



Queensland

Nature Conservation (Wildlife Management) Regulation 2006

Explanatory Notes for SL 2006 No. 205¹

made under the

Nature Conservation Act 1992

Policy objectives of the legislation

The primary objective of making the proposed nature conservation regulations is to provide for the management of wildlife in Queensland.

Reasons for the subordinate legislation

Under the *Statutory Instruments Act 1992*, the *Nature Conservation Regulation 1994* (NCR) and *Nature Conservation (Wildlife) Regulation 1994* were scheduled to expire on 1 September 2005. The date of expiry for these regulations has been extended to 1 September 2006. However it is necessary that the proposed nature conservation regulations commence prior to this date to ensure the ongoing management of protected areas and wildlife in Queensland.

Alternatives to regulation

Potential alternatives to the creation of a new regulation have been considered, including a 'no-legislative intervention' option (i.e. allow the regulations to expire without replacement). The 'no legislative intervention' option and other potential alternatives to the proposed

¹ For the accompanying regulatory impact statement, see 2006 SL No. 203

regulations are unsatisfactory because they have a range of serious, highly undesirable environmental, economic and social consequences, including—

- protected areas and wildlife would not be conserved (due to lack of regulatory controls and loss of management revenue from fees);
- wildlife-based businesses would be constrained or could not lawfully operate (due to lack of regulatory means to allow activities otherwise restricted by the Act);
- obligations under the Act would not be fulfilled; and
- Queensland would be perceived as out of step with internationally and nationally recognised practices and standards.

Administrative costs

The regulation will not impose further costs on either the EPA or other Government Departments. Implementation costs will be met from existing EPA allocations. The regulation promotes a coordinated and integrated approach with other legislation, thus encouraging the formulation of arrangements to maximise efficiencies in management.

Fundamental Legislative Principles

Penalties

Penalties of up to 165 penalty units are provided in the regulation. This is not in keeping with the preferred position of the Scrutiny of Legislation Committee that penalties imposed in subordinate legislation should not exceed 20 penalty units.

However, much of the detail of protected area and wildlife management relies upon the subordinate legislation, and for many serious wildlife and protected areas offences 20 penalty units is too low a penalty. As an example, the provision that a person must not feed a native animal in a way that immediately threatens human health or safety is in the subordinate legislation, section 340, and carries a maximum penalty of 165 penalty units.

Seizure of particular appliances

The *Nature Conservation Act 1992* provides for the making of a regulation dealing with the seizure of vehicles, boats, aircraft or property for the protection of wildlife where the thing is found abandoned or is on land without the landholders consent. Clause 346 of the regulation continues provisions from the previous *Nature Conservation Regulation 1994* in relation to seizure in the absence of a warrant.

Clause 346 deals with the seizure of a vehicle, boat, recreational craft, aircraft or appliance for the protection of wildlife. Under this clause, if a conservation officer reasonably believes that a vehicle, boat, recreational craft, aircraft or appliance is on land without the landholders consent, or is abandoned, and it is necessary or desirable to seize the thing for the protection of native wildlife, the object may be seized. Examples of things that might be seized under this clause include guns and traps being used for taking animals, or illegal nets or fishing apparatus that have caught turtles. In these situations it is often necessary to seize the object immediately in order to protect wildlife. It is not considered appropriate to delay the seizure of these things while a warrant is obtained.

In many situations in relation to seizure covered by the regulation the owner or person in control of the seized thing is unknown, thus making it impossible to serve the owner or person in control of the thing with a warrant prior to seizure. However, there are restrictions placed on the chief executive when the owner or person in control of the object to be seized is or should reasonably be known.

The above provisions represent a reasonable and limited departure from the legislative principle that legislation should confer powers to seize property only with a warrant.

Consultation

A Regulatory Impact Statement (RIS) which detailed the proposed review and remake of the nature conservation regulations was released on 2 December 2004. Public submissions on the RIS were accepted over a period of 10 weeks.

Submissions from all stakeholders expressed general support for the remaking of the nature conservation regulations and the majority of the proposed amendments.

Additional consultation with Queensland Government departments has occurred in preparing the regulation.

Notes on provisions

Chapter 1 Preliminary

Clause 1 Short title

This section states the citation for the regulation as the *Nature Conservation (Wildlife Management) Regulation 2006* (the **regulation**).

Clause 2 Commencement

This section states the date that the regulation commences.

Clause 3 Relationship with Administration Regulation

This section describes the relationship between the regulation and the *Nature Conservation (Administration) Regulation 2006* (the **Administration Regulation**).

Clause 4 Application

This section limits the application of the regulation to wildlife that is not in a protected area to which the *Nature Conservation (Protected Areas Management) Regulation 2006* (the **Protected Areas Management Regulation**) relates.²

² Protected areas to which the Protected Areas Management Regulation relates are described in chapter 1, part 2 of that regulation.

Clause 5 Interpretation generally

This section defines the words used in the regulation.

In interpreting this regulation, words that are not defined in the regulation, but are defined in the Administration Regulation, have the same meaning as they have in the Administration Regulation.

Clause 6 Meaning of commercial purpose

This section defines the term commercial purpose.

A person does an act for a commercial purpose if the act is done for gain or reward. The section also declares certain business-like activities, or the characteristics of those activities, to be commercial purposes for the regulation. These include—

- trading under a business name under which wildlife is used
- having a liability to pay tax under a law of the Commonwealth in relation to the person's activities involving the wildlife
- importing wildlife into the state for the main purpose of on-selling the wildlife
- displaying the wildlife in a public place in a way that may lead another person to believe the wildlife is for sale, or otherwise for the purposes of marketing a product, service or business name.

Clause 7 Meaning of unauthorised interaction

This section defines the term unauthorised interaction for the regulation. *Interact* is defined in the dictionary, schedule 4.

Clause 8 Scientific names

This section states the reference texts or publications from which scientific and common names appearing in the regulation are taken.

Some species whose scientific or common names appear in the regulation have been scientifically described or re-described since the reference texts were published. These species have been individually referenced in the regulation.

Chapter 2 Provisions applying to all wildlife authorities

Part 1 Restrictions on grant for all wildlife authorities

Clause 9 Purpose of pt 1

This section describes the purpose of chapter 2, part 1 as describing the restrictions on grant of all wildlife authorities.

Other restrictions on grant for all wildlife authorities also appear in—

- the Act; or
- the Administration Regulation; or
- conservation plans made under the Act.

Clause 10 Who may obtain wildlife authority

This section describes who may obtain a wildlife authority. The chief executive may grant a wildlife authority to a person.³

The section states the minimum age for the grant of relevant authorities for protected plants or protected animals.

The section also stipulates that a wildlife authority, other than a wildlife movement permit, may be issued to a corporation only if the corporation has a registered office in Queensland. This is necessary to enable reasonable access by a conservation officer to records and information kept by the holder of the authority for the purposes of monitoring compliance with the Act.

Clause 11 General restriction on grant of wildlife authorities

This section stipulates general restrictions that apply to the grant of all wildlife authorities under this regulation. In particular, a wildlife authority

³ See the *Acts Interpretation Act 1954*, section 32D (References to persons generally) for the meaning of *person*.

must not be granted if conducting the activity under the authority would cause harm to the ecological sustainability of any wildlife or, for an authority that concerns the keeping or use of wildlife, if wildlife to which the application relates has not been lawfully taken, kept or used.

Clause 12 Wildlife authority must not authorise taking protected animal by using regulated substance

This section restricts the grant of a wildlife authority for taking a protected animal by using a regulated substance, which includes a poison or other toxic substance, the use of which is regulated under an Act.

The chief executive must not grant an authority to take protected wildlife by using the substance—

- if the use of the substance is prohibited under an Act; or
- unless the person holds the necessary approvals granted under an Act to use the substance for its intended purpose.⁴

Clause 13 Restriction on grant about places where animals to be kept

This section restricts the grant of a wildlife authority for an animal, if the facilities for housing the animal are not appropriate, or for an authority that authorises the exhibition of wildlife, the applicant does not have the appropriate facilities for exhibiting the animal. The place must—

- comply with the general requirements for housing an animal under this regulation or a relevant code of practice;⁵ or
- comply with the requirements in the regulation for the place where activities under relevant authorities are to be carried out.⁶

The section does not limit the things that the chief executive may consider in deciding whether a place contains appropriate facilities for the conduct

4 See, for example, the *Health (Drugs and Poisons) Regulation 1996*, for restrictions on the use of particular substances.

5 See the Act, section 174A, concerning the chief executive's power to make code of practice for protected wildlife.

6 See, for example, the regulation, section 331 (Housing and care of live protected animals) and 138 (Exhibit must meet particular criteria) for information about requirements for facilities and exhibits.

of an activity under a wildlife authority. The chief executive may consider any thing that is relevant to achieving the objective of the Act.

Clause 14 Wildlife authority must be for only 1 licensed premises or mobile facility

This section stipulates that a wildlife authority may be granted only in respect to 1 licensed premises or mobile facility.

Only a commercial wildlife licence (mobile) for dead macropods may be issued with respect to a mobile facility.

Part 2 Activities authorised by all or most relevant authorities

Clause 15 Conservation plan may limit or extend activities authorised by wildlife authority

This section provides that a conservation plan⁷ may either—

- limit the things that a person may do under a wildlife authority issued under the regulation; or
- extend the things that a person may do under a wildlife authority issued under the regulation.

A conservation plan, therefore, prevails over the regulation to the extent of an inconsistency between the plan and the regulation.

A harvest period notice made under a conservation plan⁸ may also limit or extend the things that a person may do under a wildlife authority granted under the regulation, despite a provision of the regulation that says what the person may do under the authority.

⁷ See the Act, part 7, for information about conservation plans.

⁸ See the *Statutory Instruments Act 1992*, section 13 (Power to do matter by instrument).

Clause 16 Wildlife authority only authorises keeping, using and moving of lawfully obtained wildlife

This section stipulates that a person may only keep, use or move wildlife under a wildlife authority if the wildlife was lawfully obtained.

Clause 17 Particular wildlife authorities for animals limited to only live or dead species

This section describes what a person may do under a wildlife authority where the authority stipulates that it is given only for live wildlife or dead wildlife identified on the licence.

A person who holds an authority for live wildlife may, under the authority, take, keep, use or move live wildlife under the authority, subject to the things authorised by the authority and any conservation plan made under the Act.

A person who holds an authority for dead wildlife may, under the authority, take, keep, use or move dead wildlife under the authority, subject to the things authorised by the authority and any conservation plan made under the Act.

Clause 18 Limitation for wildlife authorities for taking animal by killing the animal

A person who holds an authority that does not state on the authority whether it authorises the taking, keeping, use or movement of live or dead wildlife may, subject to the things authorised by the authority and any conservation plan made under the Act—

- take, keep, use or move live wildlife identified on the authority; and
- keep, use or move dead wildlife stated on the authority.

Clause 19 Wildlife authorities for protected plants limited to species identified on authority

This section limits the things that the holder of a wildlife authority for protected plants may do under the authority. In particular, it limits the holder of the authority—

- for protected plants generally—to taking or use of the protected plant stated in the authority; or
- for whole protected plants—to taking or use of a whole protected plant mentioned in the authority; or
- for protected plant parts—to taking or use of protected plant parts mentioned in the authority.

Clause 20 Meaning of number on wildlife authority

This section describes the meaning of a number that is listed adjacent to a species of wildlife on a wildlife authority. Unless the contrary intention appears on the authority, where a number is stated against a species of wildlife mentioned in the authority, the number is the maximum number of wildlife that the person may take, keep, use or move under the authority for the term of the authority.

Clause 21 Particular wildlife authorities authorise engaging in unauthorised interaction

This section authorises a person who is the holder of a wildlife authority that allows the holder to take wildlife under the authority, to engage in an unauthorised interaction without a commercial wildlife licence (wildlife interaction). However, the person can only do the authorised interaction to the extent that it is permitted under the wildlife authority.

Clause 22 Animals may be moved from place of taking to place of keeping

This section creates an exemption from the requirement to obtain a wildlife movement permit where a person takes wildlife under a wildlife authority and moves it to another place where the person intends to take more wildlife under the authority, or to the place of keeping that is within the State or another State for the authority. However the section does not authorise the movement of a prescribed protected animal to another country, or another State if the movement is associated with the movement of the animal to another country.

A person who takes wildlife from the wild for rehabilitation in another state may only move the wildlife into Queensland if specifically authorised under a rehabilitation permit.

Where the wildlife is moved from a place of taking in Queensland to a place in another State, the person must complete a movement advice.⁹

Clause 23 Animals may be moved to particular authorised buyers

This section creates an exemption from the requirement to get a wildlife movement permit where a person sells or gives an animal to another person under a wildlife authority. Either the seller or the receiver may move the animal. The animal can only be moved from the seller's place of keeping to the buyer's place of keeping. However the section does not authorise the movement of a prescribed protected animal from the State to another country, or another State, where the movement is associated with the movement of the animal to another country.

The holder of the authority must complete a movement advice,¹⁰ other than for a protected fish or a protected spider or scorpion moved to an exempt person.

This section does not apply if the movement of the animal is generally exempt¹¹ or is already permitted under the wildlife authority. Also, this section does not apply to a live protected wombat or an animal of the following species (a *special native animal*)—

- koala (*Phascolarctos cinereus*)
- echidna (*Tachyglossus aculeatus*)
- platypus (*Ornithorhynchus anatinus*).

Clause 24 Animals may be moved from interstate sellers

This section creates an exemption from the requirement to get a wildlife movement permit to move an animal sold or given away by a person in another State (the *authorised seller*) to a person in Queensland who holds a

9 See the regulation, chapter 7, part 2, division 2 (Movement advices) for information about completing movement advices.

10 See the regulation, chapter 7, part 2, division 2 (Movement advices) for information about completing movement advices.

11 See, for example, the regulation, section 25 (Animal may be moved for private reasons), 26 (Live animals may be moved to and from veterinary surgeon) and 27 (Live animals may be moved to and from display).

wildlife authority for the animal (the **authorised buyer**). However, it does not apply if the person in the other State is selling or giving the animal away under a wildlife authority granted under the Act. Either the seller or receiver may move the animal. The authorised buyer must complete a movement advice.¹²

This section does not apply if the movement of the animal is generally exempt, is permitted under the wildlife authority, or to a dead crocodile or emu.¹³ Also, this section does not apply to a live wombat or an animal of the following species (a **special native animal**)—

- koala (*Phascolarctos cinereus*)
- echidna (*Tachyglossus aculeatus*)
- platypus (*Ornithorhynchus anatinus*).

Clause 25 Animals may be moved for private reasons

This section authorises a person who keeps an animal under a wildlife authority to move the animal, without a wildlife movement permit, in the following circumstances—

- on the land upon which the licensed premises for the licence are situated;
- if the person is moving to a new place of business within Queensland—to the new place of business;
- if the person is moving to a new place of residence within Queensland—to the new place of residence.

Clause 26 Live animals may be moved to and from veterinary surgeon

This section allows a person who keeps a live animal under a wildlife authority to move the animal—

- from the licensed premises for the authority to the premises of a veterinary surgeon who is to treat or care for the animal; and

12 See the regulation, chapter 7, part 2, division 2 (Movement advices) for information about completing movement advices.

13 The movement of dead emu and crocodile products (*processed products*) are dealt with separately in the regulation.

- from the premises of a veterinary surgeon who treated or cared for the animal to the licensed premises for the authority.

However, if the person moves the animal to a veterinary surgeon in another State for treatment, the person must return the live animal to Queensland as soon as the treatment has ended.

The authority for a veterinary surgeon to keep wildlife for the purpose of treating it is under the regulation, section 39 (Veterinary surgeons).

Clause 27 Live animals may be moved to or from display

This section authorises a person operating under a wildlife demonstrator licence, wildlife exhibitor licence, wildlife farming licence or a museum licence to move wildlife to or from a display conducted at a place other than the licensed premises, or from one display to another display, without a wildlife movement permit. The person may move the wildlife interstate for display if—

- the holder ensures the wildlife is moved back into Queensland after the display ends; and
- the person completes a movement advice for the movement.¹⁴

However, the person may only move an animal to another State for a display if the person brings the animal back into the State after the display ends.

Clause 28 Whole protected plants may be moved under particular wildlife authorities

A plant that is indigenous to Australia is a protected plant.¹⁵ The taking and use of protected plants (whole or part) is restricted under the Act,¹⁶ the regulation¹⁷ and the *Nature Conservation (Protected Plants) Conservation Plan 2000*.¹⁸

14 See the regulation, chapter 7, part 2, division 2 (Movement advices) for information about completing movement advices.

15 See the Act, dictionary, definition, *protected plant*.

16 See the Act, section 89 (Restriction on taking etc. particular protected plants).

17 See the regulation, chapter 4, part 2 (Restrictions about using protected plants).

18 See, the *Nature Conservation (Protected Plants) Conservation Plan 2000*, section 7 (Restriction on taking and using least concern plants).

This section authorises a person who operates under a wildlife authority for whole protected plants to move the plant within, into or out of the State, without a wildlife movement permit but subject to a provision of the conservation plan that prohibits the movement. If the person moves the plant into or out of the State, the person must complete a movement advice for the movement.¹⁹

Clause 29 Protected plant parts may be moved under particular wildlife authorities

A plant that is indigenous to Australia is a protected plant.²⁰ The taking and use of protected plants (whole or part) is restricted under the Act,²¹ the regulation²² and the *Nature Conservation (Protected Plants) Conservation Plan 2000*.²³

This section authorises a person who operates under a wildlife authority for protected plant parts to move the plant parts within, into or out of the State without a wildlife movement permit but subject to a provision of the conservation plan that prohibits the movement.

The laws relating to harvesting, propagating and trading of native plants differ between States. This provision only authorises the movement of plant parts into Queensland if the person complies with the laws of the State from which the plants are being moved about the packing and tagging of the plants, and the movement is not prohibited by a conservation plan in Queensland.

19 See the regulation, chapter 7, part 2, division 2 (Movement advices) for information about completing movement advices.

20 See the Act, dictionary, definition, *protected plant*.

21 See the Act, section 89 (Restriction on taking etc. particular protected plants).

22 See the regulation, chapter 4, part 2 (Restrictions about using protected plants).

23 See, the *Nature Conservation (Protected Plants) Conservation Plan 2000*, section 7 (Restriction on taking and using least concern plants).

Part 3 **Carrying out activities under wildlife authority**

Clause 30 **Persons to whom holders may sell or give wildlife**

The chief executive may grant various licences, permits and other authorities (*wildlife authorities*). Only certain wildlife authorities authorise the keeping and sale or giving away of wildlife.

This section stipulates to whom a person that sells or gives away wildlife under a wildlife authority may sell or give the wildlife. These restrictions ensure that the wildlife harvested from the wild under a commercial wildlife harvesting licence is channelled through licensed premises to enable conservation officers to monitor compliance with the Act.

However, the section only authorises the sale or gift of a prescribed protected animal to a person in another country, or another State if the recipient intends to sell, give or more it to a person in another country, if an export agreement has been entered into for the animal.

Also, this section restricts the sale or giving away of a live special native animal by a person who holds a wildlife authority for the animal to an authorised buyer in another country unless the holder of the authority has entered into an export agreement with the State.

Clause 31 **Persons from whom holders may buy or accept wildlife**

This section creates an offence for buying or accepting wildlife from a person who is not entitled to keep, and sell or give away the wildlife, whether in Queensland or under the law of another State.

Clause 32 **Compliance with chief executive's direction about sampling or implanting**

Mitochondrial DNA sequencing and microchips can be used to determine the ancestry of wildlife, minimise wild-substitution into captive stock and make compliance monitoring easier.

The use of DNA profiling and microchips is usually restricted to species that are highly valued in captivity and likely to be targeted by illegal collectors.

This section gives the chief executive authority to give a person who keeps a live protected animal under a wildlife authority a written notice directing the person to either—

- take and register biological tissue sample of the animal with an approved scientific institution; or
- implant an approved electromagnetic implant into the animal.

The holder must comply with the notice.

