

South Australia



**NATIONAL PARKS AND WILDLIFE (MISCELLANEOUS)
AMENDMENT ACT 1996**

No. 13 of 1996

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ANNO QUADRAGESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1996

No. 13 of 1996

An Act to amend the National Parks and Wildlife Act 1972 and to make a consequential amendment to the Wilderness Protection Act 1992.

[Assented to 24 April 1996]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *National Parks and Wildlife (Miscellaneous) Amendment Act 1996*.

(2) The *National Parks and Wildlife Act 1972* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 5—Interpretation

3. Section 5 of the principal Act is amended—

(a) by inserting after the definition of "aircraft" the following definition:

"appointed member" in relation to the Council means a member of the Council appointed by the Governor under Part 2 Division 2;;

(b) by inserting after the definition of "controlled species" the following definition:

"the Council" means the South Australian National Parks and Wildlife Council established by this Act;;

(c) by striking out the definition of "the Department" and substituting the following definition:

"the Department" means the administrative unit that is responsible for the administration of this Act;;

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- (d) by inserting after "animals" in the definition of "device" "and includes any substance that can be used for that purpose";
- (e) by striking out the definition of "the Reserves Advisory Committee" (including the definition of "the Committee").

Amendment of s. 11—Wildlife Conservation Fund

4. Section 11 of the principal Act is amended—

- (a) by inserting after paragraph (d) of subsection (2) the following word and paragraph:

and

- (e) fees and royalties to be paid into the fund under any other provision of this Act.;

- (b) by striking out "The Minister may" from subsection (3) and substituting "Subject to this Act, the Minister may";

- (c) by striking out from paragraph (a) of subsection (3) "the Reserves Advisory Committee" and substituting "the South Australian National Parks and Wildlife Council";

- (d) by inserting after paragraph (b) of subsection (3) the following word and paragraph:

and

- (c) any other purpose for which the fund may be applied under this Act.

Amendment of s. 12—Delegation

5. Section 12 of the principal Act is amended—

- (a) by striking out from subsection (1) "or any other person" and substituting ", the Council, an advisory committee or to any other person";
- (b) by striking out from subsection (2) "or any other person" and substituting ", the Council, an advisory committee or to any other person";
- (c) by striking out from subsection (3) "to another person" and substituting "to the Council, an advisory committee or to any other person".

Substitution of Part 2 Division 2

6. Division 2 of Part 2 of the principal Act is repealed and the following divisions are substituted:

**DIVISION 2—THE SOUTH AUSTRALIAN NATIONAL PARKS
AND WILDLIFE COUNCIL**

Establishment and membership of the Council

15. (1) The *South Australian National Parks and Wildlife Council* is established.

(2) The Council consists of eight members seven of whom will be appointed by the Governor on the recommendation of the Minister.

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- (3) The other member of the Council is the Director.
- (4) Of the appointed members—
- (a) one must have qualifications or experience in the conservation of animals, plants and ecosystems;
 - (b) another must be a person selected by the Minister from a panel of two men and two women nominated by the Conservation Council of South Australia Incorporated;
 - (c) another must have qualifications or experience in the management of natural resources;
 - (d) another must have qualifications or experience in organising community involvement in the conservation of animals, plants or other natural resources;
 - (e) another must have qualifications or experience in a field of science that is relevant to the conservation of ecosystems and to the relationship of wildlife with its environment;
 - (f) each of the remaining two must have qualifications or experience in at least one of the following:
 - (i) ecologically based tourism; or
 - (ii) business management; or
 - (iii) financial management; or
 - (iv) marketing,being an area in which the other does not have qualifications or experience.

(5) Each of the appointed members of the Council must be a person who, in the opinion of the Minister, has a commitment to the conservation of animals, plants and other natural resources.

(6) At least two of the members of the council must be men and two must be women.

(7) One of the appointed members of the Council will be appointed by the Governor, on the recommendation of the Minister, to be the presiding member of the Council.

