s. 18,  
substituted by  
No. 45/2008  
s. 27.

### **83C Offence to conduct whale swim tour**

A person must not conduct a whale swim tour unless that person does so in accordance with a whale swim tour permit and in the limited permit area specified in the permit.

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

S. 83D  
inserted by  
No. 3/2002  
s. 18,  
substituted by  
No. 45/2008  
s. 27.

### **83D Power to grant whale swim tour permits**

- (1) The Secretary may grant a permit to a natural person authorising that person to conduct a whale swim tour—
- (a) from the vessel specified in the permit; and
  - (b) in the limited permit area specified in the permit.
- (2) The Secretary may refuse to grant a whale swim tour permit if the Secretary is satisfied that—
- (a) the applicant has been found guilty of an offence against this Act or regulations under this Act; or
  - (b) the applicant has failed to comply with this Act or regulations under this Act or the conditions of a permit under this Division; or
  - (c) the applicant 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; or

- (d) for any other reason it is not suitable for the permit to be granted.

**83E Constraints on the granting of whale swim tour permits**

S. 83E  
inserted by  
No. 3/2002  
s. 18,  
substituted by  
No. 45/2008  
s. 27.

- (1) Where the Secretary has made a limited permit area determination for an area specifying the number of whale swim tour permits that may be in force in respect of the area, the Secretary must not grant such a number of whale swim tour permits for the area that the maximum number of permits that may be in force in the area is exceeded.
- (2) The Secretary must not grant a whale swim tour permit for a limited permit area for such permits unless the Secretary is satisfied that the applicant satisfies the criteria specified in the notice under section 83GC for that area.

**83F Determination of limited permit areas**

S. 83F  
inserted by  
No. 3/2002  
s. 18,  
substituted by  
No. 45/2008  
s. 27.

- (1) The Secretary may determine an area to be an area in respect of which there must not be in force at any time more than the specified maximum number of—
- (a) the specified class of whale watching tour permits; or
- (b) whale swim tour permits.
- (2) The Secretary must specify in the determination under subsection (1) the maximum number of the permits that may be in force under that determination.
- (3) In making a specification under subsection (2) the Secretary must not specify a number of permits that is greater than the number the Secretary reasonably believes is ecologically sustainable for the area and in determining that number 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.

- (4) In making a determination and specification under this section the Secretary must have regard to any submissions made under section 83GA.
- (5) A determination under subsection (1)—
  - (a) may describe an area by reference to a map, plan or other document; and
  - (b) must be published in the Government Gazette.

S. 83G  
inserted by  
No. 3/2002  
s. 18,  
substituted by  
No. 45/2008  
s. 27.

**83G Notice of proposal to make limited permit area determination**

- (1) Before making a limited permit area determination, the Secretary must give notice that the Secretary proposes to make the determination.
- (2) A notice under subsection (1) must—
  - (a) set out the proposed determination; and
  - (b) be published—
    - (i) in the Government Gazette; and
    - (ii) in a newspaper circulating generally throughout the State—  
  
at least 4 weeks before the making of the determination; and
  - (c) set out the time within which written submissions on the proposed determination must be made to the Secretary, which must be not less than 4 weeks before the making of the determination.

**83GA Submissions on proposal to make limited permit area determination**

S. 83GA  
inserted by  
No. 45/2008  
s. 27.

- (1) Any person who is likely to be affected by the making of a limited permit area determination may make written submissions to the Secretary on the proposal to make the determination.
- (2) Submissions made under subsection (1) must be made within the time fixed for making submissions under section 83G.
- (3) In addition to any submission made under subsection (1), the Secretary may have regard to (but is not required to have regard to) a submission made by any other person on the proposal to make the determination that is made within the time fixed for the making of submissions under section 83G.

**83GB Amendment or revocation of limited permit area determination**

S. 83GB  
inserted by  
No. 45/2008  
s. 27.

- (1) The Secretary may amend or revoke a limited permit area determination in the same manner as that in which it is made.
- (2) If the Secretary amends or revokes a limited permit area determination, any permit under this Division in force in the area to which the amendment or revocation applies, being a permit that is in force immediately before that amendment or revocation, continues in force despite that amendment or revocation—
  - (a) as such a permit under this Division until its expiry, unless sooner revoked; and
  - (b) on the same terms and conditions as those applying to it immediately before the amendment or revocation.

S. 83GC  
inserted by  
No. 45/2008  
s. 27.

**83GC Permits in limited permit areas to be granted on determination of Secretary**

- (1) Where a limited permit area determination has been made for an area determining a maximum number of whale watching tour permits or whale swim tour permits that may be in force in the area, the Secretary may, on or after the making of the determination, determine—
  - (a) that a number of such permits are available to be applied for for the area; and
  - (b) that applications are to be invited for the permits.
- (2) The Secretary must not determine such a number of permits under subsection (1)(a) as would cause the maximum number of such permits that may be in force in the area to be exceeded.
- (3) The Secretary must give notice of a determination under subsection (1) inviting applications for the permits that are to be granted.
- (4) A notice under subsection (3) must be published in the Government Gazette and in a newspaper circulating generally in the area to which the determination relates.
- (5) A notice under subsection (3) may—
  - (a) specify whether the fee to be paid for any permit to which the determination applies is to be determined by tender or is to be a prescribed fee; and
  - (b) specify the number of permits that are available to be applied for; and
  - (c) specify the maximum number of the permits that the Secretary has determined may be in force for the area, as specified in the limited permit area determination under section 83F(2); and

- (d) specify the maximum number of trips that may be conducted each day under each permit and any other relevant matters in relation to the carrying out of activities under each permit; and
- (e) specify the procedures to be followed and the information that must be given in making an application for a permit; and
- (f) specify the date by which applications for such permits must be lodged with the Secretary; and
- (g) specify the criteria which will be used to assess applications for permits; and
- (h) specify whether or not the holders of existing permits in the area may apply for permits specified in the notice.

**83GD Applications for permits**

S. 83GD  
inserted by  
No. 45/2008  
s. 27.

An application for a permit under this Division must—

- (a) be made to the Secretary; and
- (b) be in writing (accompanied by the information required by the Secretary); and
- (c) where the case so requires, be made in accordance with a determination and notice under section 83GC.