Clause 33 Dealing with animals after death—sampled or implanted animals

This section establishes the procedures for dealing with an animal that has either had a biological tissue sample taken from it and registered with an approved scientific institution or an electromagnetic implant inserted into it, and the animal has died.

Clause 34 Dealing with animals after death—other animals

This section establishes the procedure for dealing with an animal, other than an animal to which section 33 applies, after the animal dies.

Clause 35 Assistance to conservation officers

This section requires a person who keeps wildlife under a wildlife authority to enable a conservation officer to access and inspect the wildlife at a reasonable time and—

- photograph the wildlife; and
- obtain or check an animal's biological tissue sample (if any); and
- determine the identification number of the electromagnetic implant inserted into the animal (if any); and
- insert an electromagnetic implant into an animal.

The authority conferred by this section does not amount to a power of search or seizure. It therefore does not amount to a breach of fundamental legislative principles. Although most people will allow an officer to walk through their property to inspect the wildlife, the person can satisfy the requirement by allowing the officer to inspect the wildlife at another place,

such as a public place or an office of the Queensland Parks and Wildlife Service.

Chapter 3 Taking, keeping, using or moving animals

Part 1 Taking, keeping, using or moving protected animals other than under wildlife authority

Clause 36 Purpose of pt 1

This section describes the purpose of this part, namely to describe the circumstances under which a person may take, keep, use or move wildlife without a wildlife authority.

Clause 37 Authorised keeper in another State

This section creates an exemption for a person in another State from the requirement to get a wildlife authority buy or accept, and keep, a protected animal bought or accepted from a person authorised under the Act to sell or give it away.

The effect of this section is to enable a person in Queensland to sell or give a protected animal to a person in another State, and for the recipient not to require a separate Queensland wildlife authority to buy or accept and keep the animal. The provisions of this section do not purpose to usurp the laws of the other State.

Note however that restrictions on the movement of the animal, including the requirement to get a wildlife movement permit before moving the animal, may still apply.

Clause 38 Authorised keeper in another country

This section creates an exemption for a person in another country from the requirement to get a wildlife authority to buy or accept, and keep, a protected animal bought or accepted from a person authorised under the Act to sell or give it away.

The effect of this section is to enable a person in Queensland to sell or give a protected animal to a person in another country, and for the recipient not to require a separate Queensland wildlife authority to buy or accept and keep the animal. The provisions of this section do not purpose to usurp the laws of the other country.

Note that restrictions on movement of the animal, including the requirement for a wildlife movement permit before moving the animal, may still apply.

Clause 39 Veterinary surgeons

This section enables a veterinary surgeon to take, keep and use wildlife without a wildlife authority for the purposes of providing care or treatment for the wildlife. The exemption applies only to the extent that the veterinary surgeon is performing a veterinary function.

Clause 40 Particular government officers or employees

This section enables some government officers to take dead protected wildlife from public land and dispose of the animal's carcass without a wildlife authority, where the purpose of taking the wildlife is to—

- ensure public health and safety;
- contribute to the safe and free movement of traffic and pedestrians; or
- otherwise in performance of a function under an Act.

Clause 41 Australian Defence Force

This section authorises a person who is a member of the Australian Defence Force to take a least concern animal from land owned by the Commonwealth to train members of the defence force about survival in the wild. The taking must be authorised under the Military Standing Orders of the defence forces.

Clause 42 Animals taken under Aboriginal tradition or Island custom authority for protected area

The chief executive may grant an Aboriginal tradition authority or an Island custom authority to a corporation to take wildlife from a protected area under Aboriginal tradition or Torres Strait Island custom respectively.

This section authorises a person who takes wildlife under such an authority to keep and use the wildlife outside a protected area, provided that the use is for personal, domestic, non-commercial or communal needs of the members of the corporation to whom the authority was granted.

This section does not override the—

- rights of a person to exercise native title rights established under the *Native Title Act 1993*, section 211; or
- *Local Government (Community Government Areas) Act 2004*, section 61 (Aborigines' right to certain natural resources); or
- *Community Services (Torres Strait) Act 1984*; section 184 (Islanders' right to certain natural resources).

However this section does not authorise the movement of a prescribed protected animal to another country, whether directly or via another State.

Clause 43 Marine turtle or dugong taken under Aboriginal tradition or Island custom

This section allows a person to keep and use a marine turtle or a dugong taken under Aboriginal tradition or Torres Strait Island custom under a permit granted under the *Marine Parks Act 1982* or the *Great Barrier Reef Marine Parks Act 1975* (Cwlth).

This section does not override the—

- rights of a person to exercise native title rights established under the *Native Title Act 1993*, section 211; or
- *Local Government (Community Government Areas) Act 2004*, section 61 (Aborigines' right to certain natural resources); or
- *Community Services (Torres Strait) Act 1984*; section 184 (Islanders' right to certain natural resources).

Also, a person may keep and use a marine turtle or dugong taken under the terms of a traditional use of marine resources agreement (TUMRA), made

under the *Great Barrier Reef Marine Parks Act 1975* (Cwlth) or the *Marine Parks Act 1982*, that allows for the taking of turtle or dugong.

However this section does not authorise the movement of a prescribed protected animal to another country, whether directly or via another State.

Clause 44 Keeping and using exempt animals

This section allows a person to keep and use, but not take, a protected animal of a species mentioned in schedule 3, part 1 (Exempt animals) without a wildlife authority. However, the person may only buy or accept an animal from a person who is authorised under the Act or the law of another State to keep and sell it and may only sell or give the animal to a person who is allowed to buy or accept, and keep the animal.

An animal that is an exempt animal is still a protected animal, and it is an offence under the Act, section 88,²⁴ to take the animal without lawful authority.

A person who keeps protected wildlife must keep a record of particular information concerning the person from whom the wildlife was bought or accepted.²⁵ Also, this section requires a person who keeps certain exempt birds (*prescribed exempt birds*) for a commercial purpose to apply for a record book, or otherwise use an approved electronic record system, and keep a record for the bird.²⁶

Clause 45 Moving exempt animals

This section authorises a person to move an exempt animal within, into or out of Queensland. However it does not authorise the movement of a prescribed protected animal to another country, or another State if the movement is associated with the movement of the animal to another country or the sale or disposal of the animal to a person in another country.

However this section does not authorise the movement of a prescribed protected animal to another country, whether directly or via another State.

24 See the Act, section 88 (Restriction of taking protected animal and keeping or use of unlawfully taken protected animal).

25 See the regulation, sections 337 and 338, for information about records for protected wildlife generally.

26 See the Administration Regulation, part 6 (Provision about records), for information about records.

Clause 46 Keeping or using controlled animals

This section allows a person to keep and use, but not take, a protected animal of a species mentioned in schedule 3, part 2 (Controlled animals). This section does not limit the number of controlled animals that a person may hold at any time, so a person may, for example, breed the animals. However, a person who keeps or uses controlled animals without a licence may, over a period of 12 months, trade no more than 10 controlled animals. Also, the person must keep a controlled animal that the person has bought or accepted for a minimum of six months.

Also, the holder may only—

- buy or accept a controlled animal from a person who is lawfully entitled to keep and sell or give the animal away;
- sell the animal to a person other than the holder of a wildlife authority under the Act, with the written approval of the chief executive; and
- dispose of dead controlled wildlife in particular ways.

This section enables people to keep a range of species without a licence, provided they do not engage in significant levels of trade and any trade they do engage in is with licensed people, providing ongoing capacity to monitor the trade in these species.

Clause 47 Moving controlled animals from seller to exempt person

This section concerns the movement of controlled animals—

- from one unlicensed person in Queensland to another unlicensed person in Queensland; or
- from a person who keeps the animal in another State and is selling or giving the animal away not under a wildlife authority granted under the Act, to an unlicensed person in Queensland.

The section authorises the movement of the animal from one place of keeping to the other, by either the seller or receiver, without a wildlife movement permit. However if the receiver buys or accepts the animal from a person who keeps it in another State, the receiver must complete a

movement advice for the animal.²⁷ This enables the trade in controlled wildlife, even between unlicensed people, to be monitored.

Clause 48 Moving controlled animals from exempt person to buyer

This section concerns the movement of controlled animals from an unlicensed person in Queensland (the *exempt person*) to a buyer. It allows either the exempt person or the buyer to move a controlled animal from the premises where the exempt person keeps the animal to the place where the buyer intends to keep the animal, without a wildlife movement permit.

However this section does not authorise the movement of a prescribed protected animal to another country, whether directly or via another State.

The exempt person must complete a movement advice for the movement.²⁸

This enables the movement of controlled animals to be monitored within Queensland.

Clause 49 Particular reptiles

Prior to 1 March 2004, a person could take particular reptiles, referred to as *commonly kept reptiles*, from the wild and keep them without a wildlife authority. The person could only keep a maximum of two reptiles of any one species at one time and a total of eight reptiles across all species of commonly kept reptiles. The list of commonly kept reptiles appeared in the *Nature Conservation Regulation 1994*, schedule 8, part 2.

This section allows a person to keep a commercial reptile or recreational reptile without a wildlife authority if the reptile was, before 1 March 2004, taken from the wild under the exemption under the *Nature Conservation Regulation 1994*. Operationally, the reference to a *commercial reptile* and a *recreational reptile* should be read as a reptile that was prescribed as a *commonly kept reptile* under the *Nature Conservation Regulation 1994* in force prior to 1 March 2004.

The provision also enables a person to release the animal to the wild.

27 See the regulation, chapter 7, part 2, division 2 (Movement advices) for information about the completion of movement advices.

28 See the regulation, chapter 7, part 2, division 2 (Movement advices) for information about the completion of movement advices.

Clause 50 Least concern amphibians

This section allows an unlicensed person to take and keep a least concern amphibian from the wild without a wildlife authority, but only from his or her own land. The person may take no more than two amphibians of the same species or a total of eight amphibians. There is no limit on the number of eggs or tadpoles that a person may take and keep.

The section also authorises the person to release amphibians taken and kept under this section to the wild, at the place of taking and requires the person to release any offspring of the animals to the wild within seven days of the animal's metamorphosis.

Clause 51 Keeping or using protected fish for recreational purpose

This section allows a person who does not hold a wildlife authority, to keep or use five species of protected fish. However, a person who keeps the fish under the exemption can not use it commercially.

The section also states that a person may—

- buy or accept a protected fish only from a person lawfully entitled to sell it or give it away; and
- sell or give away a protected fish only to a person lawfully entitled to buy or accept it.

Clause 52 Moving protected fish kept for recreational purpose from seller to exempt person

This section concerns the movement of particular protected fish—

- from one unlicensed person in Queensland to another unlicensed person in Queensland; or
- from a person who keeps the animal in another State and is selling or giving the animal away not under a wildlife authority granted under the Act, to an unlicensed person in Queensland.

The section authorises the movement of the animal from one place of keeping to the other, by either the seller or receiver, without a wildlife movement permit.

Clause 53 Moving protected fish kept for recreational purpose from exempt person to buyer

This section concerns the movement of particular protected fish from an unlicensed person in Queensland (the *exempt person*) to a buyer. It allows either the exempt person or the buyer to move the fish from the premises where the exempt person keeps the animal to the place where the buyer intends to keep it, without a wildlife movement permit.

Clause 54 Taking, keeping or using protected scorpions or spiders for recreational purpose

This section enables a person who is not intending to use a protected spider or scorpion for commercial purposes to take and keep the animal without a wildlife authority. It also allows a person to buy, accept, sell or give away a spider or scorpion, provided the animal is, or is to be, lawfully kept and used.

Clause 55 Moving protected scorpion or spider kept for recreational purpose from seller to exempt person

This section allows for the movement of a protected spider or scorpion kept by a person who does not hold a wildlife authority to be moved, either by the seller or the buyer, to the place where the buyer will keep the animal.

Clause 56 Moving protected scorpion or spider kept for recreational purpose from exempt person to seller

This section allows for the movement of a protected spider or scorpion sold or given away by a person who keeps the animal under an exemption, either by the seller or the buyer, to the place where the buyer will keep the animal.

Clause 57 Educational or scientific purposes

Many scientific institutions or researchers keep and use parts of protected wildlife for scientific research or educational purposes. These 'parts' include bones and skeletons, body fluids including blood or serum, or reproductive material including eggs and semen or seeds and spores. This section enables a person who is using the animal for genuine scientific research or educational purposes to keep and use the parts of the protected animal without a wildlife authority.

The parts may only be obtained from a person who is lawfully keeping the animal.

Clause 58 Sick or injured marine mammals and turtles

Most marine mammals and marine turtles are rare or threatened wildlife and have particular dietary and veterinary requirements beyond the capabilities of the average carer. This section prescribes the things that a person who does not hold a wildlife authority may do with a sick or injured marine mammal (e.g. whale or dolphin) or marine turtle that is protected wildlife.

The person must as soon as reasonably practicable, notify a conservation officer that the person has taken possession of the animal and comply with the officer's direction concerning it.

The person may take and keep the animal and move it—

- to a place in Queensland where the person intends to care for and rehabilitate the animal; or
- to the holder of a rehabilitation permit in the State for the animal; or
- if a conservation officer directs the person to move the animal to a particular place—to the place directed by the officer.

Clause 59 Other sick, injured or orphaned protected animals

This section states the things that a person who does not hold a rehabilitation permit may do in relation to a sick, injured or orphaned protected animal (other than a marine mammal or marine turtle described under section 58).

The person must, within 72 hours, either—

- give the animal to a person who holds a rehabilitation permit for the animal; or
- notify a conservation officer that the person has taken possession of the animal and comply with the officer's direction in relation to it.

The person may take and keep the animal and move it—

- to a place in Queensland where the person intends to care for and rehabilitate the animal; or
- to the holder of a rehabilitation permit in the State for the animal; or
- if a conservation officer directs the person to deal with the animal in a particular way—to the place directed by the officer.

Clause 60 Interacting with animals in the wild

The taking, keeping and use of protected animal is restricted under the Act, (section 88).

Take, in relation to an animal, means—

- (i) hunt, shoot, wound, kill, skin, poison, net, snare, spear, trap, catch, dredge for, bring ashore or aboard a boat, pursue, lure, injure or harm the animal; or
- (ii) attempt to do an act mentioned in subparagraph (i).

Use, in relation to wildlife, includes buy, sell, give away, process, move or gain any benefit from the wildlife.

Interact, with an animal, is defined in the regulation, and includes the following—

- (a) approach, pursue or lure an animal for interacting with or feeding the animal;
- (b) to gain a benefit from interacting with or feeding the animal;
- (c) to attempt to do an act mentioned in paragraph (a) or (b).

This section allows a person without a wildlife authority to engage in particular activities (**interact**) with a protected animal in the wild, provided those activities are not *unauthorised interactions*. This section, therefore, amounts to a partial and conditional exemption for taking or use of a protected animal in the wild.

If a person engages in an activity that is an unauthorised interaction and the person is not engaging in the activity under a permission granted under the *Marine Parks Act 1982* or the *Great Barrier Reef Marine Park Act 1975* (Cwlth), the exemption afforded by this section does not apply to the person undertaking the activity. The person would only be able to conduct the activity if—

- the person is entitled to claim another exemption that authorises the activity; or
- the person holds a wildlife authority that authorises the person to engage in the activity.

If a person is interacting with a protected animal in the wild under a permission (however described) granted under the *Marine Parks Act 1982* or the *Great Barrier Reef Marine Park Act 1975* (Cwlth), the person is exempt from the restriction on taking or use of the animal under the Act, to the extent that the activity is authorised under the permission.

Clause 61 Wholesalers may move dead protected animals

This section allows a wholesaler in Queensland to move meat, skin or carcass of protected animal (other than crocodiles or emus) taken, kept or used in another State into Queensland, without a wildlife movement permit. However, the wholesaler must complete a movement advice for the movement.²⁹

The wholesaler may only move the animal into Queensland if the movement of the item is permitted under the applicable law of the other State and the item is packed in accordance with the law of the other State.

The skin, meat or carcass of particular protected animals are *processed products* and may be kept in Queensland without a wildlife authority.³⁰

Clause 62 Protected animals may be moved for private reasons

This section enables a person to move protected animals lawfully kept by the person—

- on the person's land; or
- if the person is moving to a new place of residence in Queensland—to the new place of residence.

29 See the regulation, chapter 7, part 2 (Movement advices) about the completion of movement advices generally.

30 See the regulation, section 317 and schedule 1, and the *Nature Conservation (Macropod) Conservation Plan 2005*, section 113 and schedule 1, for information about processed products.

Clause 63 Animals may be moved to and from veterinary surgeon

This section enables a person who keeps a protected animal to move the animal—

- from the place where the person usually keeps the animal to the registered premises of a veterinary surgeon who is to provide treatment or care for the animal; or
- from the premises of a registered veterinary surgeon who treated or cared for the animal to the place where the person usually keeps the animal.

However, if the person moves the animal to a veterinary surgeon in another State for treatment, the person must return the live animal to Queensland as soon as the treatment has ended.

Clause 64 Animals may be moved to and from display

This section allows a person who keeps an animal, other than under a wildlife authority, to move an animal to or from a display without a wildlife movement permit.

However the person may only move the animal without a wildlife movement permit if the person moves the animal back to its usual place or keeping after the display ends.

Clause 65 Dead protected animals may be moved to particular holders

An animal that is a protected animal remains protected even after it dies. Also, the parts or products of protected animals are also protected, unless they are identified as *processed products* for section 317 and schedule 1 of the regulation.

This section authorises a person who, without a wildlife authority, keeps a live protected animal (other than an exempt animal) that dies to move the carcass of the animal to the holder of a commercial wildlife licence for dead protected wildlife (i.e. a taxidermist) for stuffing and mounting. However, the person must complete a movement advice for the movement.

The movement of exempt animals generally is dealt with under section 45 (Moving exempt animals).

This requirement helps to demonstrate that wildlife kept by an unlicensed person is not being sold or traded in excess of the limits permitted for an unlicensed person, and that wildlife being used in taxidermy comes from a lawful source.

Part 2 Keeping, using or moving international or prohibited animals, other than under wildlife authority

Clause 66 Purpose of pt 2

This section describes the purpose of part 2, concerning the keeping, using and movement of international or prohibited animals, under an exemption.

Clause 67 Authorised keepers in another State

This section creates an exemption from the requirement to get a wildlife authority for a person in another State to buy or accept, and keep, an international or prohibited animal bought or accepted from a person authorised under the Act to sell or give it away.

The effect of this section is to enable a person in Queensland to sell or give an international or prohibited animal to a person in another State, and for the recipient not to require a separate Queensland wildlife authority to buy or accept and keep the animal. The provisions of this section do not purpose to usurp the laws of the other State.

Note however that restrictions on the movement of the animal, including the requirement to get a wildlife movement permit before moving the animal, may still apply.

Clause 68 Authorised keepers in another country

This section creates an exemption from the requirement to get a wildlife authority for a person in another country to buy or accept, and keep, an

international or prohibited animal bought or accepted from a person authorised under the Act to sell or give it away.

The effect of this section is to enable a person in Queensland to sell or give an international or prohibited animal to a person in another country, and for the recipient not to require a separate Queensland wildlife authority to buy or accept and keep the animal. The provisions of this section do not purpose to usurp the laws of the other country.

Note however that restrictions on the movement of the animal, including the requirement to get a wildlife movement permit before moving the animal, may still apply.

Clause 69 Veterinary surgeons

This section authorises a veterinary surgeon to keep or use a live prohibited or international animal for the purposes of providing care or treatment for the animal, and for the movement of deceased animals for disposal.

This law is in addition to and does not take away from other laws about the disposal of animal carcasses.

Part 3 Licences for taking, keeping or using animals

Division 1 Commercial wildlife licence (wildlife interaction)

Subdivision 1 Purposes

Clause 70 Purpose of licence and division 1

This section describes how the commercial wildlife licence (wildlife interaction) relates to other wildlife authorities and the purpose of the commercial wildlife licence (wildlife interaction).

This type of licence can be used to authorise a range of activities not otherwise permitted under most other wildlife authorities.