Conditions of membership

16. (1) A member appointed by the Governor will be appointed for a term, not exceeding three years, specified in the instrument of appointment and will, at the expiration of a term of appointment, be eligible for reappointment.

- (2) The Governor may remove an appointed member from office—
- (a) for misconduct; or

(b) for failure or incapacity to carry out the duties of his or her office satisfactorily.

(3) The office of an appointed member becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Minister; or

(d) is removed from office under subsection (2).

(4) If the office of an appointed member of the council becomes vacant a person must be appointed by the Governor in accordance with section 15 to the vacant office.

Vacancies or defects in appointment of members

17. An act of the Council is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Direction and control of the Minister

18. The Council is subject to the direction and control of the Minister.

Proceedings of the Council

19. (1) Five of the members of the Council appointed by the Governor constitute a quorum of the Council and no business may be conducted by the Council unless a quorum is present.

(2) The presiding member will preside at each meeting of the Council at which he or she is present.

(3) If the presiding member is absent, an appointed member chosen by the appointed members present will preside at the meeting.

(4) A decision carried by a majority of the votes cast by appointed members at a meeting is a decision of the Council.

(5) Each appointed member present at a meeting of the Council has one vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.

(6) The Director is not entitled to vote at a meeting of the Council.

(7) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Council at which the participating members are present if—

(a) notice of the conference is given to all members in the manner determined by the Council for that purpose; and

(b) each participating member is capable of communicating with every other participating member during the conference.

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(8) A proposed resolution of the Council becomes a valid decision of the Council despite the fact that it is not voted on at a meeting of the Council if—

- (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Council; and
- (b) a majority of the appointed members express their concurrence in the proposed resolution by letter, telex, facsimile transmission or other written communication setting out the terms of the resolution.

(9) The Council must cause accurate minutes to be kept of its proceedings.

(10) Subject to this Act, the Council may determine its own procedures.

Conflict of interest

19A. (1) A member of the Council who has a direct or indirect pecuniary or personal interest in a matter decided or under consideration by the Council—

- (a) must disclose the nature of the interest to the Council; and
- (b) must not take part in any deliberations or decisions of the Council on the matter.

Maximum penalty: \$4 000.

(2) It is a defence to a charge of an offence against subsection (1) to prove that the defendant was not, at the time of the alleged offence, aware of his or her interest in the matter.

(3) A disclosure under this section must be recorded in the minutes of the Council.

Allowances and expenses

19B. The appointed members of the Council are entitled to such allowances and expenses as may be determined by the Minister.

Functions of the Council

19C. (1) The functions of the Council are—

- (a) to provide advice to the Minister at the Minister's request or on its own initiative on any matter relating to the administration of this Act; and
- (b) such other functions as are set out in this Act.

(2) Without limiting subsection (1)(a), the Council may advise the Minister on the following matters relating to the administration of this Act:

- (a) planning in relation to the management of reserves;
- (b) the conservation of wildlife;
- (c) funding (including matters relating to sponsorship) and the development and marketing of commercial activities;

- (d) community participation in the management of reserves and the conservation of wildlife;
- (e) the development of policy;
- (f) existing or proposed national or international agreements relating to the conservation of animals, plants and ecosystems;
- (g) the promotion (including public education) of the conservation of wildlife and other natural resources;
- (h) the Council's assessment of the performance of the Department in administering this Act;
- (i) any other matter referred to the Council by the Minister or on which the Council believes it should advise the Minister.

Annual Report

19D. (1) The Council must, on or before 30 September in each year, prepare and deliver to the Minister a report on its operations during the preceding financial year.

(2) The Minister must, within six sitting days after receiving a report, cause copies of the report to be laid before both Houses of Parliament.

DIVISION 2A—ADVISORY COMMITTEES**Establishment of advisory committees**

19E. (1) The Minister may establish one or more advisory committees to advise the Minister on any matter relating to the administration of this Act.

(2) The Minister may, at the request of the Council, establish one or more advisory committees to advise the Council on any matter relating to the performance by the Council of its functions.

