



Appendix E - Primary legislation for pest animal control

Federal

Quarantine Act 1908

The *Quarantine Act 1908* (Cth) sets out powers relating to the entry of humans, animals, plants and other objects into Australia. The Act is implemented by AQIS, which comes under the umbrella of DAFF.

A pest may be declared a quarantinable pest by proclamation of the Governor-General. All goods infected with a quarantinable disease or pest are subject to quarantine. The Governor-General may also by proclamation prohibit the importation or bringing into Australia of any plant, animal, pest, disease or anything likely to carry a pest or disease.¹

The Act also provides the Director of Quarantine with a number of powers relating to vessels and aircraft entering Australia. Every overseas vessel that has not been released from quarantine, and any vessel on which a quarantinable pest or disease is found, is subject to quarantine. The Director of Quarantine may order certain vessels to carry on board disinfecting equipment, make orders about the control of an animal found on board the

¹ *Quarantine Act 1908* (Cth), ss 13(1)(ca) - 13(1)(fa), 18(2)(ba).

vessel or aircraft, or order a vessel that has been to a declared place not to land at its port of destination.²

Quarantine officers are also given powers under the Act relevant to prevention of pest animals entering Australia. A quarantine officer may require the master of an overseas vessel or aircraft to answer questions in relation to prescribed information about the vessel or aircraft. A vessel or goods that are likely to be infected with a quarantinable pest or disease may be ordered into quarantine. The quarantine officer may order goods to be detained, treated or moved, and may order an animal into quarantine where it is suspected of having or carrying a disease. Any imported goods, including animals and plants, that contain a disease or pest, or are likely to be infected with a disease or pest, can be ordered into quarantine.³

If a quarantine officer believes that a vehicle or vessel contains infected goods or goods subject to quarantine that might result in the introduction, spread or establishment of a pest, the quarantine officer may make appropriate orders, including orders in relation to the movement of the vehicle and treatment of the goods. If a quarantine officer believes that an Australian vessel, or an overseas vessel in the internal waters of a state or territory travelling to a port of the Commonwealth is carrying a disease or pest, the officer may make directions to the master of the vessel to carry out specified actions.⁴

Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) makes provision for the movement of species into and out of Australia. Chapter 5, Part 13, Division 6A allows regulations to be made establishing a list of species (other than native species) that do or may threaten biodiversity. These species may be prohibited from being brought into Australia or traded between jurisdictions within Australia.

Part 13A of Chapter 5 deals with the international movement of wildlife specimens. The Minister must establish a list of species included in the *Convention on International Trade in Endangered Species* (CITES); export or import of a species on that list is prohibited without a permit.⁵

The Act also makes provision for the export of 'regulated native specimens', being specimens derived from native plants or animals and not falling within the exemption list created by the Minister. It is an offence, punishable by 10

2 *Quarantine Act 1908* (Cth), ss 17, 15, 29B(1), 32A.

3 *Quarantine Act 1908* (Cth), ss 28, 35, 48, 52, 55A.

4 *Quarantine Act 1908* (Cth), ss 74D, 78A.

5 *EPBC Act 1999* (Cth), Chapter 5, Part 13A, Division 2.

years in prison or 1,000 penalty units, to export a regulated native specimen without a permit. Permits may be issued, inter alia, for export under an approved wildlife trade operation or an approved wildlife trade management plan. An approved wildlife trade operation is for small-scale or provisional operations, while an approved wildlife trade management plan is for larger-scale commercial operations. The Minister, before approving either type of program, must be satisfied of conditions relating to conservation of the species and effects of export on the species and biodiversity.⁶

Specimens (not live specimens) can also be exported under an accredited wildlife trade management plan. Plans must satisfy a range of conditions, including that the plan must be in place under a law of a state or territory or the Commonwealth.⁷

The Act also contains provisions relating to the importation of exotic species. Section 303EB provides that the Minister must publish in the Gazette a live import list in two parts: a list of unregulated specimens and a list of allowable regulated specimens. Part 13A, Division 4 of Chapter 5 provides for the importation of 'regulated live specimens', being live animals or plants not included on the first list (the unregulated specimens list). A person can apply to have a species included on the live import list and must provide a report detailing any environmental impact importation may have. It is an offence to import a regulated live specimen unless it appears on the list of allowable regulated specimens and the importer has a permit. A standard permit will only be granted if the species is listed as an allowable regulated specimen and the Minister is satisfied that conditions relating to biodiversity and conservation will be satisfied if the species is imported. It is an offence to be recklessly in possession of a CITES specimen or a regulated live specimen not included on the live import list. It is also an offence to be recklessly in possession of a specimen that does appear on the allowable regulated specimens list, where the specimen has been imported unlawfully.⁸ Special measures are applicable in relation to actions that are likely to have a significant impact on endangered and vulnerable species.⁹

