



BERMUDA

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

2022 : 12

TABLE OF CONTENTS

1	Citation
2	Amends section 2
3	Repeals section 5 and inserts Part II heading
4	Repeals and replaces section 6
5	Amends section 8
6	Repeals section 9
7	Amends section 10
8	Amends section 11
9	Repeals section 12
10	Repeals and replaces section 13
11	Amends section 14
12	Amends section 15
13	Amends section 16
14	Amends section 17
15	Amends section 19
16	Inserts Part IIIA Heading
17	Amends section 20
18	Amends section 22
19	Amends section 28
20	Inserts Part IIIB
21	Amends section 31
22	Amends section 36
23	Amends section 40
24	Amends section 45
25	Inserts section 45A
26	Amends section 46
27	Repeals and replaces section 47
28	Inserts sections 47A and 47B

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

- 29 Amends section 48
- 30 Repeals and replaces section 52
- 31 Inserts the Schedule
- 32 Transitional, validation and savings provision
- 33 Consequential amendment
- 34 Commencement

WHEREAS it is expedient to amend the Endangered Animals and Plants Act 2006 to facilitate compliance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and make consequential and related amendments;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Endangered Animals and Plants Act 2006 ("the principal Act"), may be cited as the Endangered Animals and Plants Amendment Act 2022.

Amends section 2

2 (1) Section 2 of the principal Act is amended as follows.

(2) In subsection (1)—

(a) insert in the correct alphabetical order the following definitions—

“Department” means the Department of Environment and Natural Resources;

“Director” means the Director of the Department;

“hybrid” means—

(a) in relation to an animal specimen, an animal specimen which has, within four generations of its lineage, one or more specimens of species included in Appendix I or II;

(b) in relation to a plant specimen, a plant specimen in which one or both of its parents are of a taxa included in an Appendix, unless the hybrid is excluded from Convention controls by specific annotation in the Appendices;

“precautionary principle” has the meaning assigned in section 7(3);

“Secretariat” means the body established under Article XII of the Convention;

“specified equipment” has the meaning assigned in section 45(1);”;

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

- (b) in the definition of “animal specimen” in the continuing words, insert after “derivative”, the words “or hybrid”;
- (c) repeal the definition of “Appendix” and substitute—

“ Appendices” means Appendices I, II and III to the Convention which list, according to degrees of protection, the animal and plant species protected under the Convention whereby—

- (a) Appendix I lists species threatened with extinction and provides that trade in specimens of such species is permitted only in exceptional circumstances;
 - (b) Appendix II list species not necessarily threatened with extinction but for which trade is controlled in order to avoid utilisation incompatible with the survival of such species; and
 - (c) Appendix III list species that are protected in at least one country that has asked other Convention States for assistance in controlling the trade of those species, and this Appendix may be amended unilaterally by individual Convention States;”;
- (d) in the definition of “Convention”, insert after “Flora” the words “(and its Appendices)”;
 - (e) in the definition of “critical habitat”, delete “any land covered by water” and substitute “the territorial waters of Bermuda (including the airspace above such land and waters), the exclusive economic zone for Bermuda”;
 - (f) repeal the definition of “Management Authority” and substitute—

“ Management Authority” means the Management Authority established under section 13(1);”;

- (g) repeal the definition of “personal or household effects” and substitute—
- “ personal or household effects” means a specimen, or any article or ornament manufactured from a specimen that is—
- (a) owned or possessed for non-commercial purposes;
 - (b) legally acquired;
 - (c) at the time of import, export or re-export either—
 - (i) worn, carried or included in personal baggage; or
 - (ii) part of a household move; and
 - (d) in the case of a live specimen, based and registered in the owner’s State of usual residence and, in respect of which, a certificate of ownership has been issued by the management authority of that State;”;