**83GE Fees for permits**

S. 83GE  
inserted by  
No. 45/2008  
s. 27.

- (1) The fee payable for a permit under this Division is the prescribed fee for the permit or the fee determined by tender for the permit in accordance with the notice under section 83GC (as the case requires).
- (2) A permit under this Division does not come into force until the fee payable for the permit has been paid.

S. 83GF  
inserted by  
No. 45/2008  
s. 27.

### **83GF Period of permit**

A permit under this Division remains in force for the period determined by the Secretary and specified in the permit, which must not be more than 10 years.

S. 83GG  
inserted by  
No. 45/2008  
s. 27.

### **83GG Renewal of permit**

- (1) The Secretary may renew a permit under this Division that is not for a limited permit area, on application from the holder of the permit.
- (2) The Secretary may refuse to renew a permit under subsection (1) if the Secretary is satisfied that—
  - (a) the holder has been found guilty of an offence against this Act or regulations under this Act; or
  - (b) the holder has failed to comply with this Act or regulations under this Act or the conditions of the permit; or
  - (c) the holder 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; or
  - (d) for any other reason it is not suitable for the permit to be renewed.

S. 83H  
(Heading)  
substituted by  
No. 45/2008  
s. 29.

### **83H Conditions of permits under this Division**

A permit granted under this Division is subject to—

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

- (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.
- (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

S. 83K(3)  
amended by  
No. 45/2008  
s. 28.

criteria specified in the limited permit area determination for 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.
- (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.
- (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

- |  |   |
|--|---|
|  | S. 85<br>inserted by<br>No. 9694<br>s. 4.   |
| (1) The provisions of the <b>Criminal Procedure Act 2009</b> 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—  | S. 85(1)<br>amended by<br>Nos 7/1988<br>s. 9(h),<br>57/1989<br>s. 3(Sch.<br>item 219.4(a)),<br>68/2009<br>s. 97(Sch.<br>item 135.2(a)).   |
| * * * * *  | S. 85(1)(a)<br>repealed by<br>No. 57/1989<br>s. 3(Sch.<br>item 219.4(b)).   |
| (b) any consent required by those provisions to be given by the accused may, in the absence of the accused, be given by his or her Australian legal practitioner;  | S. 85(1)(b)<br>amended by<br>Nos 35/1996<br>s. 453(Sch. 1<br>item 89),<br>18/2005<br>s. 18(Sch. 1<br>item 118),<br>68/2009<br>s. 97(Sch.<br>item 135.2(b)),<br>17/2014<br>s. 160(Sch. 2<br>item 110). |
| (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 accused is present in court or represented in court that it is fitting for the charge to be disposed of summarily; | S. 85(1)(c)<br>amended by<br>No. 68/2009<br>s. 97(Sch.<br>item 135.2(b)).   |
| (d) the court may impose a fine of not more than 100 penalty units; and  | S. 85(1)(d)<br>amended by<br>No. 70/1990<br>s. 12(1)(u).  |

(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 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.

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

### 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.

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).

Wildlife Act 1975  
No. 8699 of 1975  
Part X—Protection of whales

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

(3) Regulations made under this section may be disallowed in whole or in part by resolution of either House of Parliament.

**S. 85A(3)**  
amended by  
No. 78/2010  
s. 24(Sch. 1  
item 37.1).

\* \* \* \* \*

**S. 85A(4)**  
repealed by  
No. 78/2010  
s. 24(Sch. 1  
item 37.2).

## Part XA—Protection of seals

Part 10A  
(Heading and  
ss 85B–85M)  
inserted by  
No. 45/2008  
s. 30.

S. 85B  
inserted by  
No. 45/2008  
s. 30.

### 85B Offence to conduct seal tour

- (1) A person must not conduct a seal tour unless the person does so in accordance with a seal tour permit.

Penalty: 100 penalty units.

- (2) Subsection (1) does not apply to any prescribed person or prescribed class of person in the prescribed circumstances.

S. 85C  
inserted by  
No. 45/2008  
s. 30.

### 85C Power to grant seal tour permit

- (1) The Secretary may grant a permit to a person authorising the person to conduct a seal tour.
- (2) The Secretary may refuse to grant a seal tour permit if the Secretary is satisfied that—
  - (a) the applicant has been found guilty of an offence against this Act or regulations under this Act; or
  - (b) the applicant has failed to comply with this Act or regulations under this Act or the conditions of any permit under this Part; or
  - (c) the applicant 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 seals or to the living natural resources of the continental shelf of Australia; or
  - (d) for any other reason it is not suitable for the permit to be granted.

**85D Applications for seal tour permits**

An application for a seal tour permit must—

- (a) be made to the Secretary, in the manner determined by the Secretary; and
- (b) be in writing (accompanied by the information required by the Secretary); and
- (c) be accompanied by the fee payable for the permit under section 85E.

S. 85D  
inserted by  
No. 45/2008  
s. 30.

**85E Fee payable for seal tour permit**

The fee payable for a seal tour permit is the prescribed fee.

S. 85E  
inserted by  
No. 45/2008  
s. 30.

**85F Period of seal tour permit**

A seal tour permit remains in force for the period determined by the Secretary and specified in the permit, which must not be more than 10 years.

S. 85F  
inserted by  
No. 45/2008  
s. 30.

**85G Renewal of seal tour permit**

- (1) The Secretary may renew a seal tour permit, on application from the holder of the permit.
- (2) The Secretary may refuse to renew a seal tour permit under subsection (1) if the Secretary is satisfied that—
  - (a) the holder has been found guilty of an offence against this Act or regulations under this Act; or
  - (b) the holder has failed to comply with this Act or regulations under this Act or the conditions of the permit; or
  - (c) 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

S. 85G  
inserted by  
No. 45/2008  
s. 30.

of seals or to the living natural resources of the continental shelf of Australia; or

- (d) for any other reason it is not suitable for the permit to be renewed.

S. 85H  
inserted by  
No. 45/2008  
s. 30.

### **85H Conditions of seal tour permits**

A seal tour permit 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 under this Act for permits of the category to which the permit belongs.

S. 85I  
inserted by  
No. 45/2008  
s. 30.

### **85I Breach of condition an offence**

The holder of a seal tour permit must comply with the conditions of the permit.