The Act also makes provision for import and export for non-commercial purposes including research, exhibition and education.¹⁰

6 *EPBC Act 1999* (Cth), Chapter 5, Part 13A, Division 3, ss 303FN and 303FO.

7 *EPBC Act 1999* (Cth), ss 303DD, 303FP.

8 *EPBC Act 1999* (Cth), ss 303EE, 303EK, 303EN and 303GN.

9 *EPBC Act 1999* (Cth), ss 18, 67, 303GA.

10 *EPBC Act 1999* (Cth), Part 13A, Division 5.

Legislation across jurisdictions

Biological control legislation

Biological Control Acts have been enacted in all states and territories.¹¹ The Acts make provision for the declaration of target organisms (pests), being organisms that cause harm in a particular state or territory. The Acts also provide for biological control of target organisms by permitting the release of agent organisms in certain circumstances.

The *Biological Control Act 1984* (Cth) makes provision for the biological control of pests in the ACT.

Australian Capital Territory

Pest Plants and Animals Act 2005

This Act had not commenced at the time of drafting this report. It was due to commence on 12 November 2005. The Act repeals certain provisions of the *Land (Planning and Environment) Act 1991* (ACT) that previously dealt with pest animal management.¹²

Part 2 of the Act deals with pest plants, while Part 3 deals with pest animal species. The Minister may make a declaration that a pest animal is a 'notifiable pest animal' (presence must be notified) or a 'prohibited pest animal' (sale and keeping is prohibited).¹³

It is an offence to fail to notify the presence of a notifiable pest species, or to supply a prohibited pest species, although a permit to supply can be applied for. It is also an offence to use machinery or equipment that is inhabited by a prohibited pest species in a way that is reckless as to the potential for that use to spread the pest species. Keeping or disposing of a prohibited pest species is an offence if the person responsible is reckless as to whether the animal is a pest species and as to whether keeping or disposing of the species would be likely to result in the spread of the species.¹⁴

11 *Biological Control Act 1984* (Cth), *Biological Control Act 1985* (NSW), *Biological Control Act 1986* (NT), *Biological Control Act 1987* (Qld), *Biological Control Act 1986* (SA), *Biological Control Act 1986* (Tas), *Biological Control Act 1986* (Vic), *Biological Control Act 1986* (WA).

12 *Pest Plants and Animals Act 2005* (ACT), Schedule 1, Part 1.1.

13 *Pest Plants and Animals Act 2005* (ACT), s 16.

14 *Pest Plants and Animals Act 2005* (ACT), ss 18-24.

The Minister may prepare a Pest Management Plan for the control and management of a declared pest species. If the chief executive believes a person has not complied with a pest management plan, the chief executive may give the person a written 'pest management direction' in relation to the control of pest species on that land. It is an offence to contravene a pest management direction. If there is a failure to comply, the relevant authority may enter the land, carry out the required work and the landowner must reimburse the costs of that work.¹⁵

Nature Conservation Act 1980

The *Nature Conservation Act 1980* (ACT) makes it an offence to keep, import or export, sell or release animals (other than exempt species) without a licence. A person cannot kill or take native species without a licence. The Act also prohibits taking an animal (other than a native animal) into a reserved area.¹⁶

New South Wales

Wild Dog Destruction Act 1921

The *Wild Dog Destruction Act 1921* (NSW) applies in the western division of New South Wales. The Act establishes a Wild Dog Destruction Board, which consists of members nominated by rural interest groups including various Rural Lands Protection Boards. The Act imposes a duty on all landowners and occupiers to destroy wild dogs on their land, and gives the Board powers to oversee the destruction of wild dogs. In particular, if a person has failed to comply with their obligation to destroy wild dogs, and a notice requiring them to remedy has been issued, the Board may require the payment of a sum of up to \$1,000 into the Wild Dog Destruction Fund, or perform the obligation itself and recover the costs of doing so.¹⁷

The Act also gives the Board the power to enter on any land in the vicinity of either the Queensland Border Fence or the South Australian Border Fence to erect or maintain a dog-proof fence.¹⁸

The Board has the power to levy rates for its Wild Dog Destruction Fund, and to determine a rate of payment for wild dog scalps. It is an offence to make a

15 *Pest Plants and Animals Act 2005* (ACT), ss 17, 25-28.

