
Nature Conservation (Amendment) Ordinance 1982

No. 22 of 1982

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

Dated 27 May 1982.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

MICHAEL HODGMAN
Minister of State for the Capital Territory

An Ordinance to amend the *Nature Conservation Ordinance 1980*

Short title

1. This Ordinance may be cited as the *Nature Conservation (Amendment) Ordinance 1982*.¹

Commencement

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

Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Nature Conservation Ordinance 1980*.²

Exercise of powers

4. Section 13 of the Principal Ordinance is amended by omitting "he considers" and substituting "is".

Keeping of animals

5. Section 27 of the Principal Ordinance is amended by omitting sub-section (3) and substituting the following sub-sections:

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

- (a) the animal is suffering from a disease, illness or injury;
- (b) the animal is being kept by the person for the purpose of being given treatment for that disease, illness or injury or being delivered to a conservation officer; and
- (c) the period for which the animal has been kept by the person does not exceed 48 hours.

“(4) Sub-section (1) does not apply to or in relation to an animal kept by a person if the animal is the progeny of an animal in respect of which the person has or had lawful possession.”.

Special safeguards applicable to birds

6. Section 41 of the Principal Ordinance is amended—

- (a) by omitting paragraph (1) (d) and substituting the following paragraph:

“(d) the conservation officer has reasonable cause to believe that—

- (i) the bird is suffering pain or is in a state of distress; or
- (ii) the keeping of the bird in captivity, or in captivity of the kind in which it is being kept by the person, is likely to endanger the life of, or to cause distress or otherwise be harmful to, the bird;” and

- (b) by omitting from sub-section (1) “is of the opinion that the welfare of the bird” and substituting “believes, on reasonable grounds, that the welfare of the bird”.

Compliance with advice of Conservator

7. Section 48 of the Principal Ordinance is amended—

- (a) by omitting paragraph (1) (c) and substituting the following paragraph:

“(c) the Conservator has reasonable cause to believe that, for the proper protection or conservation of wildlife, it is necessary or desirable that a particular requirement or particular requirements concerning the use of the substance be complied with;”;

- (b) by omitting from sub-section (1) “require the person” and substituting “direct the person”; and
- (c) by omitting from sub-section (1) all words from and including “such requirements” and substituting “that requirement or those requirements”.

Diseased wildlife

8. Section 49 of the Principal Ordinance is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Where the Conservator has reasonable cause to believe—

- (a) that wildlife is suffering from a disease; and
- (b) that it is necessary or desirable for treatment of a particular kind to be carried out in connection with that disease,

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

Declaration of wilderness zones

9. Section 52 of the Principal Ordinance is amended by omitting from sub-section (4) “, in his opinion, necessary for the management” and substituting “necessary and reasonable for the proper management”.

Access to reserved area may be prohibited or restricted

10. Section 53 of the Principal Ordinance is amended by omitting from sub-section (1) “is of the opinion” and substituting “has reasonable cause to believe”.

Review of decisions

11. Section 74 of the Principal Ordinance is amended by omitting paragraph (1) (d) and substituting the following paragraph:

“(d) giving a direction under section 48 or 49;”.

Power of entry and search

12. Section 77 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (2) “A conservation officer” and substituting “For the purposes of this Ordinance, a conservation officer”; and
- (b) by omitting paragraph (2) (a) and substituting the following paragraphs:
 - “(a) search the land or premises;
 - (aa) inspect the animal or plant; and”.

Seizure and forfeiture of animals and plants

13. Section 79 of the Principal Ordinance is amended by omitting sub-sections (5) and (6) and substituting the following sub-sections:

“(5) Where, in proceedings for an offence against this Ordinance, the court finds the offence proved, the court may declare that any animal or plant the subject of the offence, or any substance or thing used in or in connection with the commission of the offence, be forfeited to the Commonwealth.

“(6) Where an animal, plant, substance or other thing is forfeited to the Commonwealth by virtue of a declaration under sub-section (5), it shall be destroyed or otherwise dealt with in such manner as the Minister directs.

“(7) This section has effect subject to section 80.”.

Schedule 2

14. Schedule 2 to the Principal Ordinance is amended by adding at the end thereof the following:

17. "Other
Canis familiaris dingo Dingo".

Schedules 5 and 6

15. Schedules 5 and 6 to the Principal Ordinance are repealed and the following Schedules substituted:

SCHEDULE 5

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

EXEMPT ANIMALS, BEING ANIMALS THAT ARE WILDLIFE

Item No.	Zoological name (if any)	Common name
	Birds	
1	<i>Cacatua roseicapilla</i>	Galah
2	<i>Coturnix chinensis</i>	King quail
3	<i>Melopsittacus undulatus</i>	Budgerygah
4	<i>Nymphicus hollandicus</i>	Cockatiel
5	<i>Poephila guttata</i>	Zebra finch
	Reptiles	
6	<i>Chelodina longicollis</i>	Common long-necked tortoise
7	<i>Phyllodactylus marmoratus</i>	Marbled gecko
8	<i>Leiopisma guichenoti</i>	Common grass skink
9	<i>Leiopisma delicata</i>	Common grass skink
10	<i>Tiliqua scincoides</i>	Eastern blue-tongued lizard
	Other	
11		Frogs—all species indigenous to the Territory with the exception of the corroboree frog (<i>Pseudophryne corroboree</i>)

SCHEDULE 6

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

EXEMPT ANIMALS, BEING ANIMALS THAT ARE NOT WILDLIFE

Item No.	Zoological name (if any)	Common name or other description
	Birds	
1	<i>Agapornis roseicollis</i>	Peach-faced love bird
2	ALECTORIS—all species	Partridges
3	<i>Carduelis carduelis</i>	European gold finch
4	CHRYSOLOPHUS—all species	Pheasants
5	<i>Coturnix coturnix</i>	Common quail
6	<i>Lophortyx californicus</i>	California quail
7	PERDIX—all species	Partridges
8	PHASIANUS—all species	Pheasants
9	<i>Serinus canaria</i>	Canary
	Other	
10	<i>Canis familiaris</i>	Dog
11	<i>Cavia porcellus</i>	Guinea pig
12	<i>Felis catus</i>	Cat
13		Poultry domestic varieties

SCHEDULE 6—continued

Item No.	Zoological name (if any)	Common name or other description
14		Stock—as defined in the <i>Stock Ordinance</i> 1934
15		White mice and rats laboratory varieties

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 4 June 1982.
2. No. 20, 1980.