(3) An advisory committee may, but need not, consist of, or include, members of the Council.

(4) Without limiting the matters on which an advisory committee may advise the Minister or the Council, a committee may provide advice as to—

- (a) the classification of species of animals or plants on the basis of the species' risk of extinction;
- (b) the management of wildlife including—
 - (i) the harvesting and farming of wildlife;
 - (ii) population control of wildlife;
 - (iii) the reintroduction of particular species of wildlife to parts of the State in which those species once lived or grew;
 - (iv) the declaration of open seasons in relation to particular species of protected animals;

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- (v) the issuing of permits under this Act;
- (vi) the management of endangered, vulnerable and rare species;
- (c) the plan of management for a particular reserve or plans of management generally;
- (d) the involvement of Aboriginal people in the management of land and wildlife;
- (e) private sector sponsorship for the management of reserves and wildlife.

Members of advisory committees

19F. (1) Members of committees will be appointed by the Minister for a term, not exceeding three years, specified in the instrument of appointment and will, at the expiration of a term of appointment, be eligible for reappointment.

(2) The Minister may remove a member of a committee from office—

- (a) for misconduct; or
- (b) for failure or incapacity to carry out the duties of his or her office satisfactorily.

(3) The office of a member becomes vacant if the member—

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by written notice to the Minister or to the Council; or
- (d) is removed from office under subsection (2).

Quorum

19G. The quorum for the transaction of business at a meeting of an advisory committee is determined by dividing the number of members of the committee by two, disregarding any fraction and adding one.

Proceedings of advisory committees

19H. (1) Meetings of advisory committees must be held in accordance with procedures prescribed by regulation.

(2) To the extent that procedures are not prescribed by regulation, meetings must be held in accordance with directions of the Minister.

(3) Subject to procedures prescribed by regulation or directed by the Minister, an advisory committee may determine its own procedures.

Direction and control of advisory committees

19I. (1) Subject to subsection (2), advisory committees are under the direction and control of the Minister.

(2) An advisory committee established by the Minister at the request of the Council is under the direction and control of the Council.

Conflict of interest

19J. (1) A member of a committee who has a direct or indirect pecuniary or personal interest in a matter decided or under consideration by the committee must disclose the nature of the interest to the committee.

Maximum penalty: \$4 000.

(2) It is a defence to a charge of an offence against subsection (1) to prove that the defendant was not, at the time of the alleged offence, aware of his or her interest in the matter.

(3) A disclosure under this section must be recorded in the minutes of the committee.

Allowances and expenses

19K. The members of a committee are entitled to such allowances and expenses as may be determined by the Minister.

Annual Report

19L. (1) A committee must, on or before 30 September in each year, prepare and deliver to the Minister a report on its operations during the preceding financial year.

(2) The Minister must, within six sitting days after receiving a report, cause copies of the report to be laid before both Houses of Parliament.

(3) Subsection (1) does not apply to a committee that is established on or after 1 July in a financial year and is dissolved before 30 June in the same year.

DIVISION 2B—CONSULTATIVE COMMITTEES

Establishment of consultative committees

19M. (1) The Minister may establish consultative committees to represent the community interest in the management of reserves and the conservation of animals, plants and ecosystems in a particular part of the State.

(2) The members of a consultative committee must be persons who, in the opinion of the Minister, have local knowledge that is relevant to, or who are interested in, the management of reserves or the conservation of animals, plants and ecosystems in the part of the State in relation to which the consultative committee is established.

(3) Members of consultative committees hold office at the pleasure of the Minister.

Quorum

19N. The quorum for the transaction of business at a meeting of a consultative committee is determined by dividing the number of members of the committee by two, disregarding any fraction and adding one.

Proceedings of consultative committees

19O. (1) Meetings of consultative committees must be held in accordance with procedures prescribed by regulation.

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(2) To the extent that procedures are not prescribed by regulation meetings must be held in accordance with directions of the Minister.

(3) Subject to procedures prescribed by regulation or directed by the Minister, a consultative committee may determine its own procedures.