16 *Nature Conservation Act 1980* (ACT), ss 44-49, 68.

17 *Wild Dog Destruction Act 1921* (NSW), ss 2, 3A, 4, 8, 11.

18 *Wild Dog Destruction Act 1921* (NSW), s 9A.

false statement in relation to scalps or to attempt to obtain payment for a scalp that has already been paid for. It is also an offence to destroy part of a dog-proof fence or a trap, leave open a gate on a dog-proof fence or bring a dog into the western division.¹⁹

Companion Animals Act 1998

The *Companion Animals Act 1998* (NSW) makes provision for ownership and control of companion animals. The owner of a dog is guilty of an offence if the dog attacks, chases or harasses any person or animal. It also makes the owner of a dog liable for injury to other animals caused by the dog.²⁰ Part 5 Division 1 of the Act gives councils the power to declare a dog dangerous and require measures for the dog to be kept under control.

Rural Lands Protection Act 1998

The *Rural Lands Protection Act 1998* (NSW) provides for the establishment of rural lands protection districts and regions.²¹ Rural Lands Protection Boards are established and are answerable to the State Council of Rural Lands Protection Boards, established under Part 5 of the Act. Rural Lands Protection Boards are given the power to levy rates on lands within their districts, including a general rate, an animal health rate and also special purpose rates.²²

Part 11 of the Act provides for the control of pests, and is binding on the Crown as well as individual landowners. The Minister has the power to declare any animal to be a pest on particular land, and to impose a variety of obligations with respect to control of that pest. It is an offence not to comply with certain obligations under the Act. These obligations include a general destruction obligation (obligation to eradicate), a limited destruction obligation (obligation to eradicate at specified points of the animal's lifecycle) and notification obligations (obligation to notify of the pest's existence). Additionally, the Minister may confer power on Boards to serve an individual order to eradicate or a general order within their district. Occupiers of public land have similar obligations, but qualified by the words "to the extent necessary to minimise the risk of the pest causing damage on any land". An authorised officer may enter land and perform necessary pest animal control

19 *Wild Dog Destruction Act 1921* (NSW), ss 12, 21, 25, 27-28.

20 *Companion Animals Act 1998* (NSW), ss 16, 27.

21 *Rural Lands Protection Act 1998* (NSW), Part 2.

22 *Rural Lands Protection Act 1998* (NSW), Part 7.

work if there is an order to that effect, or if the occupier of land has failed to comply with a pest control order.²³

The Minister may require a public authority to eradicate a pest animal on its land, on the recommendation of a board, but it must consult with the public authority first. Boards are empowered to conduct campaigns for the eradication of pest animals, including arrangements with other state, territory and Commonwealth governments.²⁴

A person can apply to a board for permission to keep a declared pest in captivity. Without a permit, it is an offence to keep a declared pest in captivity or to release it. It is also an offence to interfere with pest barrier fences or to transport live pests.²⁵

The Minister is required to consult with the Minister for the Environment before declaring a native species to be a pest and with the Game Council of New South Wales before declaring a game animal a pest.²⁶

Non-Indigenous Animals Act 1987

This Act regulates the introduction into, and movement within New South Wales of, non-indigenous animals. Regulations under the Act may prescribe categories of controlled species as high-risk or low-risk, having regard to classifications by the VPC.²⁷

The Act makes it an offence to import, keep or move without a permit, or release a controlled species, of either high-risk or low-risk category. The Act provides for the issuing of licences for keeping controlled categories of species, and permits for importation and movement of animals.²⁸

Game and Feral Animal Control Act 2002

The *Game and Feral Animal Control Act 2002* (NSW) establishes the NSW Game Council. The Game Council's functions include:

- representing the interests of licensed game hunters in matters arising under the legislation;
- administering the licensing system under the Act for game hunters;

23 *Rural Lands Protection Act 1998* (NSW), ss 142-143, 155-156, 169.

24 *Rural Lands Protection Act 1998* (NSW), ss 166, 180.

25 *Rural Lands Protection Act 1998* (NSW), ss 174, 176, 178.