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

- (h) in the definition of “plant specimen” after paragraph (d), insert after “derivative” the words “or hybrid”;
 - (i) in the definition of “relevant authority” in paragraph (a), delete “Management Authority” and substitute “management authority”;
 - (j) in the definition of “Scientific Authority” delete “13(1)(b)” and substitute “13(3)”; and
 - (k) in the definition of “specimen” delete “, unless specifically exempt under this Act”.
- (3) After subsection (3) insert—

“(3A) For the purposes of this Act, where a specimen is brought into Bermuda for the purposes of trans-shipment, or in transit, or as part of an aircraft’s stores or ship’s stores and remains on board the aircraft or ship, the specimen shall not be taken to have been imported, and when it leaves Bermuda shall not be taken to have been exported from Bermuda.”.

- (4) After subsection (4) insert—

“(4A) For the purposes of this Act—

- (a) if a hybrid (in relation to an animal specimen) has within the previous four generations of its lineage—
 - (i) a species included in Appendix I, then the animal hybrid shall be treated as a specimen of a species included in Appendix I; or
 - (ii) a species that is included in Appendix II and there are no specimens in such lineage of a species included in Appendix I, then the animal hybrid shall be treated as a specimen of a species included in Appendix II; and
- (b) if a hybrid (in relation to a plant specimen) has been artificially propagated and is derived from one or more species that is included in Appendix I, then the artificially propagated plant hybrid shall be treated as a specimen of a species included in Appendix II. ”.

Repeals section 5 and inserts Part II heading

- 3 (1) Repeal section 5 of the principal Act and in its place insert—

“PART II
ADMINISTRATION”.

- (2) In consequence of subsection (1), after section 12 of the Principal Act delete the heading “PART II ADMINISTRATION”.

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

Repeals and replaces section 6

4 Repeal section 6 of the principal Act and substitute—

“Publication and amendment of Appendices

6 (1) The Management Authority shall publish—

- (a) the Appendices and any amendments made thereto;
- (b) any amendments to the Appendices as may be adopted (pursuant to the Convention) from time to time; and
- (c) any reservations entered (pursuant to the Convention) for or in relation to Bermuda in respect of any amendments to the Appendices.

(2) Whenever an amendment to any Appendix enters into force and no reservation in relation thereto has been entered for or in relation to Bermuda, the Appendix shall be amended in relation to Bermuda.

(3) The obligation of the Management Authority under subsection (1) shall be deemed to be fulfilled by—

- (a) depositing, for public inspection, the information referred to in subsection (1) at the offices of the Management Authority; or
- (b) publishing on the Management Authority’s website a web address that provides links to the information referred to in subsection (1).”.

Amends section 8

5 (1) Section 8 of the principal Act is amended as follows.

(2) Repeal subsection (4)(a) and substitute—

“(a) the institution or individual does not engage in commercial transactions in the specimen or species specified in the order;”.

(3) After subsection (4) insert—

“(5) An application under subsection (1) shall be in such form as the Management Authority may determine and shall be accompanied by the fee prescribed for such application under the Government Fees Act 1965.

(6) Section 6 of the Statutory Instruments Act 1977 (which provides for parliamentary scrutiny) shall not apply to an order under subsection (1).”.

Repeals section 9

6 Repeal section 9 of the principal Act.

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

Amends section 10

7 In section 10(2) of the principal Act, delete “Part III” and substitute “section 19”.

Amends section 11

8 (1) Section 11 of the principal Act is amended as follows.

(2) In subsection (4), delete “Part III” and substitute “section 19”.

(3) After subsection (5) insert—

“(6) The Minister may, by regulations made under section 53, make such provisions as are considered necessary for regulating the artificial propagation of plants.”.

Repeals section 12

9 Repeal section 12 of the principal Act.

Repeals and replaces section 13

10 Repeal section 13 of the principal Act and substitute—

“Establishment of authorities

13 (1) For the purposes of this Act the Department of Environment and Natural Resources is established as the Management Authority.

(2) The Management Authority shall perform the functions set out in section 15.