Conflict of interest

19P. (1) A member of a consultative committee who has a direct or indirect pecuniary or personal interest in a matter decided or under consideration by the committee must disclose the nature of the interest to the committee.

Maximum penalty: \$4 000.

(2) It is a defence to a charge of an offence against subsection (1) to prove that the defendant was not, at the time of the alleged offence, aware of his or her interest in the matter.

(3) A disclosure under this section must be recorded in the minutes of the committee.

Amendment of s. 22—Powers of wardens

7. Section 22 of the principal Act is amended by striking out paragraph (b) of subsection (1) and substituting the following paragraphs:

- (b) in order to exercise his or her powers under this section or under any other provision of this Act, give directions to a person in, or in charge of, a vehicle to stop the vehicle or to move it to a particular place;
- (ba) give directions to a person in, or in charge of, a vehicle in order to facilitate a search of the vehicle;.

Amendment of s. 23—Forfeiture

8. Section 23 of the principal Act is amended—

- (a) by striking out from paragraph (a) of subsection (4) "are not commenced against the owner of the object" and substituting "in relation to the object seized are not commenced";
- (b) by striking out from paragraph (b) of subsection (4) "if proceedings for an offence against this Act are commenced against the owner" and substituting "if such proceedings are commenced against the owner of the object";
- (c) by striking out paragraph (c) of subsection (4) and substituting the following paragraph:
 - (c) the object must be returned to the owner of the object if—
 - (i) in the circumstances referred to in paragraph (b), the owner is not convicted or the court does not make an order for forfeiture; or
 - (ii) in any other circumstances, the object is no longer required to furnish evidence of the commission of an offence;;
- (d) by inserting after "as the Minister thinks fit and" in paragraph (d) of subsection (4) ", if sold,";

(e) by inserting after subsection (5) the following subsection:

(5a) Notwithstanding subsection (4) where, in the opinion of the Minister, an animal, carcass, egg or plant confiscated under subsection (1)(c) will suffer a substantial loss in its value before the question of its forfeiture under this section can be determined, the Minister may sell the object (unless it is required for evidentiary purposes) and the proceeds of the sale will be dealt with under this section as if they were the object.

Insertion of Division 4B of Part 3

9. The following Division is inserted after section 34A of the principal Act:

DIVISION 4B—NATIVE TITLE

Native title in relation to reserves

34B. (1) The constitution of a reserve by proclamation under this Part on or after 1 January 1994 is subject to native title existing when the proclamation was made.

(2) The addition of land to a reserve by proclamation under this Part on or after 1 January 1994 is subject to native title existing when the proclamation was made.

Amendment of s. 38—Management Plans

10. Section 38 of the principal Act is amended—

- (a) by striking out from subsection (3) "to be published in the *Gazette* that the plan of management, or the amendment, has been prepared" and substituting "that the plan of management, or the amendment, has been prepared to be published in the *Gazette* and in a newspaper circulating generally throughout the State";
- (b) by striking out "two" from subsection (6) and substituting "three";
- (c) by striking out from subsection (7) "the Reserves Advisory Committee" and substituting "the South Australian National Parks and Wildlife Council";
- (d) by striking out from subsection (8) "the Committee" twice occurring and substituting, in each case, "the Council";
- (e) by striking out "the Advisory Committee" from paragraph (b) of subsection (9) and substituting "the Council".
- (f) by inserting the following subsection after subsection 10:

(10a) A plan of management must not provide for the culling of protected animals from the reserve unless—

- (a) the Minister is of the opinion that the culling of those animals is the only practicable option for controlling an overpopulation of animals of that species in the reserve; and
- (b) the plan sets out the Minister's reasons for that opinion.

Insertion of s. 43C

11. The following section is inserted in Part 3 Division 6 of the principal Act after section 43B:

Entrance fees, etc., for reserves

43C. Fees for entrance to reserves, fees for camping in reserves and fees for the use of facilities and services provided in reserves may be fixed by the Director with the approval of the Minister.