26 *Rural Lands Protection Act 1998* (NSW), s 144.

27 *Non-Indigenous Animals Act 1987* (NSW), ss 6, 6A.

28 *Non-Indigenous Animals Act 1987* (NSW), ss 10-13, 15, 19.

- providing advice to the Minister for Agriculture on game and feral animal control; and
- promoting and funding research into game and feral animal control issues.²⁹

‘Game animals’ under the Act fall into two categories. Animals in the first category are deer, California quail, pheasant, partridge, peafowl and turkey. Animals in the second category are pigs, dogs (not dingoes), cats, goats, rabbits, hares and foxes. Hunting animals in the second category does not require a licence on private land. It is an offence to release a game animal into the wild for the purpose of hunting.³⁰

The Act provides for two different categories of licence: a general game licence that entitles the holder to hunt on private land and a restricted game licence, which allows hunting on private and some public land. A restricted game licence will not be granted unless the applicant is a member of a hunting club or approved organisation and has undertaken the requisite training. It is a condition of any licence that the holder complies with a code of practice that is approved by the Minister.³¹

National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act 1974* (NSW) makes it unlawful to harm protected fauna, or to buy, sell or possess protected fauna, without a licence. It is also an offence to import or export protected fauna (other than specified categories) without a licence. ‘Protected fauna’ includes all fauna except for species designated as ‘unprotected fauna’ in Schedule 11 of the Act.³² It is also an offence to liberate an animal anywhere in New South Wales without a licence to do so.³³

The Act also provides for the granting of a number of different types of licence, including a general licence (to harm protected fauna for a specified purpose), an occupier’s licence (to harm a specified number of a species on occupied lands), a fauna dealer’s licence (to deal in fauna) or an import or export licence (to import or export protected fauna).³⁴

29 *Game and Feral Animal Control Act 2002* (NSW), s 9.

30 *Game and Feral Animal Control Act 2002* (NSW), ss 5, 55.

31 *Game and Feral Animal Control Act 2002* (NSW), ss 15, 19, 24.

32 *National Parks and Wildlife Act 1974* (NSW), ss 5, 98, 101, 106.

33 *National Parks and Wildlife Act 1974* (NSW), s 109.

34 *National Parks and Wildlife Act 1974* (NSW), Part 9, Division 2.

Northern Territory

Territory Parks and Wildlife Conservation Act 2001

The Act provides that feral animals are to be managed in a way that reduces their population and extent within the Northern Territory and controls any detrimental effect they have on wildlife and the land. Agreements may be formed with any other state or territory government, or the federal government, in relation to the management of feral animals.³⁵

The Act also provides for the declaration of protected wildlife, and allows the Minister to authorise killing of protected wildlife under permit and in compliance with a range of conditions, including numbers that may be killed. It is an offence to take or interfere with protected wildlife, or to release protected wildlife into the Territory except as authorised under the Act. It is also an offence to take or interfere with unprotected wildlife without authorisation. A person can apply to the Director for a permit to deal with protected wildlife, including taking them for commercial purposes.³⁶

Division 4 of Part 4 of the Act deals with the control of feral animals. The Minister may declare an animal to be a 'feral animal'. The Minister may also declare 'feral animal control areas', which are areas threatened or soon to be threatened by a feral animal. An occupier within a feral animal control area may be issued with a notice requiring control or eradication of feral animals on the land, or a Conservation officer may enter the land and carry out the work.³⁷

All animals not indigenous to the Northern Territory, unless exempt, are 'prohibited entrants', and once they escape, are classified as feral animals. It is an offence to release a feral animal, or to release or keep a prohibited entrant without authorisation.³⁸

If the Director is satisfied that the native wildlife or habitat of a national park, reserve or sanctuary is threatened by feral animals, the Director may authorise the destruction of feral animals in that area.³⁹

35 *Territory Parks and Wildlife Conservation Act 2001* (NT), ss 31, 32.

36 *Territory Parks and Wildlife Conservation Act 2001* (NT), ss 45, 55, 66, 67.

37 *Territory Parks and Wildlife Conservation Act 2001* (NT), ss 47-51.

38 *Territory Parks and Wildlife Conservation Act 2001* (NT), ss 52, 54, 67A and 67B.

39 *Territory Parks and Wildlife Conservation Act 2001* (NT), s 113.

