

**Wild Flowers and Native Plants Protection
(Amendment) Act.**

**WILD FLOWERS AND NATIVE PLANTS
PROTECTION (AMENDMENT) ACT.**

Act No. 8, 1945.

George VI.
No. 8, 1945.

An Act to make further provision for the protection of wild flowers and native plants; to amend the Wild Flowers and Native Plants Protection Act, 1927-1931, in certain respects; and for purposes connected therewith. [Assented to, 14th March, 1945.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title,
citation, and
commence-
ment.

1. (1) This Act may be cited as the "Wild Flowers and Native Plants Protection (Amendment) Act, 1945."

(2) The Wild Flowers and Native Plants Protection Act, 1927, as amended by subsequent Acts and by this Act, may be cited as the Wild Flowers and Native Plants Protection Act, 1927-1945.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act
No. 2, 1927.

2. The Wild Flowers and Native Plants Protection Act, 1927-1931, is amended—

Sec. 2.
(Interpre-
tation.)

(a) by inserting in section two after the definition of "Pick" the following new definition:—

"Prescribed" means prescribed by this Act or by the regulations made thereunder.

Sec. 4.
(Penalty
for pick-
ing, etc.)

(b) (i) by omitting subsection one of section four and by inserting in lieu thereof the following new subsection:—

(1) Any person who during the protected period picks a protected wild flower
or

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or protected native plant or has in his possession a protected wild flower or protected native plant picked during the protected period shall be guilty of an offence.

Nothing contained in this subsection shall extend—

- (a) to the picking or possession of any protected wild flower or protected native plant grown upon private land (whether in pursuance of a license issued under section five of this Act or otherwise) and picked by or with the consent of the owner or lessee of that land; or
 - (b) to the picking of any protected wild flower or protected native plant in pursuance of a license issued under section 5A of this Act or to the possession of any protected wild flower or protected native plant so picked.
- (ii) by inserting in subsection two of the same section after the words “such wild flower or native plant” the words “or had such wild flower or native plant in his possession.”
- (c) by omitting section five and by inserting in lieu thereof the following new section:—
5. (1) Any person who sells or offers or exposes for sale any protected wild flower or protected native plant during the protected period shall be guilty of an offence.
- (2) Nothing contained in subsection one of this section shall apply to or in respect of—
- (a) the native plant known by the botanical name of *Ceratopetalum gummiiferum* (