Penalty: 100 penalty units.

S. 85J  
inserted by  
No. 45/2008  
s. 30.

### **85J Variation of seal tour permits**

- (1) On application made in writing and on payment of any prescribed fee, the Secretary may vary any seal tour permit in any respect, and a variation under this subsection has effect on the Secretary making the variation.  
(2) If the Secretary is of the opinion that a seal tour permit should be varied, the Secretary may, of the Secretary's 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.

S. 85K  
inserted by  
No. 45/2008  
s. 30.

### **85K Suspension of seal tour permits**

- (1) If the Secretary is satisfied that there are reasonable grounds to do so, the Secretary may suspend a seal tour permit 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 85L, for the period (not exceeding 90 days) specified in the notice.

**85L Making submissions on suspension**

S. 85L  
inserted by  
No. 45/2008  
s. 30.

- (1) Immediately on suspending a seal tour permit, 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.
- (4) In carrying out a review under subsection (3), the Secretary—
  - (a) must have regard to the submissions made under subsection (2) within the period specified in the notice; 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.

**85M Power of Secretary to cancel seal tour permit**

S. 85M  
inserted by  
No. 45/2008  
s. 30.

- (1) The Secretary may cancel a seal tour permit 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 regulations made under 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 affect a population of a particular taxon of seal; 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 seals or to the living natural resources of the continental shelf of Australia.
- (2) Before cancelling a permit, the Secretary must—
- (a) notify the holder of the permit that the Secretary 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.
- (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 the Secretary's 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 that notice is given.

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## Part XI—Miscellaneous

Pt 11  
(Heading)  
inserted by  
No. 9694 s. 4.

### 86 Notices prohibiting, regulating or controlling the taking, destroying or hunting of wildlife

S. 86  
(Heading)  
inserted by  
No. 11/2014  
s. 25(1).

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

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).

(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

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

(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)—

(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

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

S. 86(2)(b)  
amended by  
No. 87/1997  
s. 42(Sch.  
item 45(c)).

(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

S. 86(2)(c)  
substituted by  
No. 48/2016  
s. 25(1).

(c) takes effect on the date specified in the notice, which must be at least 3 days after publication of the notice in the Government Gazette; and

S. 86(2)(d)  
substituted by  
No. 48/2016  
s. 25(1).

(d) continues to have effect for the period specified in the notice, which must not be more than 12 months.

S. 86(2)(e)  
repealed by  
No. 48/2016  
s. 25(1).

\* \* \* \* \*

(3) A notice under subsection (1) prevails over any inconsistent—

(a) regulation made under this Act; or

S. 86(3)(b)  
amended by  
No. 87/1997  
s. 42(Sch.  
item 45(d)).

(b) licence, permit or other authority to take destroy or hunt any particular kind or taxon of wildlife issued under this Act.

S. 86(4)  
repealed by  
No. 48/2016  
s. 25(2).

\* \* \* \* \*

S. 86(4A)  
inserted by  
No. 11/2014  
s. 25(2).

(4A) Regulations made under this Act may impose conditions on the carrying out of any activity under a notice under subsection (1).

S. 86(5)  
amended by  
No. 78/2010  
s. 24(Sch. 1  
item 37.3).

(5) Sections 15, 23, 24 and 25 of the **Subordinate Legislation Act 1994** 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 15(1) of the **Subordinate Legislation Act 1994** to the publication of notice of the making of a statutory rule must be read for the purposes of this section as a reference to the publication of the notice under subsection (1).

S. 86(6)  
amended by  
No. 78/2010  
s. 24(Sch. 1  
item 37.4).

(7) A notice under subsection (1) may be disallowed in whole or in part by a resolution of either House of Parliament.

S. 86(7)  
amended by  
No. 78/2010  
s. 24(Sch. 1  
item 37.5).

\* \* \* \* \*

S. 86(8)  
repealed by  
No. 78/2010  
s. 24(Sch. 1  
item 37.6).

#### 86A Emergency closure notices

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

(1) If the Minister is satisfied that any threatened 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—

(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 7 days, specified in the notice; and

(b) provide 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 the notice.

S. 86A(1)  
amended by  
Nos 70/1990  
s. 12(3),  
87/1997  
s. 42(Sch.  
item 46(a)(b)),  
45/2008 s. 31,  
24/2014 s. 72,  
substituted by  
No. 48/2016  
s. 26(1).

S. 86A(1A)  
inserted by  
No. 48/2016  
s. 26(1).

(1A) Before issuing a notice under subsection (1), the Minister must consider the advice of the Game Management Authority.

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

(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

S. 86A(2)(b)  
amended by  
No. 48/2016  
s. 26(2)(a).

(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.

S. 86A(2)(c)  
repealed by  
No. 48/2016  
s. 26(2)(b).

\* \* \* \* \*

(3) A notice under subsection (1) prevails over any inconsistent—

(a) regulation made under this Act; or

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

(b) licence, permit or other authority to take destroy or hunt any particular kind or taxon of wildlife issued under this Act.

S. 86A(4)  
substituted by  
No. 48/2016  
s. 26(3).

(4) A notice under subsection (1) takes effect on the day after the day on which the notice is published in the Government Gazette.

S. 86A(5)  
repealed by  
No. 48/2016  
s. 26(4).

\* \* \* \* \*

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S. 86A(6)  
repealed by  
No. 48/2016  
s. 26(5).

**86B Time for bringing proceedings**

Despite section 7 of the **Criminal Procedure Act 2009**, a proceeding for an offence under section 22, 41, 43, 44, 45, 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. 86B  
inserted by  
No. 87/1997  
s. 39,  
amended by  
Nos 45/2008  
s. 32, 68/2009  
s. 97(Sch.  
item 135.3).

**86C Review of decisions**

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

(1) An application may be made to the Victorian Civil and Administrative Tribunal for review of a decision of the Secretary or the Game Management Authority—

S. 86C(1)  
amended by  
Nos 52/1998  
s. 311(Sch. 1  
item 107.2),  
24/2014 s. 73.

- (a) to refuse to grant a licence, authorisation or permit under this Act; or
- (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 or the Game Management Authority 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

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

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

## 87 Regulations

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

- (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 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; **S. 87(1)(ba) inserted by No. 70/1990 s. 7.**
- (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 an 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; **S. 87(1)(d) amended by No. 11/2014 s. 26.**
- (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)(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; **S. 87(1)(ga) inserted by No. 87/1997 s. 40(1)(c).**
- (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)(l)  
amended by  
No. 41/1987  
s. 103(Sch. 4  
item 76.82).