Queensland

Land Protection (Pest and Stock Route Management) Act 2002

The *Land Protection (Pest and Stock Route Management) Act 2002* (Qld) provides for pest animal and plant management. The Act provides for the declaration of pest animals and plants and restricts the introduction, keeping, sale and spread of declared pests. A Land Protection (Pest and Stock Route Management) Council is established to provide advice and recommendations to the Minister in relation to pest management.⁴⁰

The principles of pest management set out in the Act are:

- Pest management is an integral part of managing natural resources and agricultural systems;
- Public awareness and knowledge of pests must be raised to increase the capacity and willingness of individuals to manage pests;
- Effective pest management requires a long-term commitment to pest management by the community, industry groups and government entities;
- Consultation and partnership arrangements between local communities, industry groups, State government agencies and local governments must be established to achieve a collaborative approach to pest management;
- Pest management planning must be consistent at local, regional, State and national levels to ensure resources target priorities for pest management identified at each level;
- Preventative pest management is achieved by preventing the spread of pests, early detection and intervention;
- Pest management must be based on ecologically and socially responsible pest management practices that protect the environment and the productive capacity of natural resources; and
- Research about pests, and regular monitoring and evaluation of pest control activities, is necessary to improve pest management practices.⁴¹

40 *Land Protection (Pest and Stock Route Management) Act 2002* (Qld), Chapter 5.

41 *Land Protection (Pest and Stock Route Management) Act 2002* (Qld), s 9.

Part 2, Division 1 of Chapter 2 provides for the creation of State Pest Management Strategies for pest animals and plants, which may include detection, monitoring and management strategies, research and community education. A Strategy lasts for up to five years. Guidelines may also be prepared for the management of pests.⁴²

Government departments responsible for managing state-controlled land are required to develop plans for the management of pests on that land, and educate the community about those plans. A pest management committee is established to oversee the implementation of these plans and to coordinate pest management across state-controlled lands. Local governments are also required to develop pest management plans for declared pests in their areas. Local governments are required to implement these plans. Chapter 6 provides that a regulation may establish a pest operational board, which is responsible for the management of a declared pest in a particular area.⁴³

Pests can be declared by regulation, or by emergency notice when the need arises. Declared pest animals in Queensland include all mammals, amphibians and reptiles not native to Queensland, with the exception of some domestic animals. Some pest species, such as cane toads, and two species of deer, are not classified as pest species in the legislation.⁴⁴

Part 5, Division 2 of Chapter 2 creates offences in relation to declared pests, including introducing, feeding, keeping and selling declared pests.

Part 6, Division 1 of Chapter 2 provides for regulations to establish the building line of a declared pest fence to stop pests crossing from one area to another. The fence will be constructed by the chief executive, a pest operational board or a local government.

Chapter 2, Part 7 provides for the issuing of declared pest permits for the keeping of declared pests under certain conditions. Unless the owner of land is in possession of a declared pest permit, the owner has obligations to control specified categories of declared pests on the owner's land. Notices requiring the owner to control pests on the owner's land can be issued, and if no action is taken, the owner will be required to reimburse the local authority the costs of taking control measures on the land.⁴⁵

42 *Land Protection (Pest and Stock Route Management) Act 2002 (Qld)*, Chapter 2, Part 2, Division 2.

43 *Land Protection (Pest and Stock Route Management) Act 2002 (Qld)*, Chapter 2, Pt 3, Divs 1 and 2, Pt 4 and Chapter 6.

44 *Land Protection (Pest and Stock Route Management) Act 2002 (Qld)*, Chapter 2, Pt 5, Div 1, *Land Protection (Pest and Stock Route Management) Regulation 2003 (Qld)*, Schedule 1.

45 *Land Protection (Pest and Stock Route Management) Act 2002 (Qld)*, Chapter 2, Pt 8.

The Act also provides for the approval of pest survey programs, which allow authorised persons to enter land and monitor compliance with pest animal control, and to map pest animal populations.⁴⁶

Part 10 of Chapter 2 allows an owner in a non-urban district to destroy a dog on the land if the owner reasonably believes the dog has no owner and the dog is about to attack stock.