Subdivision 2 Restrictions on grant of licence

Clause 71 Restriction about persons to whom licence may be granted

This section restricts the grant of a commercial wildlife licence (wildlife interaction) to a person who has an approved interaction plan for the species.

Owing to the wide range of activities that could be authorised under the commercial wildlife licence (wildlife interaction), it is difficult to adopt legislation to adequately regulate the impacts of the activity. The interaction plan provides a way to—

- define the boundaries of the activity; and
- require the holder of a commercial wildlife licence (wildlife interaction) to commit to the undertakings, whether positive or restrictive, described in the plan.

An interaction plan describes the things that the proponent intends to do under the licence. If the plan is approved and the person gets a licence, the person is required to comply with their approved interaction plan.

Clause 72 Restriction about activities for which licence may be granted

This section requires the chief executive to refuse to grant a commercial wildlife licence (wildlife interaction) where the chief executive reasonably believes that the activity for which the licence is sought requires a different type of wildlife authority.

Subdivision 3 Activities authorised by licence

Clause 73 Engaging in unauthorised interaction authorised for particular animals

This section describes, in part, the things authorised by the commercial wildlife licence (wildlife interaction), namely, to engage in an unauthorised

interaction for the animal, other than in an area managed under the *Marine Parks Act 1982* or the *Great Barrier Reef Marine Park Act 1975* (Cwlth).³¹

The person may only engage in the unauthorised interaction to the extent it is authorised under the licence and is consistent with the person's approved interaction plan.

Clause 74 Using animals for training authorised for particular animals

This section allows a person who operates under a commercial wildlife licence (wildlife interaction) to use an animal kept by the person under another licence for the purpose of training a person in the safe handling of the animal.

However, the things authorised by the licence are limited so as to reduce overlap between the things authorised by the commercial wildlife licence (wildlife interaction) and other wildlife authorities. Specifically, the holder of a commercial wildlife licence (wildlife interaction) can not display wildlife in a—

- permanent enclosure, as this is the major activity authorised under a wildlife exhibitor licence; or
- temporary enclosure, as this is the major activity authorised under a wildlife demonstrator licence.

The section also affirms the application of the *Workplace Health and Safety Act 1995* with respect to matter of health and safety in the workplace.

Subdivision 4 Carrying out activities under licence

Clause 75 Compliance with approved interaction plan

This section requires a person who holds a commercial wildlife licence (wildlife interaction) to comply with their approved interaction plan while conducting activities under the licence.

³¹ See the regulation, section 60 (Interacting with protected animals in the wild) for information about conducting an activity that is an unauthorised interaction under this Act under a permission granted under the *Marine Parks Act 1982* or the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

Clause 76 Keeping report about activities under licence

This section requires a person who engages in activities under a commercial wildlife licence (wildlife interaction) to keep a report about activities under the licence, including problems or concerns about the activity, about—

- experiences that may indicate the activity is having adverse impacts on wildlife in the wild; and
- attacks on clients participating in the activity, which may indicate changing behaviour of wild animals; and
- complaints by the public about the activity.

Also, the licensee must describe what action they took to rectify the problem or concern.

The person must also produce the information to a conservation officer upon demand.

This information can then be used to promote changes in the activity and to contribute to the long-term management of conflict arising from the activities.

Division 2 Commercial wildlife licences

Subdivision 1 Purposes

Clause 77 Purpose of licence and division 2

This section describes the purpose of the commercial wildlife licence, which is to allow the keeping and use of particular protected animals for trade.

The section also describes how this division contributes to ensuring the conservation of animals, including ecologically sustainable use.

Subdivision 2 Restrictions on grant of licence

Clause 78 Restriction about animals for which licence may be granted

This section restricts the grant of a commercial wildlife licence to the following wildlife—

- a live controlled, commercial or recreational animal; or
- a dead protected or international animal.

Clause 79 General restriction on grant of licence for birds or reptiles

This section restricts the grant of a commercial wildlife licence for reptiles if a recreational wildlife licence for reptiles for the same licensed premises is in force. It also restricts the grant of a commercial wildlife licence for birds if a recreational wildlife licence for birds for the same licensed premises is in force.

A person can only keep a limited range of birds or reptiles under a commercial wildlife licence. A bigger range may be kept under a recreational wildlife licence. However, animals kept under a recreational wildlife licence can not be used commercially. This restriction minimises the opportunity for a person to sell animals kept under a recreational wildlife licence for a commercial purpose in connection with the activities authorised by the commercial wildlife licence.

Clause 80 Additional restriction for licence for live birds or reptiles

This section restricts the grant of a commercial wildlife licence for live birds or reptiles to a place that is to be used for the trade of wildlife, under the licence, on a permanent or long-term basis.

However, the licence may be granted for particular events where the applicant is a recreational bird society and the licence is not granted for more than 2 days.

Clause 81 Additional restriction for licence for reptiles

This section prevents the chief executive from granting a commercial wildlife licence for live reptiles unless the applicant, or a person who would be a relevant person for the applicant if the licence were granted, has passed a course of training approved by the chief executive concerning the husbandry of reptiles and other matters.

Subdivision 3 Activities authorised by licence

Clause 82 Keeping and using animals authorised

This section describes the things that a person who holds a commercial wildlife licence, for live or dead animals, may do under the licence.

The authorities conferred by the licence reflect the primary purpose of the licence, which is to allow the holder to deal commercially in particular protected animals. However the licence does not allow—

- taking protected wildlife from the wild; or
- moving wildlife.

Clause 83 Processing animals authorised

This section allows a person who holds a commercial wildlife licence for dead protected animals to process the animal. *Process* includes—

- stuff and/or mount the animal; and
- divide the animal into one or more parts.

Clause 84 Moving live protected animal to and from residence to provide care authorised

This section authorises a person who is operating under the licence to move a live protected animal between the person's place of residence and the licensed premises to provide care for the animal when the premises are closed or will be unattended.

Clause 85 Moving protected animal to display authorised with approval

This section authorises the movement of protected animals kept under a commercial wildlife licence, with the chief executive's written approval, between the licensed premises stated on the licence and a place where the animal kept under the licence is to be displayed for a period of time.

The person must move the animal back to the licensed premises from the place of the display once the display ends.

Clause 86 Moving international animals to display authorised with approval

This section authorises the movement of international wildlife kept under a commercial wildlife licence, with the chief executive's written approval, between the licensed premises stated on the licence and a place where the animal kept under the licence is to be displayed for a period of time.

The person must move the animal back to the licensed premises from the place of the display once the display ends.

Clause 87 Breeding mutation of protected birds authorised

This section authorises a person who keeps a protected bird under a commercial wildlife licence to breed a mutation, but not a hybrid, of the bird.³²

Subdivision 4 Carrying out activities under licence

Clause 88 Way animal must be kept and used

This section requires a person to keep an animal in a way that ensures the likelihood of escape, injury or ill-health to the animal is minimised.³³

32 See the Act, section 92 (Restriction on breeding hybrids etc. of protected animals) for the restriction about knowingly breeding hybrids or mutations of protected animals.

33 See also the regulation, chapter 7, part 3 (Housing for animals) for general requirements about housing all protected animals.

Codes of practice³⁴ are prepared in consultation with veterinary surgeons, the Department of Primary Industries and Fisheries, the RSPCA and industry representatives. Codes generally describe the most basic requirements for housing, diet, quarantine and care and are generally considered to represent the minimum acceptable standard of care. Therefore non-compliance with a code of practice is likely to indicate non-compliance with the requirements of this section.

Clause 89 Identifying dead animals kept under licence

This section requires a person who keeps a dead protected animal under a commercial wildlife licence to identify the animal in the way required by the chief executive.³⁵

The type of identification is a tag, ring or other thing that is uniquely numbered and can be used to identify the source of the wildlife.

Clause 90 Keeping record

This section requires a person who keeps animals under a commercial wildlife licence to keep a record for the animal.³⁶ A licence holder complies with the requirement if a relevant person³⁷ keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

34 See the Act, section 174A (Chief executive may make codes of practice) for information about codes of practice.

35 See also the regulation, section 317 and schedule 1 (Processed products) for information about processed products, and the Act, section 91(2) for information about keeping dead international wildlife.

36 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

37 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Clause 91 Giving return of operations

This section requires the holder of a commercial wildlife licence to give the chief executive a return of operations for the licence.³⁸ A licence holder complies with the requirement if a relevant person³⁹ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Division 3 Commercial wildlife licence (mobile)

Subdivision 1 Purposes

Clause 92 Purpose of licence and division 3

This section describes the purpose of the commercial wildlife licence (mobile) and the purposes of this division.

Subdivision 2 Restriction on grant of licence

Clause 93 Restriction about animals for which licence may be granted

This section specifies that the commercial wildlife licence (mobile) may only be granted for a dead macropod.

38 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

39 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Subdivision 3 Activities authorised by licence

Clause 94 Keeping and moving particular animals authorised

This section describes the things that a person operating under a commercial wildlife licence (mobile) may do under the licence.⁴⁰

Subdivision 4 Carrying out activities under licence

Clause 95 Keeping record

This section requires a prescribed person for a commercial wildlife licence (mobile) to keep a record for the licence.⁴¹ A licence holder complies with the requirement if a relevant person⁴² keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

Clause 96 Giving return of operations

This section requires the holder of a commercial wildlife licence (mobile) to give the chief executive a return of operations for the licence.⁴³ A licence holder complies with the requirement if a relevant person⁴⁴ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

40 The *Nature Conservation (Macropod) Conservation Plan 2005* also limits or extends the things authorised by the commercial wildlife licence (mobile).

41 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

42 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

43 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

44 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Division 4 Recreational wildlife licences

Subdivision 1 Purposes

Clause 97 Purpose of licence and division 4

This section describes the purpose of the recreational wildlife licence and the purposes of this division.

Subdivision 2 Restrictions on grant of licence

Clause 98 Restriction about animals for which licence may be granted

This section specifies that the recreational wildlife licence may only be granted for one or more of the following—

- a live controlled, commercial, recreational, restricted or international animal;
- a dead protected or international animal.

Clause 99 Restriction on grant of licence to children

This section restricts the grant of a recreational wildlife licence to a child unless—

- the child's parent or guardian⁴⁵ lives at the same place as the applicant; and
- the chief executive is satisfied that the parent or guardian will supervise the child while the child is carrying out activities under licence; and
- the name of the child's parent or guardian is stated on the licence.

Also, this section prohibits the grant of a recreational wildlife licence for a restricted animal⁴⁶ to a child.

⁴⁵ See the *Commission for Children and Young People and Child Guardian Act 2000* for the meaning of guardian.

Clause 100 Restriction on grant of licence for restricted birds

This section restricts the grant of a recreational wildlife licence for restricted birds to a person unless the chief executive is satisfied that the applicant has the knowledge, experience and facilities needed to keep the bird in the way stated in the aviculture code.⁴⁷

Clause 101 General restriction on grant of licence for birds and reptiles

This section restricts the grant of a recreational wildlife licence for reptiles if a commercial wildlife licence for reptiles for the same licensed premises is in force. It also restricts the grant of a recreational wildlife licence for birds if a commercial wildlife licence for birds for the same licensed premises is in force.

A person can only keep a limited range of birds or reptiles under a commercial wildlife licence. A bigger range may be kept under a recreational wildlife licence. However, animals kept under a recreational wildlife licence can not be used commercially. This restriction minimises the opportunity for a person to sell animals kept under a recreational wildlife licence for a commercial purpose in connection with the activities authorised by the commercial wildlife licence.

Subdivision 3 Activities authorised by licence

Clause 102 Keeping and using animals authorised

This section describes the things that a person operating under a recreational wildlife licence may do under the licence. That is, the person may keep and use⁴⁸—

- a species of animal stated on the licence; and

46 See the regulation, schedule 3, part 5, for the list of restricted animals.

47 See the *Code of Practice—Aviculture* made by the Minister under the Act, section 174A.

48 See the regulation, schedule 7 (Dictionary), for the meaning of use for a protected animal for the regulation.

- up to two restricted animals,⁴⁹ other than reptiles of the families Elapidae, Hydrophiidae or Laticaudidae (mainly venomous snakes).

A person must not use wildlife kept under a recreational wildlife licence for a commercial purpose.⁵⁰

Clause 103 Taking particular reptiles to feed other reptiles authorised

This section authorises the taking of particular reptiles from the wild as food for other reptiles kept under a recreational wildlife licence for reptiles. This enables people who keep particular reptiles with specialised diets, such as reptile-eating or reptile egg-eating species, to maintain their animals in captivity.

Clause 104 Moving protected animals to display authorised with approval

This section authorises the movement of protected wildlife kept under a recreational wildlife licence (with the chief executive's written approval) between the licensed premises and a place where the animal kept under the licence is to be displayed for a period of time.

The person must move the animal back to the licensed premises from the place of the display once the display ends.

Clause 105 Moving international animals to display authorised with approval

This section authorises the movement of international wildlife kept under a recreational wildlife licence, with the chief executive's written approval, between the licensed premises stated on the licence and a place where the animal kept under the licence is to be displayed for a period of time.

The person must move the animal back to the licensed premises from the place of the display.

⁴⁹ See the regulation, schedule 3, part 5, for the list of *restricted reptiles*.

⁵⁰ See the regulation, section 6 (Meaning of commercial purpose) for the definition of commercial purpose.

Clause 106 Breeding mutation of protected birds authorised

This section authorises a person who keeps a protected bird, other than a restricted bird, under a recreational wildlife licence to breed a mutation, but not a hybrid, of the bird.⁵¹

Subdivision 4 Carrying out activities under licence

Clause 107 Way animal must be kept and used

This section requires a person to keep an animal under a recreational wildlife licence in a way that ensures the likelihood of escape, injury or ill-health to the animal is minimised.⁵²

A person satisfies this requirement if the person complies with the relevant code of practice. However the code does not limit the ways that the person can satisfy the requirements.

Codes of practice⁵³ are prepared in consultation with veterinary surgeons, the Department of Primary Industries and Fisheries, the RSPCA and industry representatives. Codes generally describe the most basic requirements for housing, diet, quarantine and care and are generally considered to represent the minimum acceptable standard of care. Therefore non-compliance with a code of practice is likely to indicate non-compliance with the requirements of this section.

Clause 108 Particular animals must be kept for minimum period

This section requires a person who buys or accepts an animal under a recreational wildlife licence to keep the animal for a minimum period of six months, unless the animal dies, the person has the chief executive's

51 See the Act, section 92 (Restriction on breeding hybrids etc. of protected animals) for the restriction about knowingly breeding hybrids or mutations of protected animals.

52 See also the regulation, chapter 7, part 3 (Housing for animals) for general requirements about housing all protected animals.

53 See the Act, section 174A (Chief executive may make codes of practice) for information about codes of practice.

written approval to dispose of the animal, or the animal fledges if it was bought or accepted only for hand-raising.

Clause 109 Keeping record

This section requires the holder of a recreational wildlife licence to keep a record for the licence.⁵⁴ A licence holder complies with the requirement if a relevant person⁵⁵ keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

Division 5 Commercial wildlife harvesting licences

Subdivision 1 Purposes

Clause 110 Purpose of licence and division 5

This section describes the purpose of the commercial wildlife harvesting licence and the purposes of this division.

Subdivision 2 Restrictions on grant of licence

Clause 111 Restriction about animals for which licence may be granted

This section restricts the grant of a commercial wildlife harvesting licence to a species of animal that is least concern wildlife, unless a conservation plan authorises the grant of a commercial wildlife harvesting licence for a species of wildlife that is threatened, rare or near threatened to which the plan relates.

54 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

55 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

However, the chief executive may grant a commercial wildlife harvesting licence for a species that is prescribed as endangered, vulnerable, and rare or near threatened wildlife where the application relates to the harvesting of venomous snakes for the purpose of venom extraction for the production of antivenene for human medicinal use.

Clause 112 Restriction on grant of licence to children if weapons involved

The main thing authorised by a commercial wildlife harvesting licence is to take wildlife. This section restricts the grant of a commercial wildlife harvesting licence to a person who is 17 years of age or older if a weapon is to be used to take the wildlife under the licence.

Clause 113 Restriction on grant of licence for whales or dolphins

This section restricts the grant of a commercial wildlife harvesting licence for a whale or dolphin if the purpose the wildlife is being harvested for is display under a wildlife exhibitor licence or a wildlife demonstrator licence.

The *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) also regulates the taking of cetaceans in particular waters.

Subdivision 3 Activities authorised by licence

Clause 114 Taking, keeping and using particular animals authorised

This section describes the things that a person operating under a commercial wildlife harvesting licence may do under the licence.⁵⁶ That is, the person may—

- take an animal of a species on the licence from the place stated on the licence as the place of taking; and

⁵⁶ The *Nature Conservation (Macropod) Conservation Plan 2005* also limits or extends the things authorised by the commercial wildlife harvesting licence.

- keep and use,⁵⁷ other than buy or receive, an animal at the licensed premises for the licence.⁵⁸

This licence authorises a person to take a protected animal and use it for a commercial purpose.

Subdivision 4 Carrying out activities under licence

Clause 115 Way animal may be taken

This section prescribes the way that a person must take a protected animal under a commercial wildlife harvesting licence.

In particular, the person must take the animal—

- from a place that is not generally visible to another person, unless the other person is also taking wildlife from the place;
- in a way that causes disturbance to other wildlife or the environment;
- by using an approved method;⁵⁹ and
- if the activity involves taking an animal by killing it—by killing it as quickly and humanely as possible.

Where a conservation plan provides different requirements for taking the animal, the provisions of the conservation plan prevail over this section.

Clause 116 Dealing with carcass of animal taken under licence

This section requires a person who takes a protected animal under a commercial wildlife harvesting licence to keep the animal's carcass in a way that ensures the species of animal can be determined on visual examination. The features of the animal that enable it to be identified can

57 See the regulation, schedule 4 (Dictionary), for the meaning of use for protected wildlife for the regulation.

58 See the regulation, section 30 (Persons to whom holders may sell or give wildlife) for restrictions about to whom the holder of a commercial wildlife harvesting licence may sell or give wildlife taken under the licence.

59 See the regulation, schedule 4 (Dictionary) for the definition of approved method.

only be removed immediately before the animal is processed. This is necessary for the purposes of monitoring compliance with the Act.

Where a conservation plan provides different requirements for dealing with the animal's carcass, the provisions of the conservation plan prevail over this section.

Clause 117 Keeping record

This section requires the holder of a commercial wildlife harvesting licence to keep a record for the licence.⁶⁰ A licence holder complies with the requirement if a relevant person⁶¹ keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

Clause 118 Giving return of operations

This section requires the holder of a commercial wildlife harvesting licence to give the chief executive a return of operations for the licence.⁶² A licence holder complies with the requirement if a relevant person⁶³ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

60 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

61 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

62 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

63 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Division 6 Recreational wildlife harvesting licences

Subdivision 1 Purposes

Clause 119 Purpose of licence and division 6

This section describes the purpose of the recreational wildlife harvesting licence and the purposes of this division.

Subdivision 2 Restriction on grant of licence

Clause 120 Restriction about animals for which licence may be granted

This section restricts the grant of a recreational wildlife harvesting licence to a species of animal that is least concern wildlife, unless a conservation plan authorises the grant of a recreational wildlife harvesting licence for a species of animal that is prescribed as threatened, rare or near threatened wildlife to which the plan relates.

Clause 121 Restriction on grant of licence to children if weapons involved

The main thing authorised by a recreational wildlife harvesting licence is to take protected wildlife. This section restricts the grant of a recreational wildlife harvesting licence to a person who is 17 years of age or older if a weapon is to be used to take the animal under the licence.

Subdivision 3 Activities authorised by licence

Clause 122 Taking, keeping, processing and using particular animals authorised

This section describes the things that a person operating under a recreational wildlife licence may do under the licence. That is, the person may—

- take an animal of a species on the licence from the place stated on the licence as the place of taking;
- keep and use,⁶⁴ other than buy or receive, sell or give away the animal at the licensed premises for the licence; and
- process the animal.