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

\* \* \* \* \*

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;

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

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- |      |   |   |   |   |   |
|------|---|---|---|---|---|
| *    | *   | * | * | * |   |
|      |   |   |   |   | S. 87(1)(p)<br>repealed by<br>No. 87/1997<br>s. 40(1)(e).       |
| (q)  | the licensing of bowhunters, the conduct, management, and control of bowhunting, and the fees to be paid for bowhunters' licences;  |   |   |   | S. 87(1)(q)<br>amended by<br>No. 87/1997<br>s. 40(1)(f).        |
| (r)  | the seizure and destruction of diseased wildlife;   |   |   |   |   |
| (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)(s)<br>amended by<br>No. 87/1997<br>s. 40(1)(g).        |
| (sa) | regulating or prohibiting any activity or conduct by persons in or on sanctuaries, reserves and wildlife management co-operative areas (not on private land) established under this Act, whether the activity is by persons in vessels or aircraft or in water or on land;  |   |   |   | S. 87(1)(sa)<br>inserted by<br>No. 45/2008<br>s. 33(1)(a).      |
| (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; |   |   |   | S. 87(1)(t)<br>amended by<br>No. 87/1997<br>s. 40(1)(h)(i)(ii). |
| (ta) | prescribing areas of public land for the purposes of section 48A;   |   |   |   | S. 87(1)(ta)<br>inserted by<br>No. 87/1997<br>s. 40(1)(i).      |

- S. 87(1)(u)  
amended by  
No. 87/1997  
s. 40(1)(j).
- (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)(v)  
amended by  
No. 87/1997  
s. 40(1)(k)(i)(ii).
- (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)(va)  
inserted by  
No. 87/1997  
s. 40(1)(l).
- (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;
- (w) determining what circumstances give priority as between hunters to hunt and take wildlife in Victoria;
- S. 87(1)(x)  
amended by  
No. 87/1997  
s. 40(1)(m).
- (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;
- (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; **S. 87(1)(z) amended by No. 87/1997 s. 42(Sch. item 47(b)).**
- (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;
- (ada) regulating or prohibiting— **S. 87(1)(ada) inserted by No. 45/2008 s. 33(1)(b).**
- (i) any activity in the vicinity of seals that may disturb or interfere with seals;
- (ii) any activity that involves observing, approaching or interacting with seals—
- whether the activity is by persons in vessels or aircraft or in water or on land;
- (adb) fees to be charged for permits under Part XA and for variations of such permits; **S. 87(1)(adb) inserted by No. 45/2008 s. 33(1)(b).**

- S. 87(1)(af)  
amended by  
No. 41/1987  
s. 103(Sch. 4  
item 76.82).
- (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;
- (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;
- (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;
- S. 87(1)(ah)  
amended by  
No. 41/1987  
s. 103(Sch. 4  
item 76.84),  
substituted by  
No. 24/2014  
s. 74(1).
- (ah) fees to be charged under this Act for any purposes not expressly provided for and for services rendered by—
- (i) officers of the Department within the meaning of the **Conservation, Forests and Lands Act 1987**; or
- (ii) authorised officers or staff of the Game Management Authority;
- S. 87(1)(aha)  
inserted by  
No. 87/1997  
s. 40(1)(n).
- (aha) fees to be charged for permits issued under Part X and for variations of permits issued under Part X;
- S. 87(1)(ahb)  
inserted by  
No. 87/1997  
s. 40(1)(n).
- (ahb) ballots under section 22A(4A), including fees to enter a ballot;
- S. 87(1)(ahc)  
inserted by  
No. 87/1997  
s. 40(1)(n),  
amended by  
No. 45/2008  
s. 33(1)(c).
- (ahc) prescribing persons or classes of persons who are exempted from the operation of sections 41, 43, 44, 45 and 47 and conditions to which any such exemption is subject;
- S. 87(1)(ahd)  
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;

- (ai) prescribing penalties not exceeding 50 penalty units for any contravention of or failure to comply with the regulations;
- (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(1)(ai)**  
amended by  
**No. 70/1990**  
s. 12(1)(w).

- (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(2)**  
amended by  
**No. 87/1997**  
s. 42(Sch.  
item 47(c)).

- (2A) In fixing fees in any such regulations, the Governor in Council may provide for all or any of the following matters—

**S. 87(2A)**  
inserted by  
**No. 87/1997**  
s. 40(2).

- (a) maximum or minimum fees;
- (b) maximum and minimum fees;
- (c) the reduction, waiver or refund, in whole or in part, of the fees.

- (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(2B)**  
inserted by  
**No. 87/1997**  
s. 40(2).

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.

S. 87(4A)  
inserted by  
No. 70/1990  
s. 10,  
amended by  
No. 78/2010  
s. 24(Sch. 1  
item 37.7).

(4A) Regulations made under this section may be disallowed in whole or in part by resolution of either House of Parliament.

S. 87(4B)  
inserted by  
No. 70/1990  
s. 10,  
repealed by  
No. 78/2010  
s. 24(Sch. 1  
item 37.8).

\* \* \* \* \*

(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, the Game Management Authority, 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),  
24/2014  
s. 74(2).
- (8) Regulations made under this Act may—
- (a) be of general or limited application; and
- (b) differ according to differences in time, place or circumstance; and
- (c) may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person, whether—
- (i) wholly or partially or as amended by the regulations; or
- (ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
- (iii) as formulated, issued, prescribed or published from time to time.
- (9) Any regulations made under this section for or with respect to the issuing of film permits must not be inconsistent with the film friendly principles.
- S. 87(8)  
inserted by  
No. 45/2008  
s. 33(2).
- S. 87(9)  
inserted by  
No. 51/2014  
s. 9(Sch. 2  
item 22.4).