(3) For the purposes of this Act there is established an authority called the “Scientific Authority” which shall perform the functions set out in section 16.

(4) The Schedule has effect with respect to the appointment, constitution and proceedings of the Scientific Authority.”.

Amends section 14

11 In section 14 of the principal Act, delete “, after consultation with the Chairman,”.

Amends section 15

12 (1) Section 15 of the principal Act is amended as follows.

(2) In subsection (1)(g), after “exportation”, insert “or importation”.

(3) In subsection (2)—

(a) at the end of paragraph (b), delete “and”;

(b) in paragraph (c)—

(i) after “trade”, insert “(including illegal trade)”;

(ii) delete the full stop and substitute a semicolon; and

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

(c) after paragraph (c) insert—

“(d) prepare implementation reports regarding any legislative, regulatory and administrative measures taken to enforce the Convention; and

(e) prepare such other reports as the Secretariat may, from time to time, request under the Convention.”.

Amends section 16

13 In section 16(2)(f) of the principal Act, delete “Article VII, paragraph 4 or 5 of the Convention” and substitute “section 19(1)(i)”.

Amends section 17

14 (1) Section 17 of the principal Act is amended as follows.

(2) In subsection (2)(d), delete “states” and substitute “States”.

(3) In subsection (6), delete “shall” and substitute “may”.

Amends section 19

15 In section 19(1) of the principal Act, delete “in the prescribed form to the Management Authority” and substitute “in such form as the Management Authority may determine”.

Inserts Part IIIA Heading

16 After section 19 of the Principal Act insert—

“PART IIIA
TRADE IN PERMITTED CASES”.

Amends section 20

17 (1) Section 20 of the principal Act is amended as follows.

(2) In paragraph (a), after the semicolon, insert “and”.

(3) Repeal paragraph (b).

(4) In paragraph (c)—

(a) in subparagraph (iii), after the semicolon, delete “and”; and

(b) repeal subparagraph (iv) and substitute—

“(iv) the specimen is not intended to be used for primarily commercial purposes; and

(v) the circumstances concerning the exportation are exceptional.”.

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

Amends section 22

- 18 (1) Section 22 of the principal Act is amended as follows.
- (2) In paragraph (a), after the semicolon, insert “and”.
- (3) Repeal paragraph (b).
- (4) In paragraph (c)—
- (a) in subparagraph (iv), after the semicolon, delete “and”; and
- (b) repeal subparagraph (v) and substitute—
- “(v) the specimen is not intended to be used for primarily commercial purposes; and
- (vi) the circumstances concerning the exportation are exceptional.”.

Amends section 28

- 19 In section 28(1) of the principal Act, delete “any specimen” and substitute “specimen”.

Inserts Part IIIB

- 20 After section 30 of the principal Act insert—

“PART IIIB
EXEMPTIONS TO TRADE RESTRICTIONS

Pre-Convention certificate

- 30A Part IIIA shall not apply to a specimen—
- (a) where the Management Authority is satisfied that the specimen was acquired before the relevant provisions of the Convention applied to that specimen and grants a pre-Convention certificate to that effect in accordance with section 19; or
- (b) where the specimen is accompanied by a valid pre-Convention certificate or permit issued by the management authority of the State of origin showing that the specimen was acquired before the relevant provisions of the Convention applied to that specimen.

Personal or household effects

- 30B (1) Subject to this section, the Management Authority may waive Part IIIA in relation to personal or household effects and grant, in accordance with section 19, a certificate of personal ownership to that effect.
- (2) Subsection (1) shall not apply—

- (a) where any specimens of a species specified in Appendix I were acquired by the owner outside of Bermuda and are being imported; or
- (b) where specimens of a species specified in Appendix II or III—
 - (i) were acquired by the owner outside Bermuda, in a State where removal from the wild occurred;
 - (ii) are being imported; and
 - (iii) the State referred to in sub-paragraph (i) requires the prior grant of an export permit before the exportation of any such specimens,

unless the Management Authority is satisfied that the specimens were acquired before the provisions of the Convention applied to those specimens; and
- (c) where the country of origin, export or re-export, as the case may be, does not provide an exemption for personal and household effects.