This licence authorises a person to take wildlife and use it only for a non-commercial purpose.

Subdivision 4 Carrying out activities under licence

Clause 123 Way animal may be taken

This section prescribes the way that a person must take a protected animal under a recreational wildlife harvesting licence.

In particular, the person must take the animal—

- from a place that is not generally visible to another person, unless the other person is also taking wildlife from the place;
- in a way that does not causes disturbance to other wildlife or the environment;
- by using an approved method;⁶⁵ and
- if the activity involves taking an animal by killing it—by killing it as quickly and humanely as possible.

Where a conservation plan provides different requirements for taking the wildlife, the provisions of the conservation plan prevail over this section.

Clause 124 Dealing with carcass of animal taken under licence

This section requires a person who takes a protected animal under a recreational wildlife harvesting licence to keep the animal's carcass in a way that ensures the species of animal can be determined on visual examination. The features of the animal that enable it to be identified can

64 See the regulation, schedule 4 (Dictionary) for the meaning of use for protected wildlife for the regulation.

65 See the regulation, schedule 4 (Dictionary) for the definition of approved method.

only be removed immediately before the animal is processed. This is necessary for the purposes of monitoring compliance with the Act.

Where a conservation plan provides different requirements for dealing with the animal's carcass, the provisions of the conservation plan prevail over this section.

Clause 125 Giving return of operations

This section requires the holder of a recreational wildlife harvesting licence to give the chief executive a return of operations for the licence.⁶⁶ A licence holder complies with the requirement if a relevant person⁶⁷ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Division 7 Wildlife demonstrator licences

Subdivision 1 Purposes

Clause 126 Purpose of licence and division 7

This section describes the purpose of the wildlife demonstrator licence and the purposes of this division.

The major purpose of the wildlife demonstrator licence is to authorise the keeping and use of protected, international and prohibited wildlife for use in travelling or temporary displays where the display tends to promote education about wildlife and conservation.

66 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

67 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Subdivision 2 Activities authorised by licence

Clause 127 Keeping and using particular animals authorised

The powers conferred by the licence are consistent with the use of protected, international or prohibited wildlife in travelling or temporary displays, which is the major purpose of the wildlife demonstrator licence.

This section describes the things that a person operating under a wildlife demonstrator licence may do under the licence. That is, the person may—

- keep, buy and receive, sell and give away protected, international and prohibited animals kept under the licence at the licensed premises for the licence; and
- display an animal either at the licensed premises or at another place as part of a travelling or temporary display.

However, the person may only display wildlife under the licence if the main purpose of the display is to—

- give the public information about the ecological role of the animal;
- promote education about, and conservation of, the animal; or
- promote an understand of the ecology of the animal, or its conservation.

Also, a person may display wildlife for the purposes of film and television production.

Subdivision 3 Carrying out activities under licence

Clause 128 Number of live animals that may be kept under licence

This section limits the number of self-sufficient animals of any species that may be kept under a wildlife demonstrator licence to 30 animals, unless the person has the chief executive's written approval to keep more than 30 self-sufficient animals.

A condition on a wildlife demonstrator licence that restricts the number of animals that a person may keep under the licence relates to both dependent

young and self-sufficient animals.⁶⁸ Therefore, unless the holder of a wildlife demonstrator has the chief executive's written approval given under this section, where a condition on a licence allows a person to keep more than 30 animals of the same species, the person may only keep a maximum of 30 self-sufficient animals, with the balance being made up of dependent young or eggs.

An animal is self-sufficient when it no longer relies upon its parent for care, but for reasons of practicality, does not include an egg of a species that is not incubated by its parent, or a tadpole.

Clause 129 Minimum number of displays

This section requires a person to display wildlife kept under a wildlife demonstrator licence at least once in every month at a place other than the licensed premises, but only if the licence is granted for more than three months.

This restriction is imposed to ensure that the wildlife kept under the licence is being used in a manner consistent with the purpose of grant of the licence—that is, for demonstration for an approved display purpose or for film or television production.

Also, the licensee must keep a record of displays conducted at a place other than the licensed premises at the licensed premises and produce it to a conservation officer upon demand.

Clause 130 Way animal may be displayed

This section requires a person who displays an animal kept under a wildlife demonstrator licence to display the animal in a way that ensures the likelihood of escape, injury to a person or animal, or ill-health to the wildlife is minimised.⁶⁹

A person satisfies this requirement if the person complies with the relevant code of practice. However the code does not limit the ways that the person can satisfy the requirements.

68 See the regulation, section 20 (Meaning of number of wildlife authority) for the general meaning of a condition on a wildlife authority that restricts the number of animals that a person may keep under the authority.

69 See also the regulation, chapter 7, part 3 (Housing for animals) for general requirements about housing all protected animals.

Codes of practice⁷⁰ are prepared in consultation with veterinary surgeons, the Department of Primary Industries and Fisheries, the RSPCA and industry representatives. Codes generally describe the most basic requirements for housing, diet, quarantine and care and are generally considered to represent the minimum acceptable standard of care. Therefore non-compliance with a code of practice is likely to indicate non-compliance with the requirements of this section.

Also, a person must not display wildlife that has visible signs of illness or injury.

Clause 131 Animal being displayed must be supervised

This section requires a person to ensure that an animal that is kept under a wildlife demonstrator licence is supervised either by the licence holder or another relevant person at all times whilst it is being displayed.

Clause 132 Acts animal being displayed may be required to do

This section prohibits a person from requiring an animal to do an act that it would not normally do in the wild, unless the person has the chief executive's written approval to use require the animal to do the act.

Examples of actions that a person can not require an animal being displayed under a wildlife demonstrator licence to do include—

- requiring cockatoos to ride bicycles; and
- using snakes in exotic dancing.

Such acts undermine the educational merit of the display and may also pose a health risk to the animal.

Clause 133 Handling dangerous animals

This section restricts the handling of dangerous animals kept under a wildlife demonstrator licence to only the licence holder or a relevant person for the licence holder that has received appropriate training.

⁷⁰ See the Act, section 174A (Chief executive may make codes of practice) for information about codes of practice.

Clause 134 Keeping record

This section requires the holder of a wildlife demonstrator licence to keep a record for the licence.⁷¹ A licence holder complies with the requirement if a relevant person⁷² keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

Clause 135 Giving return of operations

This section requires the holder of a wildlife demonstrator licence to give the chief executive a return of operations for the licence.⁷³ A licence holder complies with the requirement if a relevant person⁷⁴ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Division 8 Wildlife exhibitor licences

Subdivision 1 Purposes

Clause 136 Purposes of licence and division 8

This section describes the purpose of the wildlife exhibitor licence and the purposes of this division.

The major purpose of the wildlife exhibitor licence is to authorise the keeping and use of protected, international and prohibited animals for use

71 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

72 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

73 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

74 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

in permanent and fixed exhibits where the display tends to promote education about wildlife and conservation.

Subdivision 2 Additional application requirement

Clause 137 Additional information requirement

This section contributes to enhanced service delivery by providing a means by which a person may receive written notice from the chief executive that the facilities the person has, or proposes to build, will fulfil the requirements for the grant of a wildlife exhibitor licence under the Act, the regulation and a relevant code of practice before the person applies for the licence.

The section requires a person to give the chief executive an exhibit notice either before the application for a wildlife exhibitor licence is submitted or at the time the application is made.

Where a person gives the chief executive an exhibit notice before the person submits an application for a wildlife exhibitor notice, the chief executive must consider the notice and, within 40 days of receiving it, give the person a written notice stating—

- that the facilities in the exhibit notice comply with the requirements of the Act, the regulation and the relevant code of practice; or
- the facilities do not meet the requirements of the Act, regulation or the code of practice and describe the things that the person must do to make the facilities compliant.

A person may submit more than one exhibit notice. Therefore, the process of ensuring that a facility is compliant can be iterative.

The chief executive is not, however, required to give the applicant a written notice in relation to an exhibit notice if the person submits an application for a wildlife exhibitor licence within 40 business days after giving the chief executive the exhibit notice.

Subdivision 3 Restriction on grant of licence

Clause 138 Exhibit must meet particular criteria

This section specifies the minimum standards for a facility for which a wildlife exhibitor licence may be granted. It also links the notice given by the chief executive to the requirements for the grant of a wildlife exhibitor licence.

The person must ensure—

- if the chief executive has given the person a notice under section 132 advising the person that the exhibit complies with the requirements for the grant of a wildlife exhibitor licence—the person has built the facility in the manner described in the exhibit notice to which the notice relates; or
- if the chief executive has given the person a notice advising the person that the facility does not comply with the requirements for the grant of an exhibitor licence—the person has constructed the facility in the manner described by the chief executive in the notice; or
- otherwise, the facility complies with the Code of Practice—Exhibiting Wildlife in Queensland.

Also, the exhibit for which the application is made must comply with the prescribed criteria⁷⁵ for an exhibit.

Subdivision 4 Activities authorised by licence

Clause 139 Keeping and using particular animals authorised

The powers conferred by the licence are consistent with the use of protected, international or prohibited wildlife in permanent or fixed exhibit, which is the major purpose of the wildlife exhibitor licence.

This section describes the things that a person operating under a wildlife exhibitor licence may do under the licence. That is, the person may—

⁷⁵ See the regulation, schedule 4 (Dictionary) for the meaning of *prescribed criteria*.

- keep, buy and receive, sell and give away protected, international and prohibited animals kept under the licence at the licensed premises for the licence;
- display the animals at the licensed premises as part of a permanent or fixed exhibit; and
- display the animals at a place other than the licensed premises in a travelling or temporary display.

However, the person may only display wildlife under the licence if the main purpose of the display is to—

- give the public information about the ecological role of the animal;
- promote education about, and conservation of, the animal; or
- promote an understand of the ecology of the animal, or its conservation.

Also, the holder may display wildlife for the purpose of film and television production.

Clause 140 Obtaining and keeping particular animals authorised

This section authorises the holder of a wildlife exhibitor licence to obtain and rehabilitate sick, injured and orphaned protected animals stated on the licence for the purposes of releasing them to the wild, without requiring the licensee to obtain a separate rehabilitation permit.

A person who takes or obtains sick, injured or orphaned protected animal from the wild under the wildlife exhibitor licence is taken to hold a rehabilitation permit for the animal and—

- may do the things that the holder of a rehabilitation permit may do in relation to an animal kept under a rehabilitation permit; and
- must do the things that the holder of a rehabilitation permit must do in relation to an animal kept under a rehabilitation permit

including, for example, releasing the animal back to the wild once it is again able to live in wild after rehabilitation.⁷⁶

Clause 141 Engaging in unauthorised interaction authorised in particular circumstances

This section authorises a person who is operating under a wildlife exhibitor licence to engage in an unauthorised interaction with a protected animal that is in the wild if the holder has an approved interaction plan for the species.

Clause 142 Moving animals to or from other licensed premises authorised

Zoological institutions often have multiple premises. These premises may comprise another wildlife exhibit or an off-exhibit area for breeding or housing animals in quarantine.

This section authorises the movement of wildlife kept under a wildlife exhibitor licence in the State to or from the premises stated in either of the following wildlife authorities held by the same person, also in the State, without a wildlife movement permit—

- wildlife exhibitor licence; or
- permit to keep protected wildlife.

Subdivision 5 Carrying out activities under licence

Clause 143 Way animal may be displayed

This section requires a person who displays an animal kept under a wildlife exhibitor licence to display the animal in a way that ensures the likelihood of escape, injury to a person or ill-health to the wildlife is minimised.⁷⁷

⁷⁶ See the regulation, chapter 3, part 4, division 5 (Rehabilitation permits) for information about the things that the holder of a rehabilitation permit may and must do in relation to wildlife kept under the permit.

⁷⁷ See also the regulation, chapter 7, part 3 (Housing for animals) for general requirements about housing all protected animals.

A person satisfies this requirement if the person complies with the relevant code of practice. However the code does not limit the ways that the person can satisfy the requirements.

Codes of practice⁷⁸ are prepared in consultation with veterinary surgeons, the Department of Primary Industries and Fisheries, the RSPCA and industry representatives. Codes generally describe the most basic requirements for housing, diet, quarantine and care and are generally considered to represent the minimum acceptable standard of care. Therefore non-compliance with a code of practice is likely to indicate non-compliance with the requirements of this section.

Also, a person must not display wildlife that has visible signs of illness or injury, unless the person has the chief executive's written approval. The chief executive's approval may be granted where there is some educational merit or conservation argument for displaying the wildlife, such as to demonstrate the impacts of vehicles or domestic dogs on wildlife. Approval generally won't be available where the animal is grossly disfigured or otherwise exhibits signs of severe illness.

Clause 144 Animal being displayed must be supervised

This section requires a person to ensure that an animal that is kept under a wildlife exhibitor licence is supervised either by the licence holder or another relevant person at all times whilst it is being displayed.

This section helps to ensure that the likelihood of the animal being stolen, escaping or causing injury is minimised.

Clause 145 Acts animal being displayed may be required to do

This section prohibits a person from requiring an animal to do an act that it would not normally do in the wild, unless the person has the chief executive's written approval to use require the animal to do the act.

Examples of actions that a person can not require an animal being displayed under a wildlife exhibitor licence to do include—

- requiring cockatoos to ride bicycles; and

⁷⁸ See the Act, section 174A (Chief executive may make codes of practice) for information about codes of practice.

- using snakes in exotic dancing.

Such acts undermine the educational merit of the display, do not contribute to the education of the public concerning the conservation of wildlife and may also pose a health risk to the animals.

Clause 146 Handling dangerous animals

This section restricts the handling of dangerous animals kept under a wildlife exhibitor licence only to the licence holder or a relevant person for the licence holder that has received appropriate training.

Clause 147 Dealing with sick, injured and orphaned animals

This section requires a person who keeps a sick, injured or orphaned protected animal taken from the wild under a wildlife exhibitor licence to keep it in a way that contributes, or is likely to contribute, to the rehabilitation of the animal for release to the wild.⁷⁹

A person satisfies this requirement if the person complies with the relevant code of practice. However the code does not limit the ways that the person can satisfy the requirements.

Codes of practice are prepared in consultation with veterinary surgeons, the Department of Primary Industries and Fisheries, the RSPCA and industry representatives. Codes generally describe the most basic requirements for housing, diet, quarantine and care and are generally considered to represent the minimum acceptable standard of care. Therefore non-compliance with a code of practice is likely to indicate non-compliance with the requirements of this section.

Clause 148 Particular holders must comply with approved interaction plan

This section requires a person who, under a wildlife exhibitor licence, engages in an unauthorised interaction with a protected animal in the wild, to comply with the person's approved interaction plan.

⁷⁹ See also the regulation, chapter 7, part 3 (Housing for animals) for general requirements about housing all protected animals.

Clause 149 Particular holders must keep report about particular activities

This section requires a person who engages in an unauthorised interaction with a protected animal in the wild under a wildlife exhibitor licence to keep a report about activities under the licence. The activities include problems or concerns about the activity, including—

- experiences that may indicate the activity is having adverse impacts on wildlife in the wild;
- attacks on clients participating in the activity, which may indicate changing behaviour of wild animals; and
- complaints by the public about the activity.

Also, the licensee must describe what action the licensee undertook to rectify the problem or concern.

The person must also produce the information to a conservation officer upon demand.

This information can then be used to promote changes in the activity and to contribute to the long-term management of conflict arising from the activities.

Clause 150 Keeping record

This section requires the holder of a wildlife exhibitor licence to keep a record for the licence.⁸⁰ A licence holder complies with the requirement if a relevant person⁸¹ keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

80 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

81 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Clause 151 Giving return of operations

This section requires the holder of a wildlife exhibitor licence to give the chief executive a return of operations for the licence.⁸² A licence holder complies with the requirement if a relevant person⁸³ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Division 9 Wildlife farming licence

Subdivision 1 Purposes

Clause 152 Purpose of licence and division 9

This section describes the purpose of the wildlife farming licence and the purposes of this division.

The major purpose of the wildlife farming licence is to authorise the keeping and use of particular protected animals for farming for skin or meat production or for venom extraction for antivenene production.

Subdivision 2 Restrictions on grant of licence

Clause 153 Restriction about animals for which licence may be granted

This section limits the range of wildlife for which a wildlife farming licence may be issued to a farm animal.⁸⁴

82 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

83 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

84 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of *farm animal* for the regulation.

Clause 154 Restriction on grant of licence for particular reptiles

This section prohibits the grant of a wildlife farming licence for a snake that is a farm animal unless the snake is to be used for the purposes of venom extraction for the production of antivenene for human medicinal use.

Subdivision 3 Activities authorised by licence

Clause 155 Keeping, using and processing particular animals authorised

The powers conferred by the licence are consistent with the use of particular protected, wildlife for farming. Some secondary uses, including display of wildlife, are permitted.

This section describes the things that a person operating under a wildlife farming licence may do under the licence. That is, the person may—

- keep, buy and receive, sell and give away and process farm animals kept under the licence at the licensed premises for the licence;
- display the animal at the licensed premises as part of a permanent or fixed exhibit; and
- display the animal at a place other than the licensed premises in a travelling or temporary display.

However, the person may only display animals under the licence if the main purpose of the display is to—

- give the public information about the ecological role of the animal;
- promote education about, and conservation of, the animal; or
- promote an understand of the ecology of the animal, or its conservation.

Also, the holder may display wildlife for the purpose of film and television production.

Clause 156 Moving animals to or from other licensed premises authorised

Wildlife farmers often have multiple premises. These premises may comprise another farm or a separate area for breeding or housing animals in quarantine.

This section authorises the movement of animals kept in the State under a wildlife farming licence to or from the premises stated in either of the following wildlife authorities held by the same person, also in the State, without a wildlife movement permit—

- wildlife farming licence; or
- permit to keep protected wildlife.

Subdivision 4 Carrying out activities under licence**Clause 157 Identifying animal taken from the wild**

This section requires a person who keeps an animal under a wildlife farming licence that was taken from the wild under another wildlife authority (eg. a commercial wildlife harvesting licence or a problem crocodile taken under a damage mitigation permit that is given to the licence holder by the chief executive) to identify the animal in the way approved by the chief executive.

This section helps to ensure that wildlife taken from the wild for a particular purpose, such as venomous snakes taken from the wild for venom extraction for antivenene production for human medicinal use, are used for the purposes for which they were taken and are not introduced to normal commercial or recreational trade.

This section does not authorise a person to take a protected animal from the wild under a wildlife farming licence.

Clause 158 Sampling particular reptiles

This section requires a person who keeps a protected snake under a wildlife farming licence to take and register a biological tissue sample with an approved scientific institution.

However, the requirement applies only if the Minister has approved a scientific institution for the purpose. A person has 20 business days from the first of the following events to comply with the requirement to take and register a biological tissue sample—

- if the person keeps a reptile at the time the approval is given—from the date the approval is given; or
- if the person buys or accepts a reptile—from the date the person take possession of the reptile.

The holder of a wildlife farming licence can possess wild-harvested and captive-bred animals of the same species at the same time. This section helps to establish the identity of animals kept under the licence and minimises the likelihood that animals kept under the licence, particularly animals that were taken in the wild under a commercial wildlife harvesting licence, are used for extracting venom and not used as a means by which to channel the animals into commercial or recreational trade.

Clause 159 Implanting particular reptiles

This section requires a person who keeps a protected snake under a wildlife farming licence to implant an approved electromagnetic implant into the animal.

However, the requirement applies only if the Minister has approved an electromagnetic implant for use for the purpose. A person has 20 business days from the first of the following events to comply with the requirement to insert an electromagnetic implant—

- if the person keeps a reptile at the time the approval is given—from the date the approval is given;
- if the person buys or accepts a reptile—from the date the person take possession of the reptile.

The holder of a wildlife farming licence can possess wild-harvested and captive-bred animals of the same species at the same time. This section helps to establish the identity of animals kept under the licence and minimises the likelihood that animals kept under the licence, particularly animals that were taken in the wild under a commercial wildlife harvesting licence, are used for extracting venom and not used as a means by which to channel the animals into commercial or recreational trade.