S. 87A  
inserted by  
No. 40/2009  
s. 45.

### **87A Tour operator licence regulations**

- (1) The Governor in Council may make regulations for or with respect to—
  - (a) the fees payable in respect of tour operator licences including—
    - (i) requirements for fees to be paid annually; and
    - (ii) methods for calculating fees, including by reference to the following—
      - (A) numbers of persons that may participate in or have participated in tours; and
      - (B) classes of persons that may participate in or have participated in tours; and
  - (b) prescribing tour operator licence conditions.
- (2) A power conferred by subsection (1) to make regulations providing for the imposition of fees in respect of tour operator licences may be exercised by providing for all or any of the following matters—
  - (a) specific fees;
  - (b) maximum fees;
  - (c) minimum fees;
  - (d) fees that vary according to the class of licence to which they apply;
  - (e) the manner of payment of fees, including the payment of fees by instalment;
  - (f) the time at which, or by which, fees are to be paid.

- (3) Regulations made under this Act in respect of tour operator licences may—
- (a) leave any matter or thing to be decided by a specified person or class of person; and
  - (b) provide for the exemption of persons or a class of persons from any of the regulations providing for the imposition of fees; and
  - (c) provide for the reduction, waiver or refund, in whole or in part, of the fees fixed by regulations made under this section; and
  - (d) provide, in specified circumstances, for the reinstatement or payment, in whole or in part, of any fee reduced, waived or refunded in accordance with the regulations.
- (4) Without limiting subsection (3), if the regulations provide for a reduction, waiver or refund, in whole or in part, of a fee pursuant to subsection (3), the reduction, waiver or refund—
- (a) may be expressed to apply either generally or specifically—
    - (i) in respect of certain matters or classes of matters;
    - (ii) in respect of certain persons or classes of persons;
  - (b) may be subject to specified conditions.

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  
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.

**92A Transitional provision—Crimes Legislation  
Amendment Act 2010**

S. 92A  
inserted by  
No. 7/2010  
s. 17.

The first report submitted by the Secretary under section 74O(1) after the commencement of section 15 of the **Crimes Legislation Amendment Act 2010** must include the information required by section 74O(1) for any period in the 9 months immediately preceding that commencement, that has not previously been reported on.

**93 Transitional provisions—2008 Act**

S. 93  
inserted by  
No. 45/2008  
s. 34.

(1) In this Part—

**2008 Act** means the **Wildlife Amendment (Marine Mammals) Act 2008**;

**limited permit area notice**, in respect of an area, means a notice given by the Secretary under section 83G that the Secretary proposes to make a limited permit area determination in respect of the area;

**new Part X** means Part X of the **Wildlife Act 1975** as amended by section 27 of the 2008 Act;

**old Part X** means Part X of the **Wildlife Act 1975** as in force immediately before the commencement of section 27 of the 2008 Act.

(2) The amendments made to this Act by sections 6, 7, 8, 10, 11 and 12 of the 2008 Act apply only to offences alleged to have been committed on or after the commencement of those sections.

(3) For the purposes of subsection (2), if an offence is alleged to have been committed between two dates, one before and one after the commencement of sections 6, 7, 8, 10, 11 and 12 of the 2008 Act, the offence is alleged to have

been committed before the commencement of those sections.

- (4) On the commencement of section 27 of the 2008 Act, an area that, immediately before that commencement was proclaimed to be a whale swim tour area under the old Part X, is to be taken to be a limited permit area as if it has been determined to be so under section 83F.
- (5) A permit issued under Division 2 of the old Part X, that is in force immediately before the commencement of section 27 of the 2008 Act, is to be taken to continue in force, despite that commencement, until its expiry, unless it is sooner cancelled—
  - (a) on the same terms and conditions as those that applied to it immediately before that commencement and in respect of the same area as that for which it was granted before that commencement; and
  - (b) as if it were a permit issued under the new Part X.

S. 94  
inserted by  
No. 45/2008  
s. 34.

#### **94 Transitional provisions—2008 Act—whale watching tours by aircraft**

- (1) If—
  - (a) a person was, immediately before the commencement of the new Part X conducting whale watching tours by aircraft in an area; and
  - (b) on the commencement of the new Part X, there is in force in respect of the area a limited permit area notice for whale watching tours conducted by aircraft—

section 83 does not apply to the conducting of whale watching tours by aircraft in the area by that person from the commencement of the new



Part X until the date by which applications for such permits must be lodged that is specified in the notice under section 83GC for the area.

- (2) If a person, to whom subsection (1) applies, has made an application for a whale watching tour permit in respect of the area before the date specified in the notice under section 83GC, section 83 does not apply to the conducting of whale watching tours by aircraft in the area by that person from the date specified in the notice until the application is finally determined in accordance with this Act.
- (3) If—
- (a) a person was, immediately before the commencement of the new Part X conducting whale watching tours by aircraft in an area to which subsection (1) does not apply; and
  - (b) that person makes an application for a whale watching tour permit within two weeks of that commencement—

section 83 does not apply to the conducting of whale watching tours by aircraft in the area by that person from the commencement of the new Part X until the application is finally determined in accordance with this Act.

**95 Transitional provisions—2008 Act—seal tours**

If—

- (a) a person was, immediately before the commencement of section 30 of the 2008 Act, conducting seal tours; and

S. 95  
inserted by  
No. 45/2008  
s. 34.

(b) that person makes an application for a seal tour permit within two weeks of that commencement—

section 85B does not apply to the conducting of seal tours by that person from the commencement of the new Part X until the application is finally determined in accordance with this Act.

S. 96  
inserted by  
No. 40/2009  
s. 46.

## 96 Tour operator licence offence

(1) In this section—

**2009 Act** means the **Crown Land Acts Amendment (Lease and Licence Terms) Act 2009**.

(2) A person who conducts an organised tour or recreational activity for profit on a State Wildlife Reserve without a tour operator licence on or after the commencement of section 42 of the 2009 Act, is not guilty of an offence under section 21A if the person applies for a tour operator licence within 4 months from the commencement of section 42 of the 2009 Act.

(3) Subsection (2) applies to a person referred to in that subsection who makes a tour operator licence application referred to in that subsection until the tour operator licence application of the person is finally determined.