(3) The Minister may, by order, declare that the exemption conferred by subsection (1) shall not apply to any article of personal or household effects made of specimens of a particular species and quantity as specified in the order.

(4) An order made under this section shall be subject to the negative resolution procedure.

Travelling-exhibition certificate

30C (1) The Management Authority may waive Part IIIA in relation to any specimen that forms part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition and grant, in accordance with section 19, a travelling-exhibition certificate to that effect in the following circumstances—

- (a) the exporter or importer registers with the Management Authority the full particulars of the specimen;
- (b) the specimen—
 - (i) was acquired before the Convention applied to it; or
 - (ii) was, or is a part of, or derived from any specimen of any animal species which was bred in captivity or a plant species which was artificially propagated; and
- (c) in the case of a living specimen, the Management Authority is satisfied that it will be so transported and cared for as to minimize damage to health, risk of injury, or cruel treatment.

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

(2) A travelling-exhibition certificate granted in respect of this section shall be valid for a period not exceeding three years from the date on which it was granted.

Specimens in transit or trans-shipped and sample collections

30D (1) Subject to this section, Part IIIA shall not apply to—

- (a) specimens in transit through Bermuda;
- (b) the trans-shipment of specimens through Bermuda; or
- (c) sample collections.

(2) An authorized officer, conducting an inspection, shall verify that any items listed in subsection (1) are accompanied by a valid Convention permit or certificate, as issued by the relevant authority of the State of origin, and showing the final destination of the shipment.

(3) In the case of sample collections, the final destination of the shipment must be the country of issuance.

(4) In the absence of a valid Convention permit or certificate the authorized officer must be reasonably satisfied that such documents exist.

(5) Where subsections (2) to (4) are not satisfied, the specimens may be seized and detained in accordance with Part VI.

(6) Where subsections (2) to (4) are not satisfied and the specimens are not seized and detained, the Management Authority shall provide, as soon as possible, all relevant information regarding the shipment to—

- (a) the relevant authority of the country of final destination;
- (b) the relevant authority of any countries through which the shipment will pass in transit; and
- (c) the Secretariat.

(7) In this section “sample collections” means collections of legally acquired dead specimens—

- (a) included in Appendix II or III; or
- (b) of a species included in Appendix I that have been bred in captivity or artificially propagated for commercial purposes and are therefore deemed to be included in Appendix II,

that are covered by a valid ATA carnet, are accompanied by a Convention permit or certificate specifying that such permit or certificate is issued for a sample collection, are not entitled to be sold or otherwise transferred, and that will cross borders for presentation purposes before returning to the country from which such movement was first authorized.

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

Animals bred in captivity and artificially propagated plants

30E Subject to sections 10 and 11, respectively, Part IIIA shall not apply to—

- (a) animal specimens bred in captivity; or
- (b) artificially propagated plant specimens,

if they are accompanied by documentation issued by the relevant authority of the State of origin attesting to the status as bred in captivity or artificially propagated.

Inter-scientific institution transfer of certain specimens

30F (1) Subject to this section, Parts III and IIIA shall not apply to a transfer, between scientific institutions registered by a management authority of their State, of—

- (a) herbarium specimens;
- (b) other preserved, dried or embedded museum specimens; or
- (c) live plant material,

which carry a label issued or approved by a management authority.

(2) For the purposes of this Act—

- (a) a transfer between scientific institutions includes a non-commercial loan, donation or exchange; and
- (b) trade in any specimen shall be taken to be a transfer between scientific institutions in the following circumstances—
 - (i) the exporter or sender (as the case may be) and the recipient are approved scientific institutions in relation to a class of specimens that includes that specimen;
 - (ii) in the case of a specimen that is a live plant, the specimen is not required by the exporter or the sender for the purposes of breeding, artificial propagation or exhibition; and
 - (iii) in the case of a specimen, other than a specimen that is or is derived from a plant that is artificially propagated, the specimen was not purchased or otherwise obtained for the purposes of trade.