Amendment of s. 44—Establishment of sanctuaries

12. Section 44 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) The declaration of land as a sanctuary under subsection (1) on or after 1 January 1994 is subject to native title existing when the declaration was made.

Amendment of s. 45f—Functions of a Trust

13. Section 45f of the principal Act is amended—

(a) by inserting after "development" in subsection (1) "or management"; and

(b) by inserting after subsection (2) the following subsection:

(2a) Without limiting subsection (2), a Trust may charge and recover such amounts as it thinks fit in respect of facilities and services provided to the public by the Trust.

Insertion of s. 49A

14. The following section is inserted in Part 4 of the principal Act after section 49:

Permits for commercial purposes

49A. (1) The Minister may, by notice published in the *Gazette* and in a newspaper circulating generally throughout the State—

(a) declare that this section applies to, and in relation to, a species of plant; and

(b) vary or revoke a declaration referred to in paragraph (a).

(2) Where this section applies to, and in relation to, a species of plant, the Minister must prepare draft recommendations in relation to the following matters:

(a) the effect of taking individual plants for commercial purposes on the species and on the ecosystem of which the plants taken formed part; and

(b) the need for research in relation to that species; and

(c) the identification of plants and plant products; and

(d) any other matters that should, in the opinion of the Minister be addressed,

and must make the recommendations available to the public for at least three months for comment before adoption by the Minister.

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(3) Before adopting the draft recommendation, the Minister must have regard to comments (if any) made by members of the public and may, if the Minister thinks fit, vary the recommendations to take account of those comments.

(4) Recommendations adopted by the Minister must be published in the *Gazette* and in a newspaper circulating generally throughout the State and may be revoked or varied by further recommendations prepared by the Minister in accordance with this section.

(5) The taking and sale of plants of a species to which this section applies for commercial purposes pursuant to a permit under section 49 is subject to restrictions or conditions imposed from time to time by regulation or by the Minister when granting the permit.

(6) Restrictions and conditions imposed by regulation must implement recommendations adopted by the Minister under this section in relation to the commercial taking and sale of plants of the species concerned.

(7) Where a permit granted for commercial purposes relates to plants of a species to which this section applies and a royalty is payable under this Act in respect of the taking of plants of that species, the Minister may require the applicant to pay in advance an amount equal to the total amount of royalty that would be payable if all the plants that could be taken pursuant to the permit were taken.

Insertion of s. 51A

15. The following section is inserted after section 51 of the principal Act:

Killing of certain protected animals

51A. (1) Where, in the opinion of the Minister, protected animals (other than animals of an endangered, vulnerable or rare species) are causing, or likely to cause, damage to crops or other property, he or she may, by notice published in the *Gazette* and in a newspaper circulating generally throughout the State, declare that protected animals of that species may be killed under this section.

(2) The Minister must not make a declaration under subsection (1) unless he or she has first sought and considered advice from the Council in relation to the proposed declaration.

(3) A notice under this section does not apply in relation to animals within a reserve.

(4) A notice under this section—

(a) must state—

(i) the part or parts of the State in which animals may be killed; and

(ii) the class or classes of persons who may kill animals; and

(iii) the circumstances in which and the methods by which animals may be killed; and

(iv) any other restriction or conditions subject to which animals may be killed; and

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- (v) the period for which the notice will remain in force; and
 - (b) may be varied or revoked by the Minister by subsequent notice published in the *Gazette* and in a newspaper circulating generally throughout the State.
- (5) A notice under this section must not remain in force for more than 12 months.
- (6) It is lawful to kill a protected animal in accordance with a notice under this section.
- (7) This section expires on the fourth anniversary of its commencement.

Amendment of s. 52—Open season

16. Section 52 of the principal Act is amended—

- (a) by striking out from subsection (1) "the *Gazette*" and substituting "a newspaper circulating generally throughout the State";
- (b) by striking out from subsection (3)(c) "the *Gazette*" and substituting "a newspaper circulating generally throughout the State".