S. 97  
inserted by  
No. 82/2012  
s. 146.

## 97 Transitional provision—Integrity and Accountability Legislation Amendment Act 2012

(1) If, before the commencement day, the Special Investigations Monitor had not prepared the report required by section 74P for the financial year ending before the commencement day, the Victorian Inspectorate must prepare and transmit that report.

- (2) An inspection undertaken by the Special Investigations Monitor under section 74S in the 12 months ending immediately before the commencement day is taken, on and from that commencement day to be an inspection undertaken by the Victorian Inspectorate.
- (3) In this section, *commencement day* means the day on which section 147 of the **Integrity and Accountability Legislation Amendment Act 2012** comes into operation.

**98 Transitional provision for wildlife licences in respect of specified birds—Game Management Authority Act 2014**

S. 98  
inserted by  
No. 24/2014  
s. 75.

- (1) This section applies to a wildlife licence if—
  - (a) it is issued under section 22 by the Secretary in the prescribed category of Game Bird Farmer Licence; and
  - (b) it is in force immediately before the commencement day.
- (2) On and after the commencement day, the wildlife licence is taken to be a wildlife licence issued by the Game Management Authority in respect of specified birds and remains in force for the period specified in the licence unless sooner cancelled, suspended or surrendered.
- (3) Any conditions, limitations and restrictions imposed on the wildlife licence by the Secretary that are in force immediately before the commencement day are, on and after that day, taken to be conditions, limitations and restrictions imposed by the Game Management Authority.

(4) In this section—

*commencement day* means the day on which section 30 of the **Game Management Authority Act 2014** comes into operation;

*Game Bird Farmer Licence* means a Game Bird Farmer Licence within the meaning of the Wildlife Regulations 2013.

S. 99  
inserted by  
No. 24/2014  
s. 75.

**99 Transitional provision for wildlife licence applications—Game Management Authority Act 2014**

(1) This section applies if, immediately before the commencement day—

(a) a person has applied for a licence under section 22 in the prescribed category of Game Bird Farmer Licence; and

(b) the Secretary has not determined the application.

(2) On and after the commencement day the Game Management Authority must determine the application as if the person had applied to the Game Management Authority for a licence under section 22 in respect of specified birds.

(3) For the purposes of this section, section 22 as in force immediately before the commencement day applies as if a reference to the Secretary were a reference to the Game Management Authority.

(4) In this section—

*commencement day* means the day on which section 30 of the **Game Management Authority Act 2014** comes into operation;

*Game Bird Farmer Licence* means a Game Bird Farmer Licence within the meaning of the Wildlife Regulations 2013.

**100 Transitional provision for game licences—Game Management Authority Act 2014**

S. 100  
inserted by  
No. 24/2014  
s. 75.

- (1) This section applies to a game licence if—
  - (a) it is issued under section 22A by the Secretary; and
  - (b) it is in force immediately before the commencement day.
- (2) On and after the commencement day, the game licence is taken to be a game licence issued by the Game Management Authority and remains in force for the period specified in the licence unless sooner cancelled, suspended or surrendered.
- (3) Any conditions, limitations and restrictions imposed on the game licence by the Secretary that are in force immediately before the commencement day are, on and after that day, taken to be conditions, limitations and restrictions imposed by the Game Management Authority.
- (4) In this section—

*commencement day* means the day on which section 31 of the **Game Management Authority Act 2014** comes into operation.

**101 Transitional provision for game licence applications—Game Management Authority Act 2014**

S. 101  
inserted by  
No. 24/2014  
s. 75.

- (1) This section applies if, immediately before the commencement day—
  - (a) a person has applied to the Secretary for a game licence under section 22A; and
  - (b) the Secretary has not made a decision to grant or refuse the licence.
- (2) On and after the commencement day the Game Management Authority must determine the application.

(3) In this section—

*commencement day* means the day on which section 31 of the **Game Management Authority Act 2014** comes into operation.

S. 102  
inserted by  
No. 24/2014  
s. 75.

**102 Transitional provision, mandatory cancellation of licence—Game Management Authority Act 2014**

(1) This section applies if, before the commencement day, the Secretary—

(a) has, under section 25A(2), notified the holder of—

(i) a licence issued under section 22 in the prescribed category of Game Bird Farmer Licence; or

(ii) a game licence—

that the Secretary proposes to cancel that licence; and

(b) has not made a decision in accordance with section 25A.

(2) On and after the commencement day, section 25A continues to apply as in force immediately before that day until the Secretary makes a decision under that section and notifies the licence holder of that decision.

(3) A decision made by the Secretary on or after the commencement day under section 25A as in force immediately before that day, is taken to be a decision made by the Game Management Authority.

(4) In this section—

*commencement day* means the day on which section 34 of the **Game Management Authority Act 2014** comes into operation;

***Game Bird Farmer Licence*** means a Game Bird Farm Licence within the meaning of the Wildlife Regulations 2013.

**103 Transitional provision, submissions on suspension of licence—Game Management Authority Act 2014**

S. 103  
inserted by  
No. 24/2014  
s. 75.

- (1) This section applies if, immediately before the commencement day—
  - (a) the Secretary has, under Part III, suspended a wildlife licence issued in the prescribed category of Game Bird Farmer Licence or a game licence and allowed the holder of that licence to make written submissions in relation to that suspension under section 25C; and
  - (b) the licence holder—
    - (i) has made submissions; or
    - (ii) has not made submissions but the period for making submissions has not expired.
- (2) On and after the commencement day, section 25C continues to apply as in force immediately before that day until the Secretary reviews the decision to suspend the licence and notifies the licence holder of that decision.
- (3) A decision made by the Secretary on or after the commencement day under section 25C, as in force immediately before that day, is taken to be a decision made by the Game Management Authority.
- (4) In this section—

***commencement day*** means the day on which section 38 of the **Game Management Authority Act 2014** comes into operation;

***Game Bird Farmer Licence*** means a Game Bird Farmer Licence within the meaning of the Wildlife Regulations 2013.

S. 104  
inserted by  
No. 24/2014  
s. 75.

**104 Transitional provision, power to cancel licence—  
Game Management Authority Act 2014**

- (1) This section applies if, before the commencement day, the Secretary—
  - (a) under section 25D(2), has notified the holder of—
    - (i) a licence issued under section 22 in the prescribed category of Game Bird Farmer Licence; or
    - (ii) a game licence—

that the Secretary proposes to cancel that licence; and
  - (b) has not made a decision in accordance with section 25D.
- (2) On and after the commencement day, section 25D continues to apply as in force immediately before that day until the Secretary makes a decision under that section and notifies the holder of the licence of that decision.
- (3) A decision made by the Secretary on or after the commencement day under section 25D as in force immediately before that day, is taken to be a decision made by the Game Management Authority.