(3) In this section “approved scientific institution” includes an approved person.”.

Amends section 31

21 In section 31(1) of the principal Act—

- (a) in paragraph (a), delete “six months” and substitute “12 months”; and
- (b) in paragraph (b), delete “three months” and substitute “six months”.

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

Amends section 36

22 In section 36(8) of the principal Act, after “decision”, insert the words “, together with reasons for his decision,”.

Amends section 40

23 (1) Section 40 of the principal Act is amended as follows.

(2) Number the existing provision as subsection (1) and in the continuing words to that subsection, delete “three year” and substitute “three years”.

(3) After subsection (1) insert—

“(2) Any person who—

(a) sells, exposes for sale, offers for sale, delivers, receives, transports or otherwise deals in any specimen; or

(b) has in his possession or under his control any specimen,

that has been derived from a specimen traded in a manner contrary to this Act, commits an offence and shall be liable on summary conviction to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three years or to both.”.

Amends section 45

24 (1) Section 45 of the principal Act is amended as follows.

(2) Repeal the heading and substitute “Specified equipment may be seized, detained and forfeited”.

(3) In subsection (2), delete “this section” and substitute “subsection (1), section 44 or section 45A(1)(c)”.

(4) In subsection (4), insert after the first occurrence of “specified equipment” the words “to the Crown”.

Inserts section 45A

25 After section 45 of the principal Act insert—

“Additional powers of authorized officers

45A (1) Without prejudice to sections 44 or 45, where an authorized officer in the execution of his duties has reasonable grounds for believing that an offence has been committed against this Act, he may—

(a) stop, detain, search and arrest any person whom he reasonably suspects of having committed an offence against this Act;

(b) stop, detain, and search any vehicle or vessel which appears to have been used or is being used in the commission of an offence against this Act;

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

- (c) seize any vehicle, vessel, or thing in connection with which an offence appears to have been committed against this Act;
- (d) seize any specimen which he has reason to believe is being possessed or used in contravention of any provision of this Act.

(2) For the purposes of enforcement of this Act, an authorized officer shall have the powers of a police officer.”.

Amends section 46

26 In the heading to section 46 of the principal Act, after “forfeiture” insert the words “of specified equipment”.

Repeals and replaces section 47

27 Repeal section 47 of the principal Act and substitute—

“Forfeiture of specimen

47 (1) Every specimen of a species in respect of which there is a conviction for an offence against this Act shall be forfeited to the Management Authority.

(2) Without prejudice to and in the absence of a conviction under subsection (1), where any specimen of a species is seized pursuant to section 44 or 45A, the court may, on the application of the Director of Public Prosecutions before a magistrate, order the forfeiture of the specimen to the Management Authority where the court is satisfied that—

- (a) the specimen has been abandoned; or
- (b) the circumstances are such that it is otherwise just to do so.

(3) Before making an order for forfeiture under this section, any person who claims to be the owner of or otherwise interested in a specimen so liable to forfeiture under this section, shall be given an opportunity to show cause why an order for forfeiture should not be made.

(4) Where, on the hearing of an application for forfeiture under subsection (2), no person appears before the court to show cause as mentioned therein, the court shall presume that the specimen has been abandoned.

(5) Subject to subsection (6), where any specimen is forfeited under this section the Management Authority may, after consultation with the Scientific Authority—

- (a) dispose of the specimen by—
 - (i) returning it to the wild;
 - (ii) storing, placing it under the control of, or donating it to an approved scientific institution or to an approved person;

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

- (iii) returning it to its owner or State of origin at the expense of the owner or that State as the case may be or to such place as the Management Authority deems appropriate; or
- (iv) destroying it after consultation with the country of origin; or
- (b) if it is not otherwise disposed of under paragraph (a), retain the specimen.