Amendment of s. 58—Keeping and sale of protected animals

17. Section 58 of the principal Act is amended by striking out subsection (9).

Substitution of s. 59

18. Section 59 of the principal Act is repealed and the following section is substituted:

Export and import of protected animals and native plants

59. (1) A person must not—

- (a) export—
 - (i) a protected animal or the carcass or egg of a protected animal; or
 - (ii) a native plant of a species prescribed by regulation,

from a place within the State to a place outside the State except in pursuance of a permit granted under this section; or

- (b) import into the State—
 - (i) a protected animal or the carcass or egg of a protected animal; or
 - (ii) a native plant of a species prescribed by regulation,

from a place outside the State except in pursuance of a permit granted under this section.

Maximum penalty: \$2 000.

Expiation fee: \$200.

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(2) The Minister may grant to any person a permit to export from the State or import into the State a protected animal, or the carcass or eggs of a protected animal, of a species specified in the permit or a native plant of a species specified in the permit.

(3) In this section—

"to export" in relation to an animal, carcass, egg or plant includes to remove the animal, carcass, egg or plant from the State for any reason;

"to import" in relation to an animal, carcass, egg or plant includes to bring the animal, carcass, egg or plant into the State for any reason.

Repeal of s. 60A

19. Section 60A of the principal Act is repealed.

Amendment of s. 60b—Interpretation

20. Section 60b of the principal Act is amended—

(a) by inserting before the definition of "the business of farming animals" the following definition:

"animal" means—

- (a) a protected animal of a species named in schedule 11; or
- (b) a protected animal of a species that is the subject of a declaration under section 60BA that is in force;

(b) by inserting after the definition of "the business of farming animals" the following definitions:

"commercial farming of protected animals" means the business of farming protected animals of a species named in schedule 11;

"trial farming of protected animals" means the business of farming protected animals of a species that is not named in schedule 11 but that is the subject of a declaration under section 60BA that is in force.

Insertion of s. 60BA

21. The following section is inserted after section 60B of the principal Act:

Declaration of species for trial farming

60BA. (1) The Governor may by regulation declare that a species of protected animal is a species for the purpose of trial farming under this Division.

(2) The Minister must, by notice published in the *Gazette*, set out conditions to which a permit granted under this Division in relation to animals of the species referred to in a regulation under subsection (1) will be subject.

(3) The notice must be published in the same issue of the *Gazette* as the regulation.

(4) Subsection (2) does not limit the imposition of other conditions under section 60C(6).

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(5) A regulation under subsection (1) expires on the fourth anniversary of its commencement and cannot be remade in relation to the same species of animal.

Amendment of s. 60C—Permit for farming protected animals

22. Section 60C of the principal Act is amended—

- (a) by striking out from subsection (2) "the business of farming animals" and substituting "the commercial farming of protected animals";
- (b) by inserting after "subsection (1)" in subsection (3) "for the commercial farming of protected animals";
- (c) by striking out subsection (4) and substituting the following subsection:

(4) A permit for the trial farming of protected animals of a particular species expires at the expiration of the term for which it was granted or when the declaration under section 60BA in relation to that species expires whichever occurs first.;

- (d) by inserting after "section 69" in subsection (6) "or by a notice under section 60BA".

Amendment of s. 60D—Code of management

23. Section 60D of the principal Act is amended—

- (a) by inserting after subsection (1) the following subsection:

(1a) The Minister may prepare a draft code of management in respect of a species of animal that has been declared to be a species for the purpose of trial farming under this Division.;

- (b) by striking out subsection (5) and substituting the following subsections:

(5) The Minister must, by notice published in the *Gazette* and in a newspaper circulating generally throughout the State—

- (a) state the place or places at which copies of the draft code can be inspected or purchased; and
- (b) invite interested persons to provide the Minister with written comments in relation to the draft code.

(5a) A draft code must be made available for public comment for at least three months before adoption by the Minister.

