

AUSTRALIAN CAPITAL TERRITORY

NATURE CONSERVATION ORDINANCE 1980
CANBERRA RETAIL MARKETS (AMENDMENT) ORDINANCE 1980
PREVENTION OF CRUELTY TO ANIMALS (AMENDMENT)
ORDINANCE 1980
RABBIT DESTRUCTION (AMENDMENT) ORDINANCE 1980

ORDINANCE NOS. 20 , 21 , 22 AND 23 OF 1980

EXPLANATORY STATEMENT

The Nature Conservation Ordinance 1980 provides for the management and protection of native fauna and flora and the declaration and management of nature reserves in the Australian Capital Territory. It also regulates certain activities in relation to some animals other than native animals.

The Ordinance establishes a three tier management structure comprising a Conservator of Wildlife, a Nature Conservation Service and a Nature Conservation Advisory Council. The Conservator and the Nature Conservation Service, which consists of conservation officers appointed under the Ordinance, have extensive powers and responsibilities relating to the protection of wildlife including:

- . entry onto land for the purpose of carrying out investigations and examinations relating to wildlife;
- . provision of advice to occupiers of land in respect of wildlife;
- . requiring the owner of diseased wildlife to treat, deliver up or destroy the wildlife;
- . generally manage and control reserved areas and wilderness areas which are declared under the Ordinance.

The Nature Conservation Advisory Council which is established under Part II of the Ordinance makes recommendations to the Minister for the Capital Territory on all aspects of nature conservation in the Territory.

Part III of the Ordinance details the essential protection provisions in relation to animals and live fish. Generally, they provide that a permit or licence is required in order to carry out any activity involving an animal - the killing, taking, keeping, selling, importing or exporting of an animal or the selling, importing or exporting of live fish - and also prohibits the release of an animal from captivity without the consent of the Conservator. Appropriate penalties

for breaches of these provisions of the Ordinance apply.

Part IV of the Ordinance contains provisions which are directed toward the protection of plant wildlife, including timber. These provisions create offences for the picking of plant wildlife or restricted plant wildlife or for the damage, destruction, felling or removal of timber in certain circumstances without a permit or licence.

The Ordinance allows the Minister to declare an area to be a reserved area and to declare part or all of a reserved area to be a wilderness zone. The Conservator may in certain circumstances, prohibit or restrict access to reserved areas, and may erect signs providing guidance or direction to persons who have access to these areas. Certain activities in reserved areas such as littering, lighting fires and camping in other than designated areas are prohibited either absolutely or unless the prior consent of the Conservator is obtained. Similarly, in a wilderness zone, it is an offence to excavate, establish a track or road or to use a motor vehicle on other than a pre-existing track or road or on a track or road that was formed for vehicles with four or more wheels. This effectively deals with the problem of trail bike damage.

In addition to any penalty which may apply in respect of damage in a reserved area it is open to the court to order the offender to pay compensation to make good the damage.

The Administrative Appeals Tribunal is empowered to review certain decisions taken by the Conservator or conservation officers under the Ordinance.

As a consequence of the introduction of the Nature Conservation Ordinance 1980, it was necessary to amend the Canberra Retail Markets Ordinance 1971, the Prevention of Cruelty to Animals Ordinance 1959 and the Rabbit Destruction Ordinance 1919. The opportunity was taken to effect certain other minor changes to this legislation at the same time.

The Canberra Retail Markets Ordinance 1971 specifies live fish and plants as goods in respect of which a licence may be granted under the Ordinance. However the Nature Conservation Ordinance 1980 also requires a person to have a licence to sell live fish or plant wildlife. The Canberra Retail Markets (Amendment) Ordinance 1980 therefore amends the Canberra Retail Markets Ordinance 1971 to provide that even though a person may hold a licence under the Canberra Retail Markets Ordinance 1971, he is not permitted to sell live fish or restricted plant wildlife unless he has a licence under the Nature Conservation Ordinance 1980 authorising him so to do.

The Prevention of Cruelty to Animals (Amendment) Ordinance 1980 specifies those animals the killing of which is permitted under the Prevention of Cruelty to Animals Ordinance and has regard to the provisions in the Nature Conservation Ordinance dealing with the killing or taking of animals.

The Rabbit Destruction (Amendment) Ordinance 1980 removes the definition of 'native dogs' from the Rabbit Destruction Ordinance 1919, the effect of which is that dingoes are 'wildlife' within the meaning of the Nature Conservation Ordinance. In addition it repeals a provision for the protection of certain animals which is superseded by the provisions of the Nature Conservation Ordinance. The opportunity was also taken to implement a recommendation of the former ACT Law Reform Commission in its Report on the Law Relating to Conveyancing so that certain liabilities no longer constitute charges upon the land. Finally, it makes certain changes to reflect current drafting policy.

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