(6) The Management Authority may issue the appropriate permit or certificate to any person or body to facilitate disposal under subsection (5)(a).

(7) Where a court convicts a person of an offence under this Act, it may order such person to pay, in respect of storage, maintenance, administrative expenses, security and insurance for any specimen used in the contravention of this Act, such amount as may be charged by the person in whose custody the specimen was kept.”.

Inserts sections 47A and 47B

28 After section 47 of the principal Act insert—

“Procedure regarding application for forfeiture of specimen

47A (1) Where the Director of Public Prosecutions intends to apply to the court for an order of forfeiture under section 47, he shall, subject to subsection (2) of this section, give to any person who, to his knowledge, was at the time of the seizure the owner thereof, notice of the seizure and the intention to apply for forfeiture and the grounds thereof.

(2) Notice shall not be required under subsection (1) if the seizure was made in the presence of the owner or his servant or agent.

(3) Where the owner of or any person having an interest in any specimen to which this section applies cannot be ascertained, the Management Authority, shall, not less than 30 days prior to the application, publish a notice in the Gazette regarding the intention to apply to a magistrate for an order for forfeiture.

(4) If, upon the application of a person prejudiced by an order made under section 47, the court is satisfied that it is just in the circumstances of the case to revoke the order, the court may—

- (a) revoke such order upon such terms and conditions, if any, as it deems appropriate; and
- (b) without prejudice to the generality of paragraph (a), require such person to pay in respect of storage, maintenance, administrative expenses, security and insurance of the specimen, such amount as may be charged by the person in whose custody the specimen was kept.

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

(5) An application to the court under subsection (4) for the revocation of an order shall be made within 21 days of the date of the order or such longer period not exceeding six months after the date of the order as the court may allow.

Appeal against forfeiture

47B (1) Any party to proceedings in which an order of forfeiture is made under this Part may appeal to the Supreme Court against the order.

(2) An appeal under subsection (1) must be made—

(a) in the case of an order of forfeiture made under section 45, within the period of 30 days beginning with the date on which the order is made; or

(b) in the case of an order of forfeiture made under section 47, within the period of 21 days beginning with the date on which the order is made.”.

Amends section 48

29 In section 48 of the principal Act in the continuing words following paragraph (b) (ii), delete “species” and substitute “specimen”.

Repeals and replaces section 52

30 Repeal section 52 of the principal Act and substitute—

“Burden of proof

52 The burden of proving that the relevant provisions of this Act do not apply or have been complied with in relation to any offence for which an accused is charged under this Act shall be on the accused.”.

Inserts the Schedule

31 After section 55 of the principal Act insert—

“SCHEDULE

(section 13(4))

CONSTITUTION AND OTHER PROVISIONS RELATING TO THE SCIENTIFIC AUTHORITY

Constitution of the Scientific Authority

1 The Scientific Authority shall consist of not less than four nor more than seven members of whom—

(a) the Minister shall appoint—

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

- (i) two members from a Government Department having responsibility for the environment;
 - (ii) one member from the Bermuda Institute of Ocean Studies; and
 - (iii) if he thinks fit, not more than three members of the general public considered by the Minister to have a sufficient knowledge and interest in environmental and conservation matters pertaining to endangered and wild species;
- (b) the Government Veterinary Officer or a conservation officer appointed (after consultation with the Government Veterinary Officer) by the Director shall be an ex officio member.

Chairman and vice-chairman

- 2 (1) The Minister shall appoint, from among the members (other than the ex-officio member), a chairman.
- (2) The members of the Scientific Authority shall choose a vice-chairman from among them.

Term of office

- 3 (1) A member, other than an ex officio member, shall be appointed for a term of three years from the date on which the appointment took effect.
- (2) A person who has held office as a member of the Scientific Authority shall be eligible for re-appointment.