- (4) In this section—

***commencement day*** means the day on which section 39 of the **Game Management Authority Act 2014** comes into operation;

***Game Bird Farmer Licence*** means a Game Bird Farmer Licence within the meaning of the Wildlife Regulations 2013.



**105 Transitional provision, review of decisions—Game Management Authority Act 2014**

S. 105  
inserted by  
No. 24/2014  
s. 75.

- (1) This section applies if, immediately before the commencement day, an application has been made for review of any of the following decisions of the Secretary under section 86C to VCAT and the matter is pending—
  - (a) a refusal to grant or renew—
    - (i) a licence under section 22 in the prescribed category of Game Bird Farmer Licence; or
    - (ii) a game licence;
  - (b) a suspension or cancellation of—
    - (i) a licence under section 22 in the prescribed category of Game Bird Farmer Licence; or
    - (ii) a game licence;
  - (c) a failure of the Secretary to make a decision specified in paragraph (a) or (b) within a reasonable time.
- (2) Subject to this section, on the commencement day, the Secretary continues to be the decision-maker for the purposes of the review until VCAT determines the matter.
- (3) For the purposes of subsection (2), this Act applies as in force immediately before the commencement day.
- (4) If, after the review is conducted, VCAT by order—
  - (a) affirms the decision of the decision-maker;  
or
  - (b) varies the decision of the decision-maker; or

(c) sets the decision of the decision-maker aside and makes another decision—

that affirmed, varied or substituted decision is taken to be a decision of the Game Management Authority.

(5) If, after the review is conducted, VCAT by order sets aside the decision of the decision-maker and remits the matter for reconsideration by the decision-maker in accordance with any directions or recommendations of VCAT, the Game Management Authority is taken to be the decision-maker and must consider the matter in accordance with the directions or recommendations of VCAT.

(6) In this section—

*commencement day* means the day on which section 30 of the **Game Management Authority Act 2014** comes into operation;

*decision-maker* has the same meaning as it has in the **Victorian Civil and Administrative Tribunal Act 1998**;

*Game Bird Farmer Licence* means a Game Bird Farmer Licence within the meaning of the Wildlife Regulations 2013.

S. 106  
inserted by  
No. 12/2016  
s. 37.

**106 Transitional provision—Crown Land Legislation Amendment (Canadian Regional Park and Other Matters) Act 2016**

(1) A licence granted under section 16(2)(a) for a purpose relating to apiculture and in force immediately before the commencement of section 36 of the **Crown Land Legislation Amendment (Canadian Regional Park and Other Matters) Act 2016** continues in force subject to its terms and conditions on and after that commencement until the earliest of the following occurs—

- (a) the licence expires;
  - (b) the licence is cancelled;
  - (c) a bee site licence is granted under section 142 of the **Land Act 1958** to the holder of the licence granted under section 16(2)(a) in respect of more or less the same land.
- (2) A licence referred to in subsection (1) is taken to be granted for a purpose relating to apiculture if it permits the licensee—
- (a) to keep bee hives on the licensed land; or
  - (b) to enable the licensee's bees to forage over the licensed land for nectar or pollen.

**107 Transitional provision, advisory committee—  
Primary Industries Legislation Amendment  
Act 2016**

S. 107  
inserted by  
No. 48/2016  
s. 27.

Any advisory committee established under section 86A(5) immediately before the commencement of section 26 of the **Primary Industries Legislation Amendment Act 2016** is abolished and its members go out of office on the commencement of that section 26.

Wildlife Act 1975  
No. 8699 of 1975  
Schedule

Sch.  
inserted by  
No. 24/2014  
s. 76.

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## Schedule

Section 3(1)

### Specified birds

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Column 1	Column 2	
<i>Item Number</i>	<b>Birds</b>	
1	Pheasant—all taxa	<i>Phasianus spp</i>
2	Partridge—all taxa	<i>Perdix spp.</i> <i>Alectoris spp.</i>
3	European Quail	<i>Coturnix coturnix</i>
4	Japanese Quail	<i>Coturnix japonica</i>
5	California Quail	<i>Callipepla (Lophortyx) californica</i>

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative 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.

### INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

#### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

#### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

#### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

## 2 Table of Amendments

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

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### **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

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**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



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**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**

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**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**

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**Crimes (Controlled Operations) Act 2004, No. 16/2004** (as amended by Nos 87/2005, 45/2008)

*Assent Date:* 18.5.04  
*Commencement Date:* Ss 50, 51 on 2.11.08: Government Gazette 30.10.08 p. 2530  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**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**

**Wildlife Amendment (Marine Mammals) Act 2008, No. 45/2008**

*Assent Date:* 26.8.08  
*Commencement Date:* Ss 3(2), 4–21, 23, 24, 31–34 on 27.8.08: s. 2(1); ss 3(1), 22, 25–30 on 1.12.09: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Crown Land Acts Amendment (Lease and Licence Terms) Act 2009, No. 40/2009**

*Assent Date:* 5.8.09  
*Commencement Date:* Ss 41–46 on 1.7.11: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

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**Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 97(Sch. item 135) on 1.1.10: Government Gazette 10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Parks and Crown Land Legislation Amendment (River Red Gums) Act 2009, No. 82/2009**

*Assent Date:* 8.12.09  
*Commencement Date:* S. 41 on 1.1.10: Government Gazette 17.12.09 p. 3338  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Transport Integration Act 2010, No. 6/2010**

*Assent Date:* 2.3.10  
*Commencement Date:* S. 25(5)(Sch. 2 item 14) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Crimes Legislation Amendment Act 2010, No. 7/2010**

*Assent Date:* 16.3.10  
*Commencement Date:* Ss 15–17 on 17.3.10: s. 2  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Traditional Owner Settlement Act 2010, No. 62/2010**