The Act also sets up a Land Protection Fund, the purpose of which is to record amounts received for, and paid from, the fund to achieve the purposes of the Act.⁴⁷

Nature Conservation Act 1992

The *Nature Conservation Act 1992* (Qld) regulates the taking of native wildlife. The taking or use of a 'protected animal' (threatened, rare, near threatened or least concern wildlife) without authorisation under the Act is prohibited. A person who applies for a permit to take or use protected wildlife may be required to prepare a draft conservation plan. Any commercial use of wildlife must be ecologically sustainable.⁴⁸

Nature Conservation (Macropod) Conservation Plan 2005

The purpose of this plan is to provide more detailed regulation for the taking, keeping and use of macropods, to ensure that it is ecologically sustainable. The Plan stipulates conditions as to harvest periods, size and weight of animals taken and means of taking animals. The Act provides for both commercial wildlife harvesting licences and recreational wildlife harvesting licences. Damage mitigation permits are also covered by the legislation.⁴⁹

South Australia

Natural Resources Management Act 2004

The Act establishes an NRM Council, which is required to prepare an NRM Plan for the State. The Plan must include policies for the control of pest animal and plant species. The Act also establishes a series of Regional NRM

46 *Land Protection (Pest and Stock Route Management) Act 2002* (Qld), Chapter 7.

47 *Land Protection (Pest and Stock Route Management) Act 2002* (Qld), ss 209, 210.

48 *Nature Conservation Act 1992* (Qld), ss 73, 88, 88A, 112.

49 *Nature Conservation (Macropod) Conservation Plan 2005* (Qld), s 4, Part 3, Pt 4, Divs 4, 5, 6.

Boards. Each Regional NRM Board is required to prepare and maintain a Regional NRM Plan for the region, which includes provisions as to how pest animal and plant species are to be managed.⁵⁰

If an owner of land is in breach of the general statutory duty to act reasonably in relation to natural resource management, and that may lead to land degradation, or fails to take required steps to control pest animals and plants on the land, the land owner can be required to prepare an action plan for the land. If the owner fails to implement the plan as required, the owner commits an offence and the relevant authority may enter the land and carry out the required work, and recoup the cost from the owner.⁵¹

The Act allows for the Minister to declare a pest animal or plant species as Category 1, 2 or 3, and to prescribe the application of particular provisions of the Act to that species. The movement, keeping, sale and release of declared pests is prohibited, and penalties for contravention differ depending on the category of the species. Where it has been declared, an owner of land is required to destroy or control all pest animals of a particular species on their land. An owner must also comply with directions of an authorised officer in relation to keeping declared species in captivity. In taking measures to control declared plants and pests, a person must take all reasonable steps to ensure that native vegetation is not cleared except in accordance with guidelines set out by the Native Vegetation Council. NRM groups must carry out these obligations in relation to pest animals on road reserves. The Minister can also declare a quarantine area to prevent the spread of a pest, and can prohibit the declared species from being brought within that area, and require a landowner to take measures to control the spread of that species.⁵²

The relevant authority may issue a permit allowing the movement, keeping or sale of a species where that would not otherwise be lawful.⁵³

National Parks and Wildlife Act 1972

Part 5 of the *National Parks and Wildlife Act 1972* (SA) provides for the conservation of native wildlife. The Act makes it unlawful to take a protected animal. Where the Minister believes that members of a protected species (other than endangered, rare or vulnerable species) are causing or likely to cause damage to crops or other property, the Minister may declare that members of that species can be killed, after taking advice from the National

50 *Natural Resources Management Act 2004* (SA), ss 74, 75.

51 *Natural Resources Management Act 2004* (SA), ss 122, 123, 183.

52 *Natural Resources Management Act 2004* (SA), ss 174-177, 179, 181-182, 187, 192.

53 *Natural Resources Management Act 2004* (SA), s 188.

Parks and Wildlife Council. The Minister may also declare open season for taking of a particular protected species. The Minister may also grant permits for the taking of protected species, to prevent damage to the environment, crops or other property, or for some other approved purpose.⁵⁴

Without authorisation, it is an offence to sell a protected animal or its carcass. It is also an offence to import or export a protected species without a permit; an application for a permit can be made to the Minister. A permit for farming protected animals can also be issued. At the time of writing, the only species for which commercial farming was permitted under the Act was the emu.⁵⁵

Part 5, Division 4B of the Act provides for commercial harvesting of protected species. The Minister may declare that the Division applies to any one or more of the red, grey or euro kangaroo. A Plan of Management must be prepared for each species that is to be commercially harvested. Permits can then be issued for commercial harvesting of those species. A permit will only be granted if the Minister considers that it will not adversely affect the ecosystems to which the species belongs or the species as a renewable resource for the future. The Governor may declare that a royalty is payable in respect of harvested species. Permits can also be issued for hunting under Part 5A of the Act.⁵⁶