Resignation, termination and vacancy

- 4 (1) A member may, at any time, resign by giving notice in writing to the Minister.
- (2) The Minister may declare the office of a member of the Scientific Authority vacant if the Minister is satisfied that the member—
- (a) has failed, without adequate cause, to attend three successive meetings of the Scientific Authority;
 - (b) is unable through mental or physical incapacity or absence from Bermuda to perform his functions as a member of the Scientific Authority;
 - (c) is otherwise unable or unfit to discharge his functions as a member of the Scientific Authority.
- (3) Where a member's office becomes vacant and there is more than three months remaining before the expiry of his term, the vacancy shall be filled in accordance with paragraph 1.

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

(4) Where a member is appointed to fill a vacancy, that member shall be appointed for the remainder of the term he was appointed to fill and that period shall not constitute a term under paragraph 3(1).

(5) Where a member's office becomes vacant with less than three months remaining before the expiry of his term, the vacancy need not be filled.

Procedure for meetings

5 At a meeting of the Scientific Authority, the proceedings shall be regulated as follows—

- (a) the Scientific Authority shall meet as often as necessary or expedient for the due performance of its functions but not less than twice per calendar year;
- (b) four members, including the ex officio member, of the Scientific Authority shall constitute a quorum at any meeting;
- (c) the chairman, or in his absence the vice-chairman, shall chair meetings of the Scientific Authority;
- (d) acts of the Scientific Authority shall be decided by the votes of a majority of the members present at any meeting and in the event of an equality of votes the chairman, or vice-chairman as the case may be, shall have a casting vote;
- (e) a minute shall be made of every decision of the Scientific Authority in such form as the Minister may direct;
- (f) the validity of any act or proceedings of the Scientific Authority shall not be affected by any vacancy among the members of the Scientific Authority or by any defect in the appointment of a member.

Conflicts of interest

6 If a member of the Scientific Authority has any direct or indirect interest in any matter before it—

- (a) he shall disclose his interest to the Scientific Authority at the time of the matter being discussed; and
- (b) he shall have no vote in relation to that matter nor shall he remain present during its consideration unless the Scientific Authority has resolved that the interest does not give rise to a conflict of interest.

Committees

7 (1) The Scientific Authority may appoint from among its members, or such other persons as it may think fit, committees to exercise such functions as the Scientific Authority considers necessary.

ENDANGERED ANIMALS AND PLANTS AMENDMENT ACT 2022

(2) A member of the Scientific Authority shall be appointed chairman of any committee appointed under subparagraph (1).”.

Transitional, validation and savings provision

32 (1) Where a public officer prior to the coming into operation of this Act exercised or performed, in accordance with the principal Act, any functions of the Management Authority as set out under section 15 or under any other provision of the principal Act, the exercise or performance of such functions shall be deemed, as of 29 September 2006, to have been validly exercised or validly performed as the case may be.

(2) Any application received and determined pursuant to section 19 of the principal Act prior to the coming into operation of this Act, shall be deemed as of 29 September 2006 to have been validly received and determined.

(3) Where any established body, prior to the coming into operation of this Act, exercised or performed in accordance with the principal Act any functions of the Scientific Authority, as set out under section 16 or under any other provision of the principal Act, the exercise or performance of such functions shall be deemed, as of 29 September 2006, to have been validly exercised or validly performed as the case may be.

Consequential amendment

33 In the Care and Protection of Animals Act 1975, repeal section 2 and substitute—

“Application of Part II

2 (1) This Part applies to any vertebrate or invertebrate animal except fish as defined in section 1 of the Fisheries Act 1972.

(2) For the avoidance of doubt, nothing in this Part shall derogate from or abridge any provision of the Endangered Animals and Plants Act 2006 or any statutory instrument made thereunder.”.

Commencement

34 This Act shall come into operation on assent.

[Assent Date: 31 March 2022]

[Operative Date: 31 March 2022]