*Assent Date:* 21.9.10  
*Commencement Date:* Ss 132–136 on 23.9.10: Special Gazette (No. 382) 22.9.10 p. 1  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Marine Safety Act 2010, No. 65/2010** (as amended by No. 29/2011)

*Assent Date:* 28.9.10  
*Commencement Date:* S. 420(Sch. 3 item 17) on 1.7.12: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Subordinate Legislation Amendment Act 2010, No. 78/2010**

*Assent Date:* 19.10.10  
*Commencement Date:* S. 24(Sch. 1 item 37) on 1.1.11: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Statute Law Revision Act 2011, No. 29/2011**

*Assent Date:* 21.6.11  
*Commencement Date:* S. 3(Sch. 1 item 109) on 22.6.11: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

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**Forests Amendment Act 2012, No. 46/2012**

*Assent Date:* 21.8.12  
*Commencement Date:* S. 23 on 1.9.12: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012**

*Assent Date:* 18.12.12  
*Commencement Date:* Ss 142–146 on 10.2.13: Special Gazette (No. 32) 6.2.13 p. 2  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Traditional Owner Settlement Amendment Act 2013, No. 4/2013**

*Assent Date:* 19.2.13  
*Commencement Date:* S. 35 on 8.3.13: Special Gazette (No. 70) 5.3.13 p. 1  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Sustainable Forests (Timber) and Wildlife Amendment Act 2014, No. 11/2014**

*Assent Date:* 25.2.14  
*Commencement Date:* Ss 17–26 on 14.3.14: Special Gazette (No. 72) 11.3.14 p. 1  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Legal Profession Uniform Law Application Act 2014, No. 17/2014**

*Assent Date:* 25.3.14  
*Commencement Date:* S. 160(Sch. 2 item 110) on 1.7.15: Special Gazette (No. 151) 16.6.15 p. 1  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Game Management Authority Act 2014, No. 24/2014**

*Assent Date:* 8.4.14  
*Commencement Date:* Ss 28–76 on 1.7.14: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014** (as amended by No. 21/2015)

*Assent Date:* 3.6.14  
*Commencement Date:* S. 10(Sch. item 184) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Filming Approval Act 2014, No. 51/2014**

*Assent Date:* 12.8.14  
*Commencement Date:* S. 9(Sch. 2 item 22) on 1.3.15: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

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**Water Amendment (Flood Mitigation) Act 2014, No. 53/2014**

*Assent Date:* 12.8.14  
*Commencement Date:* Ss 14, 15 on 1.3.15: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Privacy and Data Protection Act 2014, No. 60/2014**

*Assent Date:* 2.9.14  
*Commencement Date:* S. 140(Sch. 3 item 52) on 17.9.14: Special Gazette (No. 317) 16.9.14 p. 1  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Statute Law Revision Act 2015, No. 21/2015**

*Assent Date:* 16.6.15  
*Commencement Date:* S. 3(Sch. 1 item 67) on 1.8.15: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Emergency Management (Control of Response Activities and Other Matters) Act 2015, No. 43/2015**

*Assent Date:* 22.9.15  
*Commencement Date:* S. 40 on 19.9.16: Special Gazette (No. 284) 13.9.16 p. 1  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Crown Land Legislation Amendment (Canadian Regional Park and Other Matters) Act 2016, No. 12/2016**

*Assent Date:* 5.4.16  
*Commencement Date:* Ss 36, 37 on 1.12.16: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

**Primary Industries Legislation Amendment Act 2016, No. 48/2016**

*Assent Date:* 6.9.16  
*Commencement Date:* Ss 20, 21, 23, 25–27 on 1.12.16: Special Gazette (No. 368) 29.11.16 p. 1; ss 22, 24 on 1.3.17: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

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### 3 Amendments Not in Operation

This publication does not include amendments made to the **Wildlife Act 1975** by the following Act/s.

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#### **Traditional Owner Settlement Amendment Act 2016, No. 67/2016**

*Assent Date:* 15.11.16  
*Commencement Date:* S. 36 not yet proclaimed  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

#### **Victorian Fisheries Authority Act 2016, No. 68/2016**

*Assent Date:* 15.11.16  
*Commencement Date:* S. 174 not yet proclaimed  
*Current State:* This information relates only to the provision/s amending the **Wildlife Act 1975**

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At the date of this publication, the following provisions amending the **Wildlife Act 1975** were Not in Operation:

#### **Amending Act/s:**

#### **Traditional Owner Settlement Amendment Act 2016, No. 67/2016**

##### **36 Wildlife Act 1975**

(1) After section 4B of the **Wildlife Act 1975** insert—

##### **"4C Traditional owner agreement for natural resources**

(1) If a traditional owner group entity has an agreement under Part 6 of the **Traditional Owner Settlement Act 2010**, any provision of this Act that provides for an offence for carrying out an agreed activity (other than a provision specified in subsection (2)) does not apply to any member of the traditional owner group—

(a) who is bound by the agreement; and

- (b) who is carrying out an agreed activity to which the offence applies in accordance with the agreement and on land to which the agreement applies.
- (2) For the purpose of subsection (1) the following provisions are specified—
- (a) section 49;
  - (b) section 54;
  - (c) section 56;
  - (d) section 58D;
  - (e) section 58E;
  - (f) section 58J;
  - (g) section 58L;
  - (h) section 58O;
  - (i) section 58Q;
  - (j) section 60A;
  - (k) section 60D;
  - (l) section 61;
  - (m) section 62;
  - (n) section 62A."
- (2) Sections 47B and 58C(1A)(b) of the **Wildlife Act 1975** are **repealed**.

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**Victorian Fisheries Authority Act 2016, No. 68/2016**

**174 Definitions**

In section 3(1) of the **Wildlife Act 1975**, in the definition of *authorised officer*—

- (a) in paragraph (b), for "this Act;" **substitute** "this Act; or";



(b) after paragraph (b) **insert**—

"(c) a person appointed as an authorised officer under Part 3 of the **Victorian Fisheries Authority Act 2016** for the purposes of this Act;"

#### 4 Explanatory details

<sup>1</sup> 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.

<sup>2</sup> 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).

<sup>3</sup> 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**.

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<sup>4</sup> 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).

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).