- (c) by inserting after subsection (8) the following subsection:

(9) If a draft code of management has been prepared under subsection (1a) and made available to the public for comment within 12 months before the species to which the code relates is named in schedule 11, the draft code will be taken to have been drafted and made available to the public after the species was named in schedule 11.

Insertion of Division 4B in Part 5

24. The following Division is inserted after Division 4A of Part 5 of the principal Act:

DIVISION 4B—HARVESTING OF PROTECTED ANIMALS**Application of Division**

60G. (1) The Minister may, by notice published in the *Gazette*, declare that this Division applies to, and in relation to, animals of one or more of the following species:

- (a) red kangaroo—*macropus rufus*;
- (b) western grey kangaroo—*macropus fuliginosus melanops*;
- (c) euro (wallaroo) (hill kangaroo)—*macropus robustus*;

(2) The Minister may, by subsequent notice published in the *Gazette*, vary or revoke a notice under subsection (1).

(3) The Governor may, by regulation made on the recommendation of the Minister, declare that this Division applies to, and in relation to, protected animals of a species (not being a species referred to in subsection (1)) named in the regulation.

(4) The Minister must not make a recommendation under subsection (3) unless he or she is satisfied that there is sufficient scientific knowledge available in relation to the species concerned to enable the matters referred to in section 60I(2)(a), (b), (c) and (d) to be addressed adequately.

Interpretation

60H. In this Division, unless the contrary intention appears—

"harvesting" of a protected animal means—

- (a) to kill the protected animal in the wild; or
- (b) to capture the protected animal from the wild and then kill it,

in order to sell the carcass of the animal or to use it for any other purpose.

Plan of Management

60I. (1) The Minister must prepare a draft plan of management in relation to the harvesting of each species of protected animal to which this Division applies.

(2) The draft plan must—

- (a) assess the likely impact of harvesting animals of that species—
 - (i) on the species concerned; and
 - (ii) on the ecosystems which animals of that species form part; and
 - (iii) on the diversity of the species of animals and plants comprising those ecosystems; and

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- (iv) on the ability of the species to maintain natural genetic diversity throughout its population; and
- (b) identify factors that are likely to reduce or increase the number of animals of the species to be harvested; and
- (c) identify any other factors that will affect the species as a renewable resource for the purposes of harvesting in the future; and
- (d) assess whether there is a need to reduce the number of animals of the species to protect the environment, crops, stock or other property; and
- (e) specify humane methods and procedures for the killing, capturing and killing and treatment after capture of animals pursuant to a permit under this Division; and
- (f) address any other matters that should, in the opinion of the Minister, be addressed.

(3) The Minister must provide the Minister for Primary Industries with a copy of the draft plan of management for comment.

(4) The Minister must, by notice published in the *Gazette* and in a newspaper circulating generally throughout the State—

- (a) state the place or places at which copies of the draft plan can be inspected or purchased; and
- (b) invite interested persons to provide the Minister with written comments in relation to the draft plan.

(5) A draft plan must be made available for public comment for at least three months before adoption by the Minister.

(6) Before adopting a draft plan the Minister must have regard to comments (if any) made by the Minister for Primary Industries or by members of the public and may, if the Minister thinks fit, vary the draft plan to take account of those comments.

(7) A plan of management adopted by the Minister must be published in the *Gazette* and a notice stating the place or places at which copies of the plan may be inspected or purchased must be published in a newspaper circulating generally throughout the State.

(8) A plan of management may be replaced or varied by a further plan prepared and adopted by the Minister in accordance with this section.

Permit for harvesting protected animals

60J. (1) If a plan of management has been adopted by the Minister under this Division in relation to a species of protected animal, the Minister may grant a permit to a person to harvest animals of that species and to sell or use the carcasses of the animals that have been harvested.