Tasmania

Vermin Control Act 2000

The *Vermin Control Act 2000* (Tas) provides for the control of 'vermin'. 'Vermin' is defined to include rabbits, foxes and any other species declared by the Minister. The Minister may make an order specifying that vermin be destroyed on land specified in the order. An occupier of land may also be issued with a notice to destroy the vermin on that land. If an occupier fails to comply with an order or notice, an inspector may carry out the control operation and the occupier must pay the reasonable costs of that.⁵⁷

Under the Act, there are prohibitions on keeping, releasing and carrying vermin, and introducing rabbits to any island in Tasmanian waters.⁵⁸

54 *National Parks and Wildlife Act 1972* (SA), ss 51-53.

55 *National Parks and Wildlife Act 1972* (SA), ss 58-59, 60C, Schedule 11.

56 *National Parks and Wildlife Act 1972* (SA), ss 60G, 60I, 60J, 61.

57 *Vermin Control Act 2000* (Tas), ss 5-7, 10.

58 *Vermin Control Act 2000* (Tas), ss 15, 17, 19, 20.

Dog Control Act 2000

Section 19 of the *Dog Control Act 2000* (Tas) provides that if a dog attacks an animal, the owner of the dog is guilty of an offence. A person carrying on the business of primary production can destroy any dog found at large on that land.⁵⁹

Nature Conservation Act 2002

The *Nature Conservation Act 2002* (Tas) provides, inter alia, for the conservation of flora and fauna. Regulations under the Act may make provision for the taking, use or export of wildlife and wildlife products. A permit may also be granted for the taking of wildlife or wildlife products on specified lands. The Minister may make orders declaring seasons when the taking of partly protected wildlife is prohibited, or when it may start and stop.⁶⁰

It is prohibited to bring animals into the state without an authority under the Act.⁶¹

Victoria

Catchment and Land Protection Act 1994

The *Catchment and Land Protection Act 1994* (Vic) sets up a framework for the control of pest animals and weeds in Victoria.

The Act imposes a duty on landowners to prevent the growth and spread of weeds and to prevent the spread of, and as far as possible eradicate, pest animals on their land. Landowners must also take all reasonable steps to prevent the spread of weeds and pest animals on roadside adjoining their lands.⁶²

A land management notice can be served on a landowner who is not fulfilling obligations in relation to pest animals. If the notice requires the landowner to use dangerous chemicals to control pest animals, it must include prescribed information in relation to the chemical and require the landowner to put up signs and inform neighbours about the use of the chemical. Non-compliance

59 *Dog Control Act 2000* (Tas), s 41.

60 *Nature Conservation Act 2002* (Tas), ss 26, 29, 30.

61 *Nature Conservation Act 2002* (Tas), s 32.

62 *Catchment and Land Protection Act 1994* (Vic), s 20.

with a land management notice is an offence. It is prohibited to take a pest animal (including trapping or killing it in another way) from an area where a land management notice is in effect.⁶³

Part 8 of the Act provides for the classification of pest animals and weeds. The Governor-in-Council, on the recommendation of the Minister, may declare an animal (excluding fish and invertebrates) to be a prohibited pest animal (importation, keeping and sale banned), controlled pest animal (only to be kept in approved, high security conditions), regulated pest animal (only to be kept in approved conditions) or an established pest animal (established widely in the wild and to be eradicated or controlled).⁶⁴ Classified pest animals are set out in sections 8 and 9 of Schedule 4 of the Act.

Before recommending a declaration, the Minister must take into account the need for national uniformity in classifying pest animals, and must take advice from the Victorian Catchment Management Council in recommending the declaration of an established pest animal.⁶⁵

The Act makes it an offence to import, keep or sell declared pest animals, with the most serious offences in relation to prohibited pest animals and the least serious offences in relation to established pest animals. It is also an offence to release declared pest animals. Importation, sale, keeping and release of pest animals is permitted where a permit is held. Where a permit is held, it is an offence not to comply with the conditions contained in the permit.⁶⁶

In addition to its obligations as a landowner, the Secretary to the Department of Natural Resources and the Environment has a duty to take all reasonable steps to eradicate State prohibited weeds from all lands in the State.⁶⁷

The Act expressly binds the Crown.⁶⁸

National Parks Act 1975

The *National Parks Act 1975* (Vic) permits the hunting of feral animals on national park land on the condition that the necessary permits to carry firearms have been issued and regulations are complied with.⁶⁹

63 *Catchment and Land Protection Act 1994* (Vic), ss 37, 38, 41, 74.

64 *Catchment and Land Protection Act 1994* (Vic), ss 58, 64-67.

65 *Catchment and Land Protection Act 1994* (Vic), s 69.

66 *Catchment and Land Protection Act 1994* (Vic), ss 75, 75A, 77, 77A.

67 *Catchment and Land Protection Act 1994* (Vic), s 21.

68 *Catchment and Land Protection Act 1994* (Vic), s 5.

69 *National Parks Act 1975* (Vic), ss 32G and 37.

Wildlife Act 1975

One of the purposes of the *Wildlife Act 1975* (Vic) is to prohibit and regulate the conduct of persons engaged in activities relating to wildlife. Part III of the Act allows the issuing of licences, including 'wildlife licences' for the taking, destruction, buying and selling of wildlife, and 'game licences' for the hunting, taking and destruction of game. An authorisation may also be given to hunt, destroy, buy or sell wildlife where that is necessary to protect buildings, crops, pastures and other property from damage by wildlife. It is an offence not to comply with conditions of the authorisation.⁷⁰

It is an offence to hunt, destroy, take, buy or sell endangered, notable, or protected wildlife or game without a licence. It is also an offence to import or export wildlife to or from Victoria without a permit. Issuing of a permit is dependent on certain conditions, including that it will not adversely affect the population of that species in the wild.⁷¹

Western Australia

Agriculture and Related Resources Protection Act 1976

The *Agriculture and Related Resources Protection Act 1976* (WA) provides for the control, management and prevention of certain plant and animal species. The Act provides for the declaration of plant and animal species for all or part of the state, by the APB. Declared plants and animals are placed in a particular category or categories, including those that should be prohibited from being introduced in a particular area, those that should be eradicated in a particular area, and those that should be prohibited from being kept in an area. There is also a category for native species where the APB considers a special management program is warranted.⁷²

Government departments and local governments are required to control declared plants and animals on land under their control. An occupier of private land must notify the APB of the presence of declared animals and plants on their land, and must control declared animals and plants on the land. It is an offence for a local government or an occupier of private land to fail to fulfil these obligations. An authorised person may serve a notice on the owner or occupier of land requiring them to control declared species; it is an

70 *Wildlife Act 1975* (Vic), ss 1A, 22, 22A, 28A, 28B.

71 *Wildlife Act 1975* (Vic), ss 41-47, 50.

72 *Agriculture and Related Resources Protection Act 1976* (WA), ss 35-37.

offence to fail to comply and the authorised person may carry out the work themselves at the occupier's expense.⁷³

It is an offence to keep or introduce declared species for which keeping and introduction are prohibited, except in accordance with conditions set out for that purpose. It is also an offence to liberate a declared pest, or to fail to prevent the being at large of an animal that becomes a declared pest.⁷⁴

Wildlife Conservation Act 1950

The *Wildlife Conservation Act 1950* (WA) protects native wildlife in the state. It is an offence to take protected fauna other than under a licence, or as authorised by the Act. It is also an offence to sell, or take for the purposes of sale, fauna, protected or unprotected, except under a licence. In particular, it is an offence to process fauna for the purposes of sale without a licence. Royalties are payable on the skins of fauna taken in the state. It is also an offence to release fauna in any part of the state where the species is not normally found at liberty.⁷⁵ There are plans to replace this legislation with a *Biodiversity Conservation Act* at some stage in the future, which will continue to allow commercial use of native resources, but also provide for accreditation of industries so that not all wildlife products require trade approval or licensing.⁷⁶

73 *Agriculture and Related Resources Protection Act 1976* (WA), ss 39, 42, 48-52.

74 *Agriculture and Related Resources Protection Act 1976* (WA), ss 77-83.

75 *Wildlife Conservation Act 1950* (WA), ss 15-18.

76 Western Australian Government, *A Biodiversity Conservation Act for Western Australia: Consultation Paper*, Western Australian Government, December 2002, viewed 31 October 2005, <http://www.naturebase.net/biocon_act_consult.pdf>.