Clause 160 Way animal may be displayed

This section requires a person who displays an animal kept under a wildlife farming licence to display it in a way that ensures the likelihood of escape, injury to a person or ill-health to the wildlife is minimised.⁸⁵

A person satisfies this requirement if the person complies with the relevant code of practice. However the code does not limit the ways that the person can satisfy the requirements.

Codes of practice⁸⁶ are prepared in consultation with veterinary surgeons, the Department of Primary Industries and Fisheries, the RSPCA and industry representatives. Codes generally describe the most basic requirements for housing, diet, quarantine and care and are generally considered to represent the minimum acceptable standard of care. Therefore non-compliance with a code of practice is likely to indicate non-compliance with the requirements of this section.

Also, a person must not display an animal that has visible signs of illness or injury, unless the person has the chief executive's written approval. The chief executive's approval may be granted where there is some educational merit or conservation argument for displaying the animal, such as, for example, to demonstrate the impacts of vehicles or domestic dogs on wildlife. Approval generally won't be available where the animal is grossly disfigured or otherwise exhibits signs of severe illness.

Clause 161 Animal being displayed must be supervised

This section requires a person to ensure that an animal that is kept under a wildlife farming licence is supervised either by the licence holder or another relevant person at all times whilst it is being displayed.

Clause 162 Acts animal being displayed may be required to do

This section prohibits a person from requiring an animal to do an act that it would not normally do in the wild, unless the person has the chief executive's written approval to use require the animal to do the act.

85 See also the regulation, chapter 7, part 3 (Housing for animals) for general requirements about housing all protected animals.

86 See the Act, section 174A (Chief executive may make codes of practice) for information about codes of practice.

Examples of actions that a person can not require an animal being displayed under a wildlife farming licence to do include using snakes in exotic dancing.

Such acts undermine the educational merit of the display, do not contribute to the education of the public concerning the conservation of wildlife and may also pose a health risk to the animal.

Clause 163 Handling dangerous animals

This section restricts the handling of dangerous animals kept under a wildlife farming licence only to the licence holder or a relevant person for the licence holder that has received appropriate training.

Clause 164 Keeping record

This section requires the holder of a wildlife farming licence to keep a record for the licence.⁸⁷ A licence holder complies with the requirement if a relevant person⁸⁸ keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

Clause 165 Giving return of operations

This section requires the holder of a wildlife farming licence to give the chief executive a return of operations for the licence.⁸⁹ A licence holder complies with the requirement if a relevant person⁹⁰ gives the return to the chief executive.

87 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

88 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

89 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

90 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Division 10 Museum licences

Subdivision 1 Purposes

Clause 166 Purpose of licence and division 10

This section describes the purpose of the museum licence and the purposes of this division.

The major purpose of the museum licence is to authorise a non-profit institution that is owned or administered by the Commonwealth or a State, which has as its function the preservation of information in any branch of the natural sciences about animals to—

- take, keep and use protected animals; and
- keep and use international wildlife.

A person may also exhibit live animals under the licence, provided the animals were captive-bred.

Subdivision 2 Restrictions on grant of licence

Clause 167 Restriction about persons to whom licence may be granted

This section restricts the grant of a museum licence to a State museum.

This restriction is needed to prevent the licence, which confers extensive power to take wildlife, regardless of its conservation status, being granted to a person other than a government-owned or operated institution where taking of the animals will make a significant contribution to knowledge about the wildlife and conservation.

Clause 168 Restriction about animals for which licence may be granted

This section restricts the grant of a museum licence other than for live or dead protected and international animals. The major function of a museum is the collection and preservation of dead animals. However, this section also authorises the grant of a museum licence for live protected or international wildlife.

Clause 169 Restriction on grant of licence authorising display

This section restricts the grant of a museum licence that authorises the display of live animals under the licence. The exhibit must be compliant with the exhibition code and must meet with the prescribed criteria⁹¹ for exhibit.

The exhibit must be of a similar standard to that required for the grant of a wildlife exhibitor licence.⁹²

Subdivision 3 Activities authorised by licence

Clause 170 Taking, keeping, using and processing particular animals authorised

This section describes the things that a person operating under a museum licence may do under the licence. The person may—

- take a species of protected animal stated on the licence from the place stated on the licence as the place of taking; and
- buy or accept an animal of a species stated on the licence; and
- keep, use and process an animal of a species mentioned on the licence; and
- if the chief executive has stated on the licence that the person may display live animals, display live animals at the licensed premises for the licence.

91 See the regulation, schedule 4 (Dictionary) for the meaning of *prescribed criteria* for an exhibit.

92 See the regulation, chapter 3, part 3, division 8 (Wildlife exhibitor licences) for information about wildlife exhibitor licences.

However, the person may only display animals under the licence if the main purpose of the display is to—

- give the public information about the ecological role of the animal;
- promote education about, and conservation of, the animal; or
- promote an understand of the ecology of the animal, or its conservation.

Also, the licence does not authorise a person to take an animal from the wild for display as a live animal.

Clause 171 Moving animals to or from other licensed premises authorised

Museums often have multiple premises. These premises may comprise another storage or processing areas or, for live animals, a separate area for breeding or housing animals in quarantine.

This section authorises the movement of animals kept under a museum licence in the State to or from the premises stated in a permit to keep protected wildlife held by the same person, also in the State, without a wildlife movement permit.

Subdivision 4 Carrying out activities under licence

Clause 172 Where animals may be displayed

This section requires a person that displaying a live animal under a museum licence must ensure that the wildlife is displayed in permanent enclosure that is an integral part the display.

This ensures that the keeping and use of live animals by a museum conveys, to the maximum extent possible, information that contributes to a greater understanding and appreciation of conservation of wildlife and the natural environment.

Clause 173 Way animal may be displayed

This section requires a person who displays a live animal kept under a museum licence to display it in a way that ensures the likelihood of escape, injury to a person or ill-health to the wildlife is minimised.⁹³

A person satisfies this requirement if the person complies with the relevant code of practice. However the code does not limit the ways that the person can satisfy the requirements.

Codes of practice⁹⁴ are prepared in consultation with veterinary surgeons, the Department of Primary Industries and Fisheries, the RSPCA and industry representatives. Codes generally describe the most basic requirements for housing, diet, quarantine and care and are generally considered to represent the minimum acceptable standard of care. Therefore non-compliance with a code of practice is likely to indicate non-compliance with the requirements of this section.

Also, a person must not display an animal that has visible signs of illness or injury, unless the person has the chief executive's written approval. The chief executive's approval may be granted where there is some educational merit or conservation argument for displaying the animal, such as, for example, to demonstrate the impacts of vehicles or domestic dogs on wildlife. Approval generally won't be available where the animal is grossly disfigured or otherwise exhibits signs of severe illness.

Clause 174 Animal being displayed must be supervised

This section requires a person to ensure that a live animal that is kept under a museum licence is supervised either by the licence holder or another relevant person at all times whilst it is being displayed.

Clause 175 Acts animal being displayed may be required to do

This section prohibits a person from requiring an animal to do an act that it would not normally do in the wild, unless the person has the chief executive's written approval to use require the animal to do the act.

93 See also the regulation, chapter 7, part 3 (Housing for animals) for general requirements about housing all protected animals.

94 See the Act, section 174A (Chief executive may make codes of practice) for information about codes of practice.

Examples of actions that a person can not require an animal being displayed under a museum licence to do include—

- requiring cockatoos to ride bicycles; and
- using snakes in exotic dancing.

Such acts undermine the educational merit of the display, do not contribute to the education of the public concerning the conservation of wildlife and may also pose a health risk to the animal.

Clause 176 Handling dangerous animals

This section restricts the handling of dangerous animals kept under a museum licence only to the licence holder or a relevant person for the licence holder that has received appropriate training.

Clause 177 Keeping record

This section requires the holder of a museum licence to keep a record for the licence.⁹⁵ A licence holder complies with the requirement if a relevant person⁹⁶ keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

Clause 178 Giving return of operations

This section requires the holder of a museum licence to give the chief executive a return of operations for the licence.⁹⁷ A licence holder complies with the requirement if a relevant person⁹⁸ gives the return to the chief executive.

95 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

96 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

97 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

98 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Part 4 Permits for taking, keeping or using animals

Division 1 General restrictions on grant for all permits

Clause 179 General restriction on grant of permits to children

This section restricts the grant of a permit to a child unless—

- the child's parent or guardian⁹⁹ lives at the same place as the applicant;
- the chief executive is satisfied that the parent or guardian will supervise the child while the child is carrying out activities under the permit; and
- the name of the child's parent or guardian is stated on the permit.

This section attempts to ensure wildlife is kept in a way that ensures its general health and wellbeing, the likelihood of escape is minimised and records are maintained accurate and up-to-date.

Clause 180 Restriction on grant of particular permits to children if weapon involved

This section restricts the grant of the following permits to a person who is under 17 years of age where a weapon is to be used for the taking of the animal—

- damage mitigation permit;

⁹⁹ See the *Commission for Children and Young People and Child Guardian Act 2000* for the meaning of guardian.

Clause 183 Additional restriction about permits for near threatened animals

This section imposes restrictions about the granting of a damage mitigation permit to take near threatened animals that are causing, or may cause, damage to property. The additional restrictions reflect the higher threat to the conservation of the species.

The chief executive may only issue the permit if satisfied—

- there is no alternative to taking the animal; and
- the way the person intends to take the animal will prevent the damage or loss caused or likely to be caused by the animal; and
- the taking of animals under the permit is a temporary approach to dealing with the damage or loss and will be replaced by other long-term strategies described in the approved property management plan.

Examples of things that the chief executive might consider in deciding whether there is an alternative to taking the animal include—

- the availability of alternative technologies that can prevent the damage being caused, or likely to be caused, by the animal without causing harm to it; and
- the likelihood of successful application of the different measures that might be taken; and
- the financial implications of the different measures in the short and long term.

Clause 184 Restriction about purposes for which permit may be granted

This section restricts the grant of a damage mitigation permit to take protected animals where there is a real and imminent risk of the following—

- damage or loss to property caused, or likely to be caused, by a protected animal; or
- ill-health or injury to human well-being caused by the animal.

Clause 185 Restriction on grant of permit for damage or loss

This section states the circumstances in which a damage mitigation permit may be issued to prevent damage or loss caused, or likely to be caused, by a protected animal. Specifically, the following conditions must be met in order for the chief executive to grant the permit—

- the animal is actually causing loss or damage, or there is a real and imminent risk of the animal causing loss or damage if it is not taken;
- the land-holder has taken all reasonable and practicable measures to prevent the damage or loss from occurring, having regard to all available technologies to prevent the damage, the likelihood of successful application of these technologies and the cost of adopting those technologies in the short and long term;
- the taking of the wildlife will not affect the survival of the species of wildlife stated in the application; and
- the chief executive is satisfied that the taking is humane and where it involves the taking of animals by lethal methods, the method of taking the wildlife will usually result in instantaneous death.

Clause 186 Restriction on grant of permit for threat to human health and wellbeing

This section states the circumstances in which a damage mitigation permit may be issued to mitigate a threat, or potential threat, to human health or wellbeing caused, or likely to be caused, by a protected animal. Specifically, the following conditions must be met in order for the chief executive to grant the permit—

- there is an actual threat to human health or wellbeing caused by a protected animal, or there is a real and imminent threat of human health or wellbeing being affected by the wildlife;
- the taking of the animal will not affect the survival of the species stated in the application;
- the chief executive is satisfied that the taking is humane and where it involves the taking of animals by lethal methods, the method of taking the animal will usually result in instantaneous death;

- where the animal is a reptile, the animal will be released to the wild, unless a conservation plan allows the animal to be kept.¹⁰⁰

Subdivision 3 Activities authorised by permit

Clause 187 Taking particular animals authorised

This section describes the things that a person operating under a damage mitigation permit may do under the permit. The person may—

- take a species of protected animal stated on the permit from the place of taking stated on the permit; and
- if the chief executive has also authorised the removal of an animal's breeding place (e.g. a nest, roost or hollow) on the permit—remove the animal's breeding place;¹⁰¹ and
- if the chief executive has authorised a person to release an animal taken under the permit to the wild—release the animal to an appropriate natural habitat.

A person who takes a protected animal under a damage mitigation permit can not keep or use the animal. This restriction is designed to remove the incentive to lodge applications for damage mitigation permits to take protected animals under false pretences that it is either causing or may cause loss or damage, or because it poses a threat to human health or wellbeing, where the real reason the person wants to take the animal is to keep or sell it.

100 See, for the example, the *Nature Conservation (Problem Crocodiles) Conservation Plan 1995*.

101 See the regulation, section 332 (Tampering with animal breeding place) for the offence for tampering with an animal's breeding place.

Subdivision 4 Carrying out activities under permit

Clause 188 Giving return of operations

This section requires the holder of a damage mitigation permit to give the chief executive a return of operations for the permit.¹⁰² A permit holder complies with the requirement if a relevant person¹⁰³ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Division 3 Educational purposes permits

Subdivision 1 Purpose

Clause 189 Purpose of permit

This section describes the purpose of the educational purposes permit, which is to take, keep or use animals for genuine educational purposes.

Subdivision 2 Restriction on grant of permit

Clause 190 Restriction about persons to whom permit may be granted

This section prescribes the conditions that an applicant for an educational purposes permit must satisfy in order to get the permit. These restrictions are designed to ensure that the educational purposes permit, which can authorise the taking of protected animals from the wild, are issued only to a person who intends to use the animal for a genuine educational purpose

102 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

103 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

and the prerequisite knowledge and ability to use the animal for that purpose.

If the applicant is an individual, the person must hold tertiary qualifications, or demonstrated experience relevant to the activities to be conducted under the permit.

If the applicant is a corporation, the permit may only be granted if the corporation is principally an educational institution or organisation.

Clause 191 Restriction about purposes for which permit may be granted

This section restricts the grant of an educational purposes permit for an activity that is, in the chief executive's opinion—

- principally for use in education by a registered educational institution, or by another entity that ordinarily engages in activities concerning educating the public about wildlife and conservation; and
- is not done with the intention of making a financial gain, whether as the primary purpose of the activity or a component of it.

This requirement helps to differentiate the types of activities envisaged for the educational purposes permit from other wildlife authorities under the Act, especially commercial wildlife harvesting licences, commercial wildlife licences and recreational wildlife licences.

Subdivision 3 Activities authorised by permit

Clause 192 Taking, keeping and using particular animals authorised

This section describes the things that a person operating under an educational purposes permit may do under the permit. The person may—

- if the chief executive has stated on the permit that the person may take a protected animal stated on the permit—take a species of protected animal stated on the permit from the place stated on the licence as the place of taking;
- buy or accept an animal of a species stated on the permit; and

- keep and use,¹⁰⁴ other than sell or give away an animal stated on the permit.

However, a person must not use an animal taken, kept or used under an educational purposes permit for a commercial purpose.¹⁰⁵ The sale or disposal of wildlife kept under an educational purposes permit is not permitted.

The educational purposes permit does not, by default, allow a person to take animals. A person may only take animals from the wild if the chief executive has specifically given this authority on the permit. This helps to reinforce that animals used in educational displays etc. should, to the extent possible, be sourced from captive-bred populations.

The *Animal Care and Protection Act 2001* deals with the taking and use of animals for research. This Act does not take from that Act in respect of animal welfare and a person who holds an educational purposes permit must comply with the requirements of other legislation, including the *Animal Care and Protection Act 2001*, concerning animal welfare and animal ethics.

Subdivision 4 Carrying out activities under permit

Clause 193 Giving return of operations

This section requires the holder of an educational purposes permit to give the chief executive a return of operations for the permit.¹⁰⁶ A permit holder complies with the requirement if a relevant person¹⁰⁷ gives the return to the chief executive.

104 See the regulation, schedule 4 (Dictionary), for the meaning of use for a protected animal for the regulation.

105 See the regulation, section 6 (Meaning of commercial purpose) for the meaning of commercial purpose for a protected animal for the regulation.

106 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

107 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Division 4 Permits to keep protected wildlife

Subdivision 1 Purpose

Clause 194 Purpose of permit

This section describes the purpose of the permit to keep protected wildlife, which is to authorise the keeping of protected animals in particular circumstances where the keeping would be inconsistent with the things authorised by most other wildlife authorities granted under the Act.

Subdivision 2 Restrictions on grant of permit

Clause 195 Restriction about purposes for which permit may be granted

This section restricts the grant of permit to keep protected wildlife to allow a person to keep, but not use, particular protected animals in the following circumstances—

- to keep an animal that was taken under a rehabilitation permit, where the animal can not be returned to the wild and the chief executive has given the person written notice stating that the animal is not to be returned to the wild;¹⁰⁸
- to keep an animal that has been taken or kept in another state, where the person who took or kept the animal has moved residence into Queensland and the person can not otherwise keep the animal under another type of licence or permit granted under the Act;

¹⁰⁸ See the regulation, section 216 (Returning animal to natural habitat) for the requirement to return an animal kept under a rehabilitation permit to a prescribed natural habitat once it is again able to live in the habitat.

- to temporarily keep an animal kept under another wildlife authority, other than a rehabilitation permit, that has ended so the keeper has an opportunity to make arrangements for housing of the animal with another appropriately licensed person in the long term;
- to allow an animal kept under a wildlife exhibitor licence, wildlife farming licence or museum licence to keep an animal at a place on a temporary basis at a place other than the licensed premises, for breeding, quarantine or off-display respite care.

Clause 196 Restriction on grant of permit for animal taken under rehabilitation permit

This section states the circumstances under which a permit may be granted for an animal taken under a rehabilitation permit.¹⁰⁹ A permit may only be granted if—

- the chief executive is satisfied that the animal is unlikely to survive in the wild for whatever reason, including the nature of the animal's sickness or injury;
- the chief executive has, under section 216 of the regulation, notified the person who held the rehabilitation permit that the animal is not to be released to the wild;
- if the animal is a species of animal that is not ordinarily allowed to be kept privately or recreationally in Queensland because it is not a species mentioned in schedule 3 (Relevant protected animals)—the person intends to use the animal for the rehabilitation of other animals of the same or closely related species; and
- if the species is the subject of an approved captive breeding program—the applicant is a participant in the program.

There is no specific restriction on the species that may be taken and kept for rehabilitation, however the availability of suitable facilities to rehabilitate a species does have the effect of restricting the species for which a permit may be issued. This section is intended to—

¹⁰⁹ See the regulation, section 216 (Returning animal to natural habitat) for the requirement to return an animal kept under a rehabilitation permit to a prescribed natural habitat once it is again able to live in the habitat.

- minimise the incidences of using animals taken for rehabilitation being used to supplement or establish captive populations, including species not ordinarily available for private keeping and use in Queensland, unless there is a significant conservation reason for doing so; and
- ensure that an animal that can not be returned to the wild, where the species is the subject of an approved captive breeding program, can only be kept under a permit to keep protected wildlife if the person is a participant in the program.

Clause 197 Restriction on grant of permit for animal from another State

The range of species that may be kept privately in Queensland and other States differs. This section allows a person who kept an animal in another State and resides, or intends to reside, in Queensland to obtain a permit to keep protected wildlife to keep the animal in Queensland, even though the species can not be kept recreationally in this State.

It is not intended that this permit be used as a substitute for another wildlife authority, such as a recreational wildlife licence, where such a licence may be granted for the species.

Because the permit may be issued for a species that can not ordinarily be kept privately in Queensland, there are additional restrictions on the grant of the permit. The chief executive may only issue the permit if satisfied that the person—

- intends to keep the animal until it dies; and
- intends to keep, but not use (buy, sell, give away, process etc.) the animal.

Clause 198 Restriction on grant of permit for animal kept under expired authority

From time to time, a licence or permit under which a person keeps a protected animal will expire. This section restricts the grant of a permit to keep protected wildlife in circumstances where a person who kept the animal under a wildlife authority, other than a rehabilitation permit.

In particular, the chief executive can grant a permit to keep protected wildlife to keep a protected animal that was kept under a wildlife authority that has expired, or is about to expire, if—

- the animal to which the application relates is not a relevant protected animal, as all relevant protected animals can be kept under a range of other licences; and
- the applicant intends to keep, but not use the animal; and
- the keeping of the animal under the permit to keep protected wildlife is a temporary arrangement, for example, until such time as alternative arrangements can be made for the disposal of the wildlife to another licence holder.

Clause 199 Restriction on grant of permit to holders of particular authorities

This section restricts the grant of a permit to keep protected wildlife to a person who holds any of the following licences, where the purpose of granting the permit is to allow the holder to keep wildlife at a place other than the licence premises stated in the licence on a temporary basis—

- wildlife exhibitor licence;
- wildlife farming licence; or
- museum licence.

Subdivision 3 Activities authorised by permit

Clause 200 Keeping particular animals authorised

This section describes the things that a person operating under a permit to keep protected wildlife may do under the permit, namely keep a protected animal stated on the permit at the place of keeping stated on the permit.

Clause 201 Moving animal to another holder authorised in particular circumstances

The things that a person who keeps wildlife under a permit to keep protected wildlife may do with the wildlife are limited. The sale or disposal of wildlife is generally not permitted.

This section allows a person who keeps a protected animal under a permit to move protected wildlife to another person who intends to keep the animal under another wildlife authority in particular circumstances, including where the person has decided to dispose of all animals kept by the person under the permit, or because the person's personal circumstances have changed in a way that prevent the person from keeping the animal.

However the section does not authorise the movement of an animal to another country, whether directly or via another State.

This provision is drafted so as to permit the movement only in exceptional circumstances rather than ostensibly authorising trade in wildlife under the permit.

Clause 202 Moving animal to an institution authorised in particular circumstances

This section allows a person who keeps a protected animal under a permit to keep protected wildlife to move the animal, at the chief executive's request, to a zoological institution where it will participate in a captive breeding program.

Because a person may get a permit to keep a protected animal to keep an animal that was taken from the wild under a rehabilitation permit,¹¹⁰ wildlife kept under these permits can be an important source of genetic diversity that may contribute to a captive breeding program.

The chief executive can not grant a permit to keep a protected animal taken under a rehabilitation permit for an animal for which there is an approved captive breeding program in operation unless the applicant is a participant in the program. However the chief executive can not reasonably foresee the species for which a recovery plan might be approved in the future.

This section provides a conduit to move potentially genetically important animals into a captive breeding program.

¹¹⁰ See the regulation, section 190 (Restriction about purposes for which permit may be granted) for the purposes for which a permit to keep protected wildlife may be granted.

Clause 203 Moving particular birds authorised

This section allows a person who keeps only 1 bird that suffers from human imprinting under a permit to keep protected wildlife to move the animal within the State without a wildlife movement permit.

Subdivision 4 Carrying out activities under permit**Clause 204 Breeding animals**

This section restricts the breeding of animals, other than protected birds, kept under a permit to keep protected wildlife unless the person has the chief executive's written approval to allow the animals to breed.

The permit may be granted for a range of protected animals that can not ordinarily be kept privately in Queensland. Consequently, this section restricts the breeding of these species and ensures that, over time, the population dies out. However the person may get the chief executive's approval to allow the animals to breed if the person has a significant conservation reason for doing so.

Furthermore, this section gives the chief executive to authority to require a person who keeps a protected animal under a permit to furnish written evidence that the animal is incapable of breeding because, for example, the animal has been surgically or chemically sterilised.

Clause 205 Keeping record

This section requires the holder of a permit to keep protected wildlife to keep a record for the licence,¹¹¹ but only if the animals kept under the permit are breeding, or have bred. A licence holder complies with the requirement if a relevant person¹¹² keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

111 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

112 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Clause 206 Giving return of operations

This section requires the holder of a permit to keep protected wildlife to give the chief executive a return of operations for the permit,¹¹³ but only if—

- the person is required to keep a record book for the licence; or
- the animal kept under the permit escapes or dies.

A permit holder complies with the requirement if a relevant person¹¹⁴ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Division 5 Rehabilitation permits

Subdivision 1 Purpose

Clause 207 Purpose of permit

This section describes the purpose of the rehabilitation permit, which is to authorise a person to—

- take or accept a sick, injured or orphaned protected animal taken from the wild for rehabilitation and release; or
- take an animal whose habitat has been destroyed, or where destruction of the animal's habitat is imminent, so the animal can be relocated.

113 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

114 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Subdivision 2 Restrictions on grant of permit

Clause 208 Restriction about persons to whom permit may be granted

This section restricts the grant of a rehabilitation permit to a person unless the chief executive is satisfied that the person intends to rehabilitate and release the animal to the wild. This is intended to prevent access to wild fauna under false pretences, particularly where the person intends to take the animal for private or commercial use.

Clause 209 Restriction on grant of permit to voluntary wildlife care associations

This section restricts the grant of a rehabilitation permit to a corporation that is a voluntary wildlife care association¹¹⁵ except where the chief executive is satisfied the association does not engage in commercial activities concerning wildlife, such as trading in wildlife, except to the extent that it concerns fundraising to assist the organisation in providing care for wildlife.

Clause 210 Restriction about animals for which permit may be granted

This section restricts the grant of a rehabilitation permit only for protected animals.

Subdivision 3 Activities authorised by permit

Clause 211 Obtaining and keeping particular animals authorised

This section describes the things that a person operating under a rehabilitation permit may do under the permit, namely—

¹¹⁵ See the regulation, schedule 4 (Dictionary) for the meaning of voluntary wildlife care association.

- obtain and keep a sick, injured or orphaned animal of a species identified on the permit; and
- obtain and keep a species of animal identified on the permit from an area—
 - that has been destroyed by human activity or natural disaster; or
 - that is about to be destroyed by human activity, but only if the chief executive has stated on the permit that the person may do so.

The permit only authorises the taking and keeping of a protected animal from the wild. It does not relate to a captive animal that is sick, injured or orphaned.

The animal may only be kept at the place of residence of the holder or a relevant person for the holder.

A person may be an individual or a corporation. The persons authorised to operate under a rehabilitation permit are the person named on the permit, or a relevant person.¹¹⁶ The section enables a person to whom a rehabilitation permit is issued to limit the range of species that a relevant person may obtain and keep under the permit by crossing out the species on the copy of the permit given to the relevant person that the person may not keep.

Clause 212 Taking particular dead animals for feeding particular animals authorised

This section allows a person who keeps a bird of prey under a rehabilitation permit to take dead animals that are prescribed as least concern wildlife, other than special native animals, for the purposes of feeding animals undergoing rehabilitation.

¹¹⁶ See the regulation, schedule 4 (Dictionary) for the meaning of relevant person for a wildlife authority for the regulation.

Clause 213 Displaying particular animals authorised with approval

This section authorises a person who keeps wildlife under a rehabilitation permit to display the animal for the purpose of raising funds for the objects of the association, if the person has the chief executive's written approval.

The section also states the circumstances under which the chief executive may give the approval.

Clause 214 Moving particular animals authorised in particular circumstances

This section authorises a person who keeps a protected animal under a rehabilitation permit to move the animal to and from particular places within the State where the movement occurs in connection with the rehabilitation and care of the animal.

Subdivision 4 Carrying out activities under permit

Clause 215 Way animal must be kept

This section requires a person who keeps an animal under a rehabilitation permit to keep it in a way that contributes, or is likely to contribute, to the rehabilitation of the animal for release to the wild.¹¹⁷

A person satisfies this requirement if the person complies with the relevant code of practice. However the code does not limit the ways that the person can satisfy the requirements.

Codes of practice¹¹⁸ are prepared in consultation with veterinary surgeons, the Department of Primary Industries and Fisheries, the RSPCA and industry representatives. Codes generally describe the most basic requirements for housing, diet, quarantine and care and are generally considered to represent the minimum acceptable standard of care.

117 See also the regulation, chapter 7, part 3 (Housing for animals) for general requirements about housing all protected animals.

118 See the Act, section 174A (Chief executive may make codes of practice) for information about codes of practice.

Therefore non-compliance with a code of practice is likely to indicate non-compliance with the requirements of this section.

Clause 216 Returning animal to natural habitat

This section requires a person who keeps an animal under a rehabilitation permit to release the animal to a prescribed habitat once that animal has completed rehabilitation and is again likely to be able to survive in the habitat, unless the chief executive has directed that the animal not be released.

In deciding whether an animal is again able to live in the habitat, the person keeping the animal should have regard to the following—

- the presence of gross deformities that will hinder the animal's survival;
- the extent to which the animal suffers the condition known as human imprinting;
- any signs of illness or injury that the animal has, or any known disease that the animal has which may be spread to other animals of the same or closely related species;
- the likelihood that the animal will have the same chances of survival in the wild as any other animal of the same species.

Division 6 Scientific purposes permit

Subdivision 1 Purposes

Clause 217 Purpose of permit

This section describes the purpose of the scientific purposes permit, which is to authorise a person to take, keep and use protected, international and prohibited animals for the purposes of conducting genuine scientific research.

In deciding whether proposed research is genuine scientific research, the following considerations are relevant—

- will the research contribute or enhance knowledge about wildlife, conservation and the environment;

- has the research proposal undergone scientific peer review;
- if the research involves repeating previous research—is the repetition reasonably necessary;
- is the outcome of the activity mainly concerned with enhancing knowledge in the scientific field rather than extracting biological material for commercial design and development or use.¹¹⁹

Subdivision 2 Restrictions on grant of permit

Clause 218 Restriction about persons to whom permit may be granted

A scientific purposes permit can authorise the taking, keeping and use of all species of protected animals, regardless of their conservation status. Consequently, the impacts of taking animals under the permit could be significant unless appropriate checks and balances are in place that restricts the grant of these permits.

To be eligible to get a scientific purposes permit, the applicant must be, or must be associated with—

- a tertiary or other institution that is administered by the State or the Commonwealth; or
- another entity ordinarily involved in scientific research.

Where an individual makes the application, the applicant must also demonstrate particular knowledge and experience that demonstrates the person has attained an appropriate level of knowledge and experience in the field of scientific research relevant to the purpose for which the application is made.

Where a person has not completed, or is not in the process of completing, postgraduate studies in a field relevant to the research proposal for which the application is made, the person may be eligible for the grant of a scientific purposes permit, but only if the person has attained an equivalent

¹¹⁹ See provisions about commercial wildlife harvesting licence for taking protected animals for commercial design or development from land other than State land. See also the *Biodiscovery Act 2004* for information concerning biodiscovery involving protected animals taken from State land.

level of competence in scientific research equivalent to that required to undertake postgraduate research.

Clause 219 Restriction on grant of permit authorising animal to be taken

This section applies additional restrictions on the grant of a scientific purposes permit where the applicant proposes to take wildlife. In particular, the chief executive must be satisfied that—

- the research will make a significant contribution to knowledge about the matter for which the research is carried out; and
- the applicant does not intend to use the animal taken under the permit for a commercial purpose;¹²⁰ and
- it is reasonably necessary to take protected animals from the wild because—
 - the type of research is such that it must be conducted in situ; or
 - the species is not available in captivity, or if the species is available in captivity, the needs of the research can not be fulfilled by using captive animals;

A scientific purposes permit only allows a person to take protected animals under the permit if the chief executive states words to that effect on the permit.

Clause 220 Restriction on grant of permit for whales or dolphins

This section imposes additional restrictions on the grant of a scientific purposes permit allowing for the taking of whales or dolphins.

In particular, either the Minister's scientific advisory committee or a person recognised as an expert in the field of research about whales or dolphins must have recommended the proposed research proceed.¹²¹

120 See the regulation, section 6, for the meaning of commercial purpose.

121 See the Act, section 132 (Advisory committees) for information about the appointment and function of Ministerial advisory committees, including the scientific advisory committee.

Subdivision 3 Activities authorised by permit

Clause 221 Taking, keeping, using and processing particular animals authorised

This section describes the things a scientific purposes permit authorises, namely—

- taking, keeping or using a protected animal from the place of taking on the permit, but only if the chief executive has specifically authorised the taking of the animal on the permit; or
- keeping and using protected, international or prohibited animals, and processing the animals stated on the permit. However, the selling or giving away of animals is not permitted, nor is the use of the animals for a commercial purpose.

However, the permit holder may give parts of a protected animal to a person who is entitled to use the animal under the exemption created by the regulation, section 57 (Educational or scientific purposes).

Subdivision 4 Carrying out activities under permit

Clause 222 Giving return of operations

This section requires the holder of a scientific purposes permit to give the chief executive a return of operations for the permit.¹²²

A permit holder complies with the requirement if a relevant person¹²³ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

122 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

123 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Part 5 Authorities for taking, keeping or using animals

Division 1 Aboriginal tradition authorities

Subdivision 1 Preliminary

Clause 223 Application of div 1

This section describes the circumstances where this division applies, namely only if a person may take, keep or use protected animals under Aboriginal tradition¹²⁴ under the Act, section 93.¹²⁵

This division does not regulate the taking of animals under provisions of the Commonwealth *Native Title Act 1993*.¹²⁶ Therefore, where a native title holder takes a protected animal, the person does not need an Aboriginal tradition authority.

If a person takes a protected animal under an Aboriginal traditional authority granted under the Act, the person must comply with the requirements stated in the Act for the authority.

Subdivision 2 Considering application

Clause 224 Additional matter to be considered

This section imposes a restriction on the grant of an Aboriginal tradition authority that requires the chief executive to have regard to the advice of a corporation named in the application as to the significance of the activity under Aboriginal tradition.

124 See the *Acts Interpretation Act 1954* for the meaning of Aboriginal tradition.

125 At the time of commencement of this regulation, section 93 of the Act had not commenced.

126 See especially the *Native Title Act 1993*, section 211 (Preservation of certain native title rights and interests).

Subdivision 3 Restrictions on grant of authority

Clause 225 Restriction about persons to whom authority may be granted

This section restricts the grant of an Aboriginal tradition authority to a corporation whose members represent a community or group of Aborigines mainly concerned with the land upon which the taking is proposed.

This section does not restrict the persons representing the community who may, under the permit, take the protected animal.

Clause 226 Restriction about purpose for which authority may be granted

This section requires the chief executive to be satisfied that the proposed activity is consistent with Aboriginal tradition and describes the measure against which the chief executive should consider the issue, namely, according to the views of the people regarded by the members of the community as having the authority to state the significance of the animal to Aboriginal tradition.

Clause 227 Restriction on grant of authority for particular marine animals

This section restricts the grant of an Aboriginal tradition authority where the application relates to the taking of a marine animal, specifically a marine turtle, cetacean or a grey nurse shark, in the coastal waters of the State adjacent to an area managed under the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

There is a clear connection between the interests of the State and the Commonwealth with respect to the taking of wildlife in and adjacent to the Great Barrier Reef Marine Park given the movement of wildlife across administrative boundaries. This section requires the chief executive to be satisfied that a person would be eligible for the grant of a permission (however described) under the *Great Barrier Reef Marine Parks Act 1975* (Cwlth) before granting the Aboriginal tradition authority.

Subdivision 4 Activities authorised by authority

Clause 228 Taking, keeping and use of particular animals authorised

This section describes the things an Aboriginal tradition authority authorises. Specifically, the authority authorises a relevant person for the corporation to whom the authority is issued to take an animal of a species stated in the authority under Aboriginal tradition from the place stated in the authority as the place of taking, and keep the animal.

The person may use the wildlife to the extent the use is consistent with the person's personal, domestic, non-commercial or communal needs.

Division 2 Island custom authorities

Subdivision 1 Preliminary

Clause 229 Application of div 2

This section describes the circumstances where this division applies, namely only if a person may take, keep or use protected animals under Torres Strait Island custom¹²⁷ under the Act, section 93.¹²⁸

This division does not regulate the taking of protected animals under provisions of the Commonwealth *Native Title Act 1993*.¹²⁹ Therefore, where a native title holder takes a protected animal, the person does not need an Aboriginal tradition authority.

If a person takes wildlife under an Island custom authority granted under the Act, the person must comply with the requirements stated in the Act for the authority.

127 See the *Acts Interpretation Act 1954* for the meaning of Island custom.

128 At the time of commencement of this regulation, section 93 of the Act had not commenced.

129 See especially the *Native Title Act 1993*, section 211 (Preservation of certain native title rights and interests).

Subdivision 2 Considering application

Clause 230 Additional matters to be considered

This section imposes a restriction on the grant of an Island custom authority that requires the chief executive to have regard to the advice of a corporation named in the application as to the significance of the activity under Island custom.

Subdivision 3 Restrictions on grant of authority

Clause 231 Restriction about persons to whom authority may be granted

This section restricts the grant of an Island custom authority to a corporation whose members represent a community or group of Torres Strait Islanders mainly concerned with the land upon which the taking is proposed.

This section does not restrict the persons representing the community who may, under the permit, take the protected animal.

Clause 232 Restriction about purpose for which authority may be granted

This section requires the chief executive to be satisfied that the proposed activity is consistent with Island custom and describes the measure against which the chief executive should consider the issue, namely, according to the views of the people regarded by the members of the community as having the authority to state the significance of the animal to Island custom.

Clause 233 Restriction on grant of authority for particular marine animals

This section restricts the grant of an Island custom authority where the application relates to the taking of a marine animal, specifically a marine turtle, cetacean or a grey nurse shark, in the coastal waters of the State

adjacent to an area managed under the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

There is a clear connection between the interests of the State and the Commonwealth with respect to the taking of wildlife in and adjacent to the Great Barrier Reef Marine Park given the movement of protected wildlife across administrative boundaries. This section requires the chief executive to be satisfied that a person would be eligible for the grant of a permission (however described) under the *Great Barrier Reef Marine Parks Act 1975* (Cwlth) before granting the Island custom authority.

Subdivision 4 Activities authorised by authority

Clause 234 Taking, keeping and use of particular animals authorised

This section describes the things an Island custom authority. Specifically, the authority authorises a relevant person for the corporation to whom the authority is issued to take the wildlife stated in the authority under Island custom from the place stated in the authority as the place of taking, and keep the animal.

The person may use the animal to the extent the use is consistent with the person's personal, domestic, non-commercial or communal needs.

Division 3 Collection authorities

Subdivision 1 Restrictions on grant

Clause 235 Purposes for which collection authorities may be granted

This section prescribes the circumstances for which the chief executive may grant a collection authority, namely—

- to take and keep least concern animals for use in survival training exercises conducted by the Australian Defence Force; or
- to keep and use a collection of dead protected animals.

Clause 236 Additional restrictions for collection authority to take and keep least concern animals

This section restricts the grant of a collection authority to take and keep least concern animals other than to a member of the Australian Defence Force. Note that the Australian Defence Force is generally exempt from the requirement to get a wildlife authority to take least concern animals for survival training on Commonwealth land.¹³⁰

The chief executive may only grant the authority if the animals are to be used for the purpose of training members of the Australian Defence Force about survival in the wild and the activity is authorised under Military Standing Orders prepared by the Australian Defence Force.

Subdivision 2 Activities authorised by authority**Clause 237 Collection authority to keep a collection of dead animals**

This section describes the things a collection authority to keep a collection of dead protected animals authorises, namely, to keep the animals at the place stated in the authority as the licensed premises for the authority.

Clause 238 Collection authority to take and keep least concern animals

This section describes the things a collection authority to take and keep least concern animals may do under the authority, namely take a protected animal that is least concern wildlife from the place of taking stated in the authority, and keep and use the animal for the purposes of training members of the Australian Defence Force about survival in the wild.

The use must be consistent with Military Standing Orders.

¹³⁰ See the regulation, section 41 (Australian Defence Force) for the exemption for the Australian Defence Force to take a least concern animal on land owned by the Commonwealth where the animal is to be used for training members of the defence force about survival in the wild.

Clause 239 Moving animals for survival training authorised

This section authorises a person, who is a member of the Australian Defence Force, to move an animal taken under a collection authority to take and keep least concern wildlife to a place for training members of the Australian Defence Force on survival in the wild.

Subdivision 3 Carrying out activities under authority

Clause 240 Giving return of operations

This section requires the holder of a collection authority to take and keep least concern animals to give the chief executive a return of operations for the authority.¹³¹

An authority holder complies with the requirement if a relevant person¹³² gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

131 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

132 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Chapter 4 Using or moving protected plants

Part 1 Preliminary

Clause 241 Purpose of ch 4

This section describes the purpose of chapter 4.

Part 2 Restrictions about using protected plants

Clause 242 Purpose of pt 2

This section describes the function of part 2, which creates restrictions on the use and movement of protected plants.

The part imposes restrictions on the use of protected plants that are in addition to those imposed under the Act, section 91 and the *Nature Conservation (Protected Plants) Conservation Plan 2000*.

More than one restriction in this part may apply to the same protected plant or protected plant part.

Clause 243 Restriction on using or moving least concern plants

This section restricts the use or movement of a protected plant that is prescribed, under the Act, as a least concern plant. The restriction applies irrespective of whether the plant was taken from the wild or was cultivated or propagated in captivity.

This section restricts the use or movement of the plant other than under—

- a licence, permit or other authority under the Act authorising the use or movement; or

- an exemption for using or moving the plant under the regulation, chapter 4, part 3; or
- the *Nature Conservation (Protected Plants) Conservation Plan 2000*.

This section applies regardless of the reason the plant is used or moved.

Clause 244 Restriction on using or moving whole protected plants for commercial purpose

This section restricts the use or movement of a whole protected plant, regardless of its conservation status, where the purpose of using or moving the plant is commercial, unless—

- the person holds either or both of the following for the plant—
 - commercial wildlife licence;
 - commercial wildlife harvesting licence; or
- the person is entitled to claim an exemption for using of moving the plant under the regulation, chapter 4, part 3 for a commercial purpose; or
- the use or movement of the plant for a commercial purpose is authorised under the *Nature Conservation (Protected Plants) Conservation Plan 2000*.

Clause 245 Restriction on using or moving protected plant parts for commercial purpose

This section restricts the use or movement of protected plant parts, regardless of its conservation status, where the purpose of using or moving the plant part is commercial, unless—

- the person holds either or both of the following for the plant—
 - commercial wildlife licence;
 - commercial wildlife harvesting licence; or
- the person is entitled to claim an exemption for using of moving the plant under the regulation, chapter 4, part 3 for a commercial purpose; or

- the use or movement of the plant for a commercial purpose is authorised under the *Nature Conservation (Protected Plants) Conservation Plan 2000*.

Part 3 Using protected plants other than under wildlife authority

Division 1 Purpose of part

Clause 246 Purpose of pt 3

This section describes the purpose of this part, which is to prescribe exemptions for using or movement of protected plants.

The section also prescribes all sections in chapter 4, part 3 of the regulation as sections to which the *Justices Act 1886*, section 76 (Proof of negative etc.) applies. It does not affect the application of that section to another provision in the regulation.

Division 2 Exemptions for using protected plants generally

Clause 247 Using protected plants registered under Plants Breeder's Rights Act 1994 (Cwlth)

This section gives a person who has a plant breeder's right, which is granted under the *Plant Breeder's Rights Act 1994* (Cwlth), to use a protected plant without a wildlife authority under the Act to use the plant.

The section also requires the person who is using a protected plant under a plant breeder's right to produce evidence of the plant breeder's right to a conservation officer upon demand.

Clause 248 Land-holders may gain benefit

Use, in relation to a protected plant, includes gain any benefit from the plant. This section enables a landholder to gain a financial or other benefit from a person who takes a protected plant from their land under a commercial wildlife harvesting licence.

Clause 249 Using protected plants taken under conservation plan

The *Nature Conservation (Protected Plants) Conservation Plan 2000* allows a person to take protected plants for educational or scientific use in some circumstances. This section authorises the person who took the plant to use it for a genuine scientific or educational purpose.

Clause 250 Retailers may move protected plants

This section allows a person who sells protected plants by retail¹³³ to move the plant to a buyer, if the plant was bought or accepted from—

- a person that the chief executive has approved to be an authorised propagator or authorised cultivator (the grower);¹³⁴ or
- the holder of a commercial wildlife licence (the wholesaler) for the plant.

The regulation conditions the movement of plants from authorised propagators, authorised cultivators and commercial wildlife licence holders. The conditions that concern the movement of the plants must have been complied with.

Also, if the plant was moved from a place in another State and the law of the other State requires the plant to be tagged, the person may only move the plant if the tag is lawfully attached.

133 See the regulation, sections 254, 255 and 259 for exemptions for selling particular whole protected plants and protected plant parts by retail under an exemption.

134 See the regulation, section 299 (Approval of persons as authorised cultivator or propagator).

Clause 251 Moving protected plants being used under exemption

This section enables a person who uses a protected plant under an exemption to move the plant within, into or out of the State without a wildlife movement permit.

Division 3 Exemptions for using whole protected plants**Clause 252 Definitions for div 3**

This section defines *approved way* and *controlled conditions* for this division.

Clause 253 Whole protected plants propagated by authorised propagator

This section allows any person to use a whole protected plant (except a blue tassel fern) that was propagated in the *approved way* by person who is an authorised propagator without a wildlife authority.

The section imposes additional requirements for the sale or giving away of a whole type A restricted plants.

The section also requires an authorised propagator to provide evidence of the source of plant propagating material.

Clause 254 Selling whole protected plants by retail—type A restricted plants

This section authorises a person who does not hold a licence to sell whole type A restricted plants by retail, provided the plant was obtained from a person who holds a commercial wildlife licence and has an official tag properly attached to it.

Clause 255 Selling whole protected plants by retail—other protected plants

This section authorises a person who does not hold a wildlife authority to sell a protected plant that is not a type A restricted plant provided the plant was obtained from a person who holds a commercial wildlife licence.

Clause 256 Selling particular whole protected plants propagated for recreational purposes

This section authorises a person to sell a whole protected plant, other than a type A restricted plant, that the person propagated from lawfully obtained propagating material and the person propagates and sells the plant for non-commercial purposes.

Division 4 Exemptions for using protected plant parts

Clause 257 Definitions for div 4

This section defines *approved way* and *controlled conditions* for this division.

Clause 258 Using protected plant parts cultivated by authorised cultivator

This section allows any person to use protected plant parts that were cultivated by person who is an authorised cultivator in the *approved way* to sell the plant without a wildlife authority.

The section also requires an authorised cultivator to provide evidence of the source of plant propagating material.

Clause 259 Selling protected plant parts by retail

This section authorises a person who does not hold a wildlife authority to sell protected plant parts provided the plant parts were obtained from a person who holds a commercial wildlife licence.

Clause 260 Particular authority or permit holders using protected plant parts

This section authorises a person who harvested protected plants from a national park (recovery, conservation park or resources reserve under an authority authorised the person to take the plants from the area to sell the protected plants to the holder of a commercial wildlife licence.

Clause 261 Using protected plants parts for educational or scientific research purposes

This section allows a person to use a protected plant part for genuine scientific or educational purposes if the plant was taken under a wildlife authority under the Act and the person would be entitled to get a scientific purposes permit or educational purposes permit.

Part 4 Licences, permit and other authorities for taking or using protected plants

Division 1 Preliminary

Clause 262 Relationship with conservation plan

This section establishes the relationship between the regulation and the *Nature Conservation (Protected Plants) Conservation Plan 2000*.

Division 2 Licences

Subdivision 1 Commercial wildlife licences

Clause 263 Using protected plants for commercial purpose authorised

This section describes the things a commercial wildlife licence authorises, namely the use of protected plants stated in the licence for a commercial purpose.

Clause 264 Limitation on selling or giving away protected plants generally

This section limits the sale of protected plants under a commercial wildlife licence unless the plant was lawfully obtained from a person who has the appropriate wildlife authority.

Clause 265 Additional requirement about selling whole type A restricted plants

This section applies particular restrictions about the sale of whole type A restricted plants, particularly concerning the requirement to have an official tag or a propagator's tag attached to, or accompanying, the plant.

Clause 266 Keeping record

This section requires the holder of a commercial wildlife licence for protected plants to keep a record for the licence.¹³⁵ A licence holder complies with the requirement if a relevant person¹³⁶ keeps the record.

Where a conservation plan provides different requirements for keeping records, the provisions of the conservation plan prevail over this section.

135 See the Administration Regulation, part 6 (Provisions about records) for information about the keeping of records under particular wildlife authorities.

136 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Clause 267 Giving return of operations

This section requires the holder of a commercial wildlife licence for protected plants to give the chief executive a return of operations for the licence.¹³⁷

A person complies with the requirement if a relevant person¹³⁸ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Subdivision 2 Recreational wildlife licences**Clause 268 Restriction about persons to whom licence may be granted**

This section restricts the grant of a recreational wildlife licence to a person who is a member of a recreational plant society or the society itself. Also, the person must not engage in business activities relating to a plant such as engaging someone to propagate or sell it.

Clause 269 Using protected plants for recreational purpose authorised

This section describes the things a recreational wildlife licence authorises, namely the use of protected plants stated in the licence for a recreational purpose.

Clause 270 Using particular protected plants for commercial purpose authorised in particular circumstances

This section allows a person operating under a recreational wildlife licence to use a *type A restricted plant* for a commercial purpose if the person

137 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

138 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

propagated the plant, or it was taken from the wild under a recreational wildlife harvesting licence held by the same person. The plant must be properly tagged and can only be sold in certain situations.

Clause 271 Restriction on selling particular plants

This section restricts the sale of *type B restricted plants*¹³⁹ raised from seed or other propagating material taken from the wild, unless the plant is raised from seed or other propagating material, is not endangered and is sold only at an annual show or meeting of the society.

Subdivision 3 Commercial wildlife harvesting licence

Clause 272 Taking and using protected plants authorised

This section describes the things a commercial wildlife harvesting licence authorises, namely the—

- taking of a protected plants from the place of taking stated on the licence; and
- the use of the plant at the licensed premises for the licence.

However, a person may only take a protected plant under the licence during a harvest period for the plant. Also, the person may only sell the plant to person who holds a commercial wildlife licence for the plant.

Subdivision 4 Recreational wildlife harvesting licence

Clause 273 Taking and using protected plants authorised

This section describes the things a recreational wildlife harvesting licence authorises, namely the—

¹³⁹ See the regulation, schedule 4 (Dictionary) for the meaning of type B restricted plant.

- taking of a protected plants from the place of taking stated on the licence; and
- the use of the plant at the licensed premises for the licence.

However, a person may only take a protected plant under the licence during a harvest period for the plant.

Subdivision 5 Herbarium licences

Clause 274 Restriction about persons to whom licence may be granted

This section restricts the grant of a herbarium licence to a State herbarium.

Clause 275 Taking or using protected plants authorised in particular circumstances

This section describes the things that a person operating under a herbarium licence may do under the licence. The person may take and use, other than sell, protected plants. However the person can not use a plant taken under the licence for biodiscovery.¹⁴⁰

The person may keep the plant at the licensed premises for the licence, or at another place with the chief executive's written approval.

¹⁴⁰ See the provision regarding commercial wildlife harvesting licences for information about the taking of plants for biodiscovery on land other than State land. See the *Biodiscovery Act 2004* for information about taking plants for biodiscovery from State land.

Division 3 Permits for taking or using protected plants

Subdivision 1 Clearing permits

Clause 276 Taking protected plants authorised

This section describes the things a clearing permit authorises, namely the taking of protected plants stated on the permit from the place of taking stated on the permit.

The use of plants taken under a clearing permit is not permitted.

Subdivision 2 Damage mitigation permits

Clause 277 Restrictions about plants for which permit may be granted

This section limits the range of species for which a damage mitigation permit may be granted. The restriction ensures that adequate checks and balances are in place to ensure that only species that are capable of sustaining taking under damage mitigation permits are taken.

A damage mitigation permit may only be granted for least concern or near threatened plant, unless a conservation plan authorises the grant of a damage mitigation permit to take a protected plant that is endangered, vulnerable or rare wildlife. A damage mitigation permit can not be granted for a protected plant that is classed as *extinct in the wild* wildlife.

The general restrictions on grant of all relevant authorities apply to the grant of a damage mitigation permit. For example, the proposed taking must be ecologically sustainable even though the plant is prescribed as least concern wildlife.

Clause 278 Restriction about purposes for which permit may be granted

This section restricts the grant of a damage mitigation permit except to take a protected plant where there is a real and imminent risk of the following—

- damage or loss to property caused, or likely to be caused, by a protected plant; or
- ill-health or injury to human well-being caused by the plant.

Clause 279 Restriction on grant of permit for damage or loss

This section states the circumstances in which a damage mitigation permit may be issued to prevent damage or loss caused, or likely to be caused, by a protected plant. Specifically, the following conditions must be met in order for the chief executive to grant the permit—

- the plant is actually causing loss or damage, or there is a real and imminent risk of the plant causing loss or damage, if it is not taken;
- the land-holder has taken all reasonable and practicable measures to prevent the damage or loss from occurring without having to take or harm the plant, having regard to all available technologies to prevent the damage, the likelihood of successful application of these technologies and the cost of adopting those technologies in the short and long term; and
- the taking of the wildlife will not affect the survival of the species stated in the application.

Clause 280 Restriction on grant of permit for threat to human health and wellbeing

This section states the circumstances in which a damage mitigation permit may be issued to mitigate a threat, or potential threat, to human health or wellbeing caused, or likely to be caused, by a protected plant. Specifically, the following conditions must be met in order for the chief executive to grant the permit—

- there is an actual threat to human health or wellbeing caused by a protected plant, or there is a real and imminent threat of human health or wellbeing being affected by the plant; and
- the taking of the wildlife will not affect the survival of the species of wildlife stated in the application.

Clause 281 Taking protected plants authorised

This section describes the things that a person operating under a damage mitigation permit may do under the permit. The person may take a species of protected plant stated on the permit from the place stated on the permit as the place of taking.

A person who takes a protected plant under a damage mitigation permit can not keep or use it. This restriction is designed to remove the incentive to lodge applications for damage mitigation permits to take a plant because it is either causing or may cause loss or damage, or because it poses a threat to human health or wellbeing, where the real reason the person wants to take the wildlife is to keep or sell it.

Clause 282 Giving return of operations

This section requires the holder of a damage mitigation permit to give the chief executive a return of operations for the permit.¹⁴¹ A permit holder complies with the requirement if a relevant person¹⁴² gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Subdivision 3 Educational purposes permits**Clause 283 Restriction about persons to whom permit may be granted**

This section prescribes the conditions that an applicant for an educational purposes permit must satisfy in order to get the permit. These restrictions are designed to ensure that the educational purposes permit, which can authorise the taking of protected plants from the wild, are issued only to a

141 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

142 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

person who has legitimate educational uses, and the prerequisite knowledge and ability to use the plant for educational purposes.

If the applicant is an individual, the person must hold tertiary qualifications, or demonstrated experience relevant to the activities to be conducted under the permit.

If the applicant is a corporation, the permit may only be granted if the corporation is principally an educational institution or organisation.

Clause 284 Restriction about purpose for which permit may be granted

This section restricts the grant of an educational purposes permit to an activity that is, in the chief executive's opinion—

- principally for use in education by an registered educational institution, or by another entity that ordinarily engages in activities concerning educating the public about wildlife and conservation; and
- is not done with the intention of making a financial gain, whether as the primary purpose of the activity or a component of it.

This requirement helps to differentiate the types of activities envisaged for the educational purposes permit from other licences and permits under the Act, especially commercial wildlife harvesting licences and commercial wildlife licences.

Clause 285 Taking and using protected plants authorised

This section describes the things that a person operating under an educational purposes permit may do under the permit. The person may—

- if the chief executive has stated on the permit that the person may take a protected plants stated on the permit—take a species of protected plant stated on the permit from the place stated on the licence as the place of taking; and
- use,¹⁴³ other than sell or give away, a plant stated on the permit.

143 See the regulation, schedule 4 (Dictionary), for the meaning of use for a protected plant for the regulation.

However, a person must not use plants taken, kept or used under an educational purposes permit for a commercial purpose.¹⁴⁴ The person may give a part of a protected plant to a person who will use it under the regulation, section 261 (Using protected plant parts for educational or scientific research purposes).

The educational purposes permit does not, by default, allow a person to take plants. A person may only take a plant under the permit if the chief executive has specifically given this authority on the permit. This helps to reinforce that plants used in educational displays etc. should, to the extent possible, be sourced from cultivated or propagated sources.

Clause 286 Giving return of operations

This section requires the holder of an educational purposes permit to give the chief executive a return of operations for the permit.¹⁴⁵ A permit holder complies with the requirement if a relevant person¹⁴⁶ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

Subdivision 4 Scientific purposes permit

Clause 287 Restriction about persons to whom permit may be granted

A scientific purposes permit can authorise the taking, keeping and use of all species of protected plants, regardless of their conservation status. Consequently, the impacts of taking protected plants under the permit could be significant unless appropriate checks and balances are in place that restricts the grant of these permits.

144 See the regulation, section 6 (Meaning of commercial purpose) for the meaning of commercial purpose for a protected plant for the regulation.

145 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

146 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

To be eligible to get a scientific purposes permit, the applicant must be, or must be associated with—

- a tertiary or other institution that is administered by the State or the Commonwealth; or
- another entity ordinarily involved in scientific research.

Where an individual makes the application, the applicant must also demonstrate particular knowledge and experience that demonstrates the person has attained an appropriate level of knowledge and experience in the field of scientific research relevant to the purpose for which the application is made.

Where a person has not completed, or is not in the process of completing, postgraduate studies in a field relevant to the research proposal for which the application is made, the person may be eligible for the grant of a scientific purposes permit, but only if the person has attained an equivalent level of competence in scientific research equivalent to that required to undertake postgraduate research.

Clause 288 Restriction about purposes for which permit may be granted

This section applies additional restrictions on the grant of a scientific purposes permit. In particular, the chief executive must be satisfied that—

- the research will make a significant contribution to knowledge about the matter for which the research is carried out; and
- the applicant does not intend to take or use plants under the permit for a commercial purpose;¹⁴⁷ and
- it is reasonably necessary to take protected plants from the wild because—
 - the type of research is such that it must be conducted in situ; or
 - the species is not available in captivity, or if the species is available in captivity, the needs of the research can not be fulfilled by using cultivated or propagated plants.

¹⁴⁷ See the regulation, section 6, for the meaning of commercial purpose.

Clause 289 Taking and using protected plants authorised

This section describes the things a scientific purposes permit authorises, namely—

- taking, keeping or using a protected plant from the place of taking on the permit; or
- using, other than selling or giving away protected plants.

However, the use must not be for a commercial purpose.

The permit holder may give parts of a protected plant to a person who is entitled to use the plant under the exemption created by the regulation, section 261 (Using protected plant parts for scientific and educational purposes permitted).

Clause 290 Giving return of operations

This section requires the holder of a scientific purposes permit to give the chief executive a return of operations for the permit.¹⁴⁸

A permit holder complies with the requirement if a relevant person¹⁴⁹ gives the return to the chief executive.

Where a conservation plan provides different requirements for giving returns of operations, the provisions of the conservation plan prevail over this section.

148 See the Administration Regulation, part 7 (Provisions about returns of operations) for information about the completion of returns of operations under particular wildlife authorities.

149 See the Administration Regulation, schedule 7 (Dictionary) for the meaning of relevant person.

Division 4 Authorities for taking or using protected plants

Subdivision 1 Aboriginal tradition authorities

Clause 291 Additional matter to be considered

This section imposes a restriction on the grant of an Aboriginal tradition authority that requires the chief executive to have regard to the advice of a corporation named in the application as to the significance of the activity under Aboriginal tradition.

Clause 292 Restriction about persons to whom authority may be granted

This section restricts the grant of an Aboriginal tradition authority to a corporation whose members represent a community or group of Aboriginal people mainly concerned with the land upon which the taking is proposed.

This section does not restrict the persons representing the community who may, under the permit, take the protected plant.

Clause 293 Restriction about purpose for which authority may be granted

This section requires the chief executive to be satisfied that the proposed activity is consistent with Aboriginal tradition and describes the measure against which the chief executive should consider the issue, namely, according to the views of the people regarded by the members of the community as having the authority to state the significance of the plant to Aboriginal tradition.