(2) The Minister must not grant a permit under subsection (1) to take animals on a reserve except animals of the following species—

- (a) red kangaroo—*macropus rufus*;
- (b) western grey kangaroo—*macropus fuliginosus melanops*;
- (c) euro (wallaroo) (hill kangaroo)—*macropus robustus*,

and then only if—

- (d) the Minister has adopted a plan of management under section 38 in relation to the reserve; and
- (e) the plan of management provides for the culling of animals of the species to which the permit relates in order to preserve animal or plant habitats or wildlife; and
- (f) the permit only authorises the harvesting of animals that would otherwise be culled from the reserve pursuant to the plan of management.

(3) The Minister must not grant a permit under subsection (1) unless he or she is satisfied that the taking of animals of the species concerned pursuant to the permit and all other permits granted under this section or under some other section of this Act—

- (a) will not adversely affect the ecosystems which animals of that species form part or the diversity of the species of animals and plants comprising those ecosystems; and
- (b) will not adversely affect the species as a renewable resource for harvesting in the future.

(4) A permit granted under subsection (1) is subject to such limitations, restrictions or conditions as are imposed by this section or by the Minister under section 69 or are prescribed from time to time by regulation.

(5) A permit granted under subsection (1) is subject to a condition requiring the holder of the permit to use the methods and observe the procedures set out in the management plan for the killing, the capture and killing and the treatment after capture, of animals of the species to which the permit relates.

(6) It is lawful to—

- (a) harvest protected animals; and
- (b) sell, use or give away the carcass of a protected animal,

pursuant to a permit granted under subsection (1).

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Royalty

60K. Where a permit under this Division relates to animals in respect of which a royalty is payable under this Act, the Minister may require the applicant to pay (when the permit is granted or at any later time) an amount equal to the total amount of royalty that would be payable if all the animals that could be harvested pursuant to the permit were harvested.

Application of fees and royalty

60L. (1) Fees paid in respect of permits granted under this Division and royalty paid under this Act in respect of animals to which those permits relate must be paid into the Wildlife Conservation Fund and must be applied from the Fund—

- (a) in payment of the costs of administering this Division; and
- (b) for research into the impact on the species of animals to which the permits relate of the harvesting of animals pursuant to those permits.

(2) The fees fixed by regulation in respect of permits granted under this Division may exceed the Minister's costs in granting the permits and administering this Division in relation to the permits.

Amendment of s. 61—Royalty

25. Section 61 of the principal Act is amended—

- (a) by inserting after "payable" in subsection (1) "to the Wildlife Conservation Fund";
- (b) by inserting the following word and paragraph after paragraph (c) of subsection (1) of that subsection:

or

- (d) upon a native plant of a specified species;;

and

- (c) by striking out from subsections (1) and (2) "animal, carcass, skin or egg" and substituting, in each case, "animal, carcass, skin, egg or plant".

Amendment of s. 62—Demand for royalty

26. Section 62 of the principal Act is amended by striking out from subsections (4) and (5) "animals, carcasses, skins or eggs" wherever occurring and substituting, in each case, "animals, carcasses, skins, eggs or plants".

Amendment of s. 69—Permits

27. Section 69 of the principal Act is amended by inserting after subsection (2) the following subsection:

(2a) The Minister may refuse to grant a permit under any provision of this Act if, in the Minister's opinion—

- (a) the applicant is not a fit and proper person to hold the permit; or
- (b) to grant the permit would be prejudicial to the interests of conservation; or

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- (c) the applicant should fulfil certain requirements specified by the Minister before the permit is granted and the applicant has not fulfilled those requirements.

Amendment of s. 72—False or misleading statement

28. Section 72 of the principal Act is amended by inserting in subsection (1) after "make", or cause to be made,".

Amendment of s. 80—Regulations

29. Section 80 of the principal Act is amended by striking out subsection (2a) and substituting the following subsection:

(2a) The Governor may, by regulation, amend schedule 7, 8, 9 or 10 by deleting species of animals or plants from, or including species of animals or plants in, the schedule.

Amendment of Wilderness Protection Act 1992

30. The *Wilderness Protection Act 1992* is amended by striking out from paragraph (d) of subsection (6) of section 22 "the Reserves Advisory Committee" and substituting "the South Australian National Parks and Wildlife Council".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor