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# FLORA CONSERVATION NOW INCORPORATED IN WILDLIFE CONSERVATION ACT

DEPARTMENT OF  
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# FLORA CONSERVATION NOW INCORPORATED IN WILDLIFE CONSERVATION ACT

In December 1975 the Fauna Conservation Act was amended to retitle it as the Wildlife Conservation Act for the purpose of paving the way for the amalgamation of the laws relating to the protection and conservation of both flora and fauna.

An Act to incorporate flora conservation in the Wildlife Conservation Act was passed by Parliament in November 1976 and will be proclaimed soon to come in to operation.

The main purposes of the amendments are firstly to bring together the administration of flora and fauna conservation in the Department of Fisheries and Wildlife, and secondly, to better protect and conserve the wildflowers and other plants of Western Australia.

For detailed information on the unique flora of Western Australia the reader might well refer to the 1975 Western Australian Year Book and C. A. Gardner's "Wildflowers of Western Australia".

The Year Book explains that there are some 6 500 species of indigenous flowering plants of which a great many are restricted entirely to Western Australia. There are also many species which do not flower but are still important.

Of the flowering plants only a few are really rare and endangered but many more are threatened and require constant monitoring and special protection measures. Three hundred and twenty one species are known only from the original specimens collected.

The late C. A. Gardner, an authority on W.A. wildflowers said, "There are few places in the world which are so renowned . . . for a wealth of wildflowers as Western Australia . . . the splendours of colour and the diversity of tint and shade have made this flora world famous . . . The noteworthy divergencies in Australian flora have always excited the attention of botanists, but that interest has been most specifically centred on the plants of the South West, for this area is the oldest part of the Australian land mass, and in a broad sense, the cradle of Australian plant life".

This is the natural resource and asset which the amended Wildlife Conservation Act sets out to better protect and conserve. In accordance with the Government's previously stated policy, and practices accepted as essential in the other Australian States, the amendments to the Wildlife Conservation Act provide for:

- The preservation of rare species of flora wherever they occur;

- The protection of wildflowers and other plant species in designated regions throughout the State for the aesthetic appreciation and the enjoyment of residents and tourists as well as for scientific purposes;
- The conservation of those wild plant resources utilized by the nurseries and by the fresh flower and dry floral art trades, and in the chemical industry.

The provisions relating to the protection of rare species may seem to be somewhat drastic in the unlikely discovery of a rare species on private land. The Minister may, for any period up to 5 years, prevent the landholders from destroying the plants involved. However, there will be provision for the payment of compensation appropriate to each case and for the purchase of the land concerned if that is deemed necessary within the 5 year period.

For various reasons the Act provides for specified species to be declared as "protected" but this has been made as flexible as possible. For example, it is possible to declare as "protected"—

- All species in all or any specified reserves and national parks;
- Specified communities of plants of outstanding scientific value;
- Specified species throughout the State or in a part or parts of the State.

The Act provides also that any of these "protections" may be partly or wholly removed.

In drafting the amendments the following objects were kept in mind—

- Encouragement had to be given to the growing and propagation of all species of native plants, including (under supervision) some of the rare species;
- Landholders have previously had an untrammelled right to clear their land and also a general right to sell most of its product;
- The need for statistical data so that a better understanding can be maintained of the value and ramifications of the exploitation of plants from the wild; and
- To achieve the foregoing with the minimum interference to enterprise; but

- Nevertheless, to be able to take action where any unscrupulous exploitation occurs which might threaten either the resource itself or the future of those who are operating in a responsible way; and
- The Crown (Government Departments and instrumentalities) through its undertakings and works programmes to act as responsibly as it requires members of the public, and industry, to act.

The Act provides that license fees and any royalties collected from the exploitation of protected plants on Crown land are to be credited to the Wildlife Conservation Trust Fund. From the Fund money will then be available for the payment of any compensation which may be necessary or for the purchase of land should a landholder prefer to sell.

The following is a brief summary of the flora amendments which have been incorporated in the Wildlife Conservation Act.

#### **Definitions:**

"Flora" means any plant (including any wildflower, palm, shrub, tree, fern, creeper or vine) which is—

- (a) native to the State, or
- (b) declared to be flora pursuant to subsection (4) of this and includes any part of flora and all the seeds and spores thereof.

"Protected flora" means any flora for the time being declared to be protected flora for the purposes of this Act.

The Act binds the Crown in relation to all flora provisions.

The Minister may declare any class or description of flora as protected flora.

Moneys received from license fees and royalties for taking protected flora on Crown land, will be paid into the Wildlife Conservation Trust Fund.

#### **Crown Land**

The property of all protected flora on Crown land is vested in the Crown and may not be taken by any person except under license.

Licenses may be issued for:—

- (i) Commercial Purposes, or
- (ii) Scientific or Prescribed Purposes at the discretion of the Minister, with the conditions that royalties must be paid at specified rates and that flora taken under license, must be marked by the licensee. Other such licenses may be issued as are prescribed.

#### **Private Land**

The owners, occupants or persons authorised by them are permitted to take flora from their land, but may not sell it, unless they hold a Commercial Producers or Nurseryman's license or some other special license issued under this Act. Licenses are issued, upon application, at the Minister's discretion, and may be refused to, or revoked from persons convicted of any offence against the Act. Applications for licenses must specify the land in question and classes and description of flora to be exploited.

#### **Selling Flora**

Flora may only be sold by a person who is licensed to do so, or who has purchased flora from a lawfully entitled seller, and who maintains a legible record of:—

- (i) the quantity and class or description;
- (ii) date of purchase;
- (iii) name and address of persons from whom flora was purchased.

This record must be retained for twelve months and be produced on the demand of a Wildlife Officer.

#### **Rare or Endangered Flora**

Where any flora requires special protection by virtue of its being rare or endangered it may be declared rare. Any person with a current license to obtain flora later declared rare would then require further consent from the Minister. No person may take rare flora from private land without the written approval of the Minister. Any person who takes rare flora is liable, on conviction, to a penalty not exceeding \$1 000.

An owner or occupier of private land having been refused permission to remove rare flora may be granted compensation provided that the Minister is satisfied that the owner or occupier will suffer loss of use or enjoyment of the land. Compensation rates must be agreed upon between the owner or occupier, and the Treasurer, with an appointed valuer being consulted if required.

Where compensation has been paid for a period of five years, the Minister may not refuse a subsequent application, but the land in question may at any time be taken by the Governor, under the Public Works Act 1902, for the purposes of the Wildlife Conservation Act.