Clause 294 Taking and using protected plants authorised

This section describes the things an Aboriginal tradition authority authorises. Specifically, the authority authorises a relevant person for the corporation to whom the authority is issued to take the plant stated in the authority under Aboriginal tradition from the place stated in the authority as the place of taking, and keep the plant.

The person may use the plant to the extent the use is consistent with the person's personal, domestic, non-commercial or communal needs.

Subdivision 2 Island custom authorities

Clause 295 Additional matter to be considered

This section imposes a restriction on the grant of an Island custom authority that requires the chief executive to have regard to the advice of a corporation named in the application as to the significance of the activity under Island custom.

Clause 296 Restriction about persons to whom authority may be granted

This section restricts the grant of an Island custom authority to a corporation whose members represent a community or group of Torres Strait Islanders mainly concerned with the land upon which the taking is proposed.

This section does not restrict the persons representing the community who may, under the permit, take the protected plant.

Clause 297 Restriction about purpose for which authority may be granted

This section requires the chief executive to be satisfied that the proposed activity is consistent with Island custom and describes the measure against which the chief executive should consider the issue, namely, according to the views of the people regarded by the members of the community as having the authority to state the significance of the plant to Island custom.

Clause 298 Taking and using protected plants authorised

This section describes the things an Island custom authority authorises. Specifically, the authority authorises a relevant person for the corporation to whom the authority is issued to take the plant stated in the authority under Island custom from the place stated in the authority as the place of taking, and keep the plant.

The person may use the plant to the extent the use is consistent with the person's personal, domestic, non-commercial or communal needs.

Part 5 Provisions about authorised cultivators and propagators

Division 1 Approval of authorised cultivators and propagators

Clause 299 Approval of persons as authorised cultivator or propagator

This section allows the chief executive to approve a person who is at least 18 years of age to be an authorised cultivator or an authorised propagator.

Clause 300 Restriction about persons who may be approved

An approval to be an authorised cultivator or an authorised propagator is not a licence, permit or an authority, having regard to their normal usage in the regulation.

This section establishes the requirements for a person to be approved as an authorised cultivator or an authorised propagator.

Clause 301 Notice of approval

This section requires the chief executive to give a person who is an approved cultivator or approval propagator a notice of the approval and states the things that the approval must contain.

Division 2 Carrying out activities under approval

Clause 302 Keeping records

This section prescribes the records that a person who is an authorised cultivator or authorised propagator must keep in relation to the propagation and use of plants under the approval.

Clause 303 Assistance to conservation officers

This section requires a person who is an approved cultivator or approved propagator to give a conservation officer reasonable assistance to help the officer inspect plants and check records that the person keeps under the approval.

Clause 304 Notifying chief executive of new address

This section requires a person who is an approved cultivator or approved propagator to notify the chief executive within 14 days after the person changes the address where the plants are cultivated or propagated under the approval.

Chapter 5 Permit for moving wildlife

Part 1 General provisions

Division 1 Purpose

Clause 305 Purpose of permit

This section prescribes the purpose of the wildlife movement permit, which is to allow a person to move wildlife stated in the permit from one place to another, where the movement is otherwise not generally exempted or authorised under a wildlife authority.

Division 2 Export agreements

Clause 306 Minister may enter into agreement

This section empowers the Minister, for the State, to enter into a tri-partite export agreement between the State, the sender and the receiver in relation to a native animal.

Clause 307 Only suitable person may be party to agreement

This section restricts the Minister from entering into an export agreement with a person unless all parties to the agreement are, in the Minister's opinion, suitable person's to be a party to the agreement.

The section also prescribes certain things that the Minister may have regard to in deciding whether a person is a suitable person to be party to an agreement, including—

- the nature of facilities and their appropriateness for keeping the animal;
- the person's criminal history;
- whether the person has previously been party to an export agreement and has breached the condition; and
- any other thing the Minister considers relevant to the decision.

Clause 308 Content of agreement

This section states the things that may and must be stated in an export agreement—

- how the animal and its progeny is to be treated, house and fed;
- any restrictions on the disposal of animals or their progeny;
- any financial contributions that the party to the agreement must make to the State for the conservation in the wild of the species of animal mentioned in the agreement.

The section also allows the chief executive to require a party to the agreement to pay a security or bond to the State that may be forfeited to the State if the party to the agreement does not fulfil their obligations under the agreement.

Division 3 Conditions of permit

Clause 309 Conditions for permits for interstate movements

The Queensland Government regulates the taking, keeping and use of wildlife to ensure that each proposal—

- is reasonable and justifiable in the circumstances;
- will not compromise the conservation of the wildlife stated on the permit, or other wildlife; and
- will not impact unduly on the interests of the broader community for taking and use of wildlife in an ecologically sustainable way.

Conditions are imposed on wildlife authorities to ensure that the taking and use is done in a responsible way that will not compromise the conservation of wildlife in the wild and it is taken and used for the purpose which has been assessed as a justified and reasonable use of that wildlife.

This section authorises the chief executive to impose conditions on a wildlife movement permit where the permit authorises the movement of the wildlife from Queensland to another State, where the person receiving the wildlife is not the holder of another wildlife authority. The conditions may:

- restrict how the animal (or its progeny) are to be kept and used, including that the wildlife is used only for the purpose for which it was originally taken, kept or used in Queensland; and
- continue to apply after the permit expires.

These conditions enable the Queensland Government to exercise its responsibility for the use of wildlife after it has left the State and ensures that wildlife is kept and used for the purpose for which the permit was granted originally.

This section does not usurp the laws of another State, but operates concurrently with them.

Clause 313 Additional restriction for movement of prescribed protected animal to another State

This section restricts the chief executive from granting a wildlife movement permit to move wildlife from Queensland to another State unless the chief executive is reasonably satisfied that proposed recipient of the wildlife will not move the animal to another country, or sell, give or move the animal to a person in another country.

Where the chief executive is not satisfied of those things, the chief executive may only grant the permit if certain prerequisite conditions have been met, including:

- the animal has been bred in captivity or, if it was taken from the wild, it can not be released to the wild because it suffers from human imprinting; and
- the movement of the animal will not adversely affect the genetic viability of captive populations of the animal in zoos, for example, by reducing the number of breeding individuals to the extent that genetic variability is compromised and captive breeding may become more difficult; and
- an export agreement with the State has been entered into for the animal; and
- if an export permit is required under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) is needed, the permit has been issued or the chief executive is satisfied that the permit will be issued.

Clause 314 Additional restriction for movement of prescribed protected animal within the State for export

This section restricts the grant of a wildlife movement permit to move a prescribed protected animal unless certain prerequisite conditions have been met, including—

- the animal has been bred in captivity or, if it was taken from the wild, it can not be released to the wild because it suffers from human imprinting; and
- the movement of the animal will not adversely affect the genetic viability of captive populations of the animal in zoos, for

example, by reducing the number of breeding individuals to the extent that genetic variability is compromised; and

- an export agreement with the State has been entered into for the animal; and
- if an export permit is required under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) is needed, the permit has been issued or the chief executive is satisfied that the permit will be issued; and
- an approved electromagnetic implant has been inserted into the animal.

Part 3 Activities authorised by permit

Clause 315 Moving particular wildlife authorised

This section prescribes the things that a person may do under a wildlife movement permit, which is to move wildlife from one place to another.

Chapter 6 Processed products

Clause 316 Purpose of ch 6

This section describes the purpose of chapter 6, which is to declare particular items made or derived from protected wildlife to be processed products for the Act. An item that is a processed product is not protected wildlife.

Clause 317 Processed products made or derived from protected animals

This section prescribes where an item made or derived from a protected animal is declared to be a processed product for the Act, schedule, definition *protected animal*.

Clause 318 Processed products made or derived from protected plants

This section prescribes where an item made or derived from a protected plant is declared to be a processed product for the Act, schedule, definition *protected plant*.

Clause 319 Conservation officer may ask for evidence of source used

This section empowers a conservation officer to require a person to provide evidence of the source of wildlife from which a processed product was derived. The person must comply with the requirement unless the person has a reasonable excuse.

Chapter 7 Other offences relating to wildlife

Part 1 Taking, keeping or using animals generally

Clause 320 Use of animals to take protected animals

This section restricts the use of animals, such as dogs, for the taking of other animals, unless a conservation plan allows the person to use an animal to take the protected animal and the person complies with the requirements of the plan.

Clause 321 Using live protected animals that are not self-sufficient

This section restricts the use and movement of live protected animals that are dependent upon their parent or show visible signs of illness or injury.

Clause 322 Procedure for accidental taking of marine mammal or turtle

This section imposes an additional obligation on a person who, in the course of a lawful activity that is not directed toward taking the animal, takes a marine mammal or marine turtle to—

- release the animal to the wild if it is not sick, injured or dead; or
- notify a conservation officer about the circumstances in which the animal was taken and comply with the officer's direction concerning the animal.

Clause 323 Procedure for accidental taking of protected shark

The grey nurse shark (*Carcharis taurus*) is the only shark that is protected under the Act. It is estimated that there are less than 500 grey nurse sharks left on Australia's east coast and the species is not known to be harmful to humans. Fishing represents the most significant key threatening process to the survival of the species.

The Department of Primary Industries and Fisheries approves and authorise shark control programs and shark control contracts to control shark numbers for the protection of humans. However, the methods employed to control sharks do not exclude non-target shark species, such as grey nurse sharks.

The section imposes obligations upon a person who accidentally takes a grey nurse shark while the person is performing duties associated with a shark control program or under a shark control contract. If the animal is alive and is not sick or injured, the person must release it. Otherwise the person must notify a conservation officer that the person has taken the shark and follow the reasonable directions of the officer in relation to the shark.

Part 2 Moving wildlife

Division 1 Moving wildlife generally

Clause 324 Moving live protected animals in containers

This section prescribes the way that a live protected animal must be housed to minimise the likelihood that the animal gets injured, escapes, is harmed by predators or stolen in transit.

Clause 325 Labels for containers used to send protected animals

This section requires a person to attach a label to a container in which a protected animal is being transported in certain circumstances, and describes the things that must be stated on the label.

Clause 326 Sending or moving wildlife other than protected, international or prohibited wildlife into the State

This section requires a person who moves a live bird, reptile, mammal or amphibian into Queensland to obtain a wildlife movement permit authorising the movement, unless the animal is one of the following—

- a protected, international or prohibited animal; or
- a domestic animal.

This restriction is needed to ensure that the threats posed by the introduction of an exotic species into Queensland are assessed before the animal can be moved into the State.

Division 2 Movement advices

Clause 327 Only 1 movement under movement advice

This section prescribes that a person must not move wildlife under the same movement advice more than once.

Clause 328 Dealing with parts of movement advice

This section prescribes how the parts of a movement advice are to be distributed once the advice is completed, and the time that the person responsible for completing the advice has to comply with the requirement.

Clause 329 Keeping and producing movement advice

This section requires a person who must keep a part of a movement advice under the regulation to keep the advice. The person must produce it to a conservation officer upon demand, unless the person has a reasonable excuse.

Clause 330 Tampering with movement advice

This section prohibits a person from tampering with a movement advice that has been completed for movement of wildlife, except to the extent that it is necessary to comply with the requirements for distributing the parts of the advice in the way stated in the regulation.

Part 3 Housing for animals**Clause 331 Housing and care of live protected animals**

This section prescribes the way in which a person must house a live protected animal that the person keeps. In particular, the person must ensure the following—

- the enclosure protects the animal, prevents it from escaping and protects it from predators;
- the animal has sufficient food, water, ventilation and shelter; and
- the animal has reasonable opportunities for exercise to ensure its health and wellbeing.

The section also provides a way for the chief executive to remedy non-compliance with the requirement by giving the person a written notice directing the person to correct the situation, by making a change as directed or surrendering the animal and any wildlife authority that the person keeps

the animal under. The person must comply with the notice. A person may appeal the issue of a notice under this section.

Clause 332 Tampering with animal breeding place

This section creates an offence for a person to tamper with a protected animal's breeding place where it is in use.

However a person may interfere with the breeding place if the person interferes with the place under either of the following—

- an approved species management program; or
- a damage mitigation permit that authorises the person to take the animal which also authorises the person to take the breeding place.¹⁵⁰

Clause 333 Housing wildlife other than protected wildlife

This section requires a person who keeps wildlife to keep the animal in a secure enclosure that prevents the animal's escape, except in the case of some domestic birds and other animals (e.g. pigeons and poultry).

This requirement does not apply to cattle, sheep or a range of animals that are ordinarily used in agricultural production, as these are included in the list of domestic animals.

Part 4 Tags

Clause 334 Using tags generally

Tags are used to identify wildlife. This section creates an offence for attaching a tag to a species of wildlife other than for which the tag was supplied, or attaching a tag that has been used.

¹⁵⁰ See the regulation, section 187 (Taking particular animals authorised) for the things that person may do under a damage mitigation permit.

Clause 335 Tags not to be used by unauthorised person

A person who is authorised under the regulation to possess and attach the tag to wildlife only may attach tags. This section creates an offence for possessing and attaching tags without lawful authority.

A conservation plan may authorise a person to possess and attach a tag.

Clause 336 Tampering with tags

This section creates an offence to tamper with a tag that is attached to wildlife, unless the person has lawful authority. A conservation plan or a regulation may authorise the removal of a tag.

Part 5 Identification and information requirement**Clause 337 Record of identification of person selling or giving away protected, international or prohibited wildlife**

This section requires a person who sells wildlife to do particular things, namely—

- to obtain verification of the other person's identity; and
- inspect the person's wildlife authority if they are acting under an authority.

Also, the person must keep a record of the other person's name and address, the source of the identification used, and if the person is acting under a wildlife authority, the number of the authority.

The section also empowers a conservation officer to require the person to produce the information, which the person must comply with unless the person has a reasonable excuse for not producing it.

Clause 338 Record of identification of person buying or accepting protected, international or prohibited wildlife

This section requires a person who buys or receives the wildlife to do particular things, namely—

- to obtain verification of the other person's identity; and
- inspect the person's wildlife authority if they are acting under an authority.

Also, the person must keep a record of the other person's name and address, the source of the identification used, and if the person is acting under a wildlife authority, the number of the authority.

The section also empowers a conservation officer to require the person to produce the information, which the person must comply with unless the person has a reasonable excuse for not producing it.

Part 6 Other offences**Clause 339 Using poison or adhesive substance in a way that may take protected animals**

This section creates an offence to use a poison or adhesive substance in a way that may result in the taking of a protected animal, unless the person has a wildlife authority that allows the person to take the animal by using the substance and the person complies with other laws concerning the use of the poison or substance.

Clause 340 Feeding native animals in the wild generally

This section prohibits the feeding of a native animal in the wild if the activity will immediately threaten the health and wellbeing of humans. Examples of an offence against this section would include—

- feeding birds in or near a flight path for an aircraft; and
- feeding wildlife near a highway.

Clause 341 Feeding dangerous native animals in the wild

This section creates an offence to feed a native animal in the wild that is dangerous, venomous or capable of injuring a person. This section was intended to restrict the feeding of inherently dangerous animals, including saltwater crocodiles and dingoes, in the wild in a way that may result in the animal becoming humanised and posing a risk to the health and safety of people, unless the person is authorised to do so under a wildlife authority or has another lawful entitlement.

Clause 342 Disturbing dangerous native animals in the wild

This section creates an offence to disturb a native animal in the wild that is dangerous, venomous or capable of injuring a person. This offence was intended to prohibit the enticement or teasing of dingoes, or other inherently dangerous animals, that can result in the animal becoming aggressive and agitated, thereby increasing the likelihood of an attack.

Clause 343 Release of animals into the wild

This section makes it an offence to release an animal to the wildlife, other than with lawful authority, if—

- that has been kept or bred in captivity; or
- to an area that it is not normally found.

However a person may release an animal if the person reasonably expects that the person will again be able to recover the animal, such as, for example a homing pigeon.

The authority to release an animal to the wild may be given under this or another Act where an assessment of the risk to the environment has been assessed.

Clause 344 Spreading or releasing particular parts of non-native plants

This section creates an offence to release the seed or other propagating material of a non-plant to the wild. A person releases the plant part if the person disperses or releases it to a place where it is not maintained or controlled.

Clause 345 Procedure if wildlife stolen

This section requires a person who keeps protected wildlife that is stolen to notify a conservation officer who is a member of the department and a police officer about theft. Also, if the person holds a wildlife authority under which the person keeps a record, the person must keep a record of the information about theft.

Chapter 8 Miscellaneous provisions**Part 1 Seizure of property****Clause 346 Seizure of particular things for the protection of native wildlife**

If an officer finds a vehicle, vessel, aircraft or appliance on land, and it is desirable or necessary to remove it for the protection of native wildlife, the officer may seize it. However, the power applies only if the officer is reasonably satisfied the thing is—

- abandoned; or
- on the land unlawfully;

The section also prescribes the way in which the seized thing must be dealt with.

Part 2 Provisions about tags**Clause 347 Chief executive may supply tags for use by person**

This section allows the chief executive to supply tags for attaching to wildlife for use by a person. The chief executive must give the person a written notice stating the species of wildlife to which the tag must be attached.

Clause 348 Chief executive may approve tags for use by person

This section allows the chief executive to approve a tag for use by a person.

Clause 349 Nature of tags supplied by the chief executive

This section prescribes a tag supplied by the chief executive is the property of the State and can not be transferred unless—

- the chief executive gives the person written approval to transfer the tag to another person; or
- a conservation plan allows the tag to be transferred.

Clause 350 Chief executive may recall tags

This section allows the chief executive, by written notice issued to a person, to recall tags issued to the person by the chief executive. The person must comply with the notice unless the person has a reasonable excuse.

Part 3 Conservation value for wildlife

Clause 351 Conservation value for protected wildlife

The Act, section 95 (Payment of conservation value), requires a person who takes wildlife under a licence, permit or other authority issued or given under the Act to pay conservation value for the wildlife, unless the regulation or a conservation plan declares that conservation value is not payable for wildlife taken under the authority.

Conservation value is an expression of the State's conservation concern for the wildlife in the wild.

This section declares the amount of conservation value payable for an animal taken under the Act, in the circumstances mentioned in section 95 of the Act.

Clause 352 No conservation value payable for protected wildlife taken under particular authorities

This section exempts a person from the requirement to pay conservation value for protected wildlife taken under particular licences and permits.

Clause 353 No conservation value payable for protected scorpions or spiders

This section exempts a person from the requirement to pay conservation value for a protected spider or scorpion taken under a commercial wildlife harvesting licence.

Clause 354 No conservation value payable for particular reptiles

This section exempts a person from the requirement to pay conservation value if the person takes a reptile of the family Elapidae, Hydrophiidae or Laticaudidae and the person takes the reptile under a commercial wildlife harvesting licence for the purpose of extracting venom for the production of antivenene for human medicinal use.

Clause 355 No conservation value payable for particular lizards

This section exempts the Secretary of the Cunnamulla–Eulo Festival of Opals from the requirement to pay conservation value for a shingleback lizard or inland bearded dragon taken under a recreational wildlife harvesting licence for racing at the festival.

Schedule 1 Processed products

Part 1 Definitions

Definitions for sch 1

This section defines approved tag and export permit for this schedule.

Part 2 Processed products made or derived from protected animals

This part prescribes particular items made or derived from certain protected animal to be processed products for the Act.

Part 3 Processed products made or derived from protected plants

This part prescribes particular items made or derived from protected plants to be processed products for the Act.

Schedule 2 Domestic animals

This schedule prescribes certain non-native animals to be domestic animals for the regulation.

Schedule 3 Relevant protected animals

This schedule prescribes certain protected animals to be exempt animals, controlled animals, commercial animals, recreational animals and restricted animals for the regulation.

Schedule 4 Dictionary

This schedule defines particular words used in the regulation.

This part amends the *Nature Conservation (Whales and Dolphins) Conservation Plan 1997*.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Environmental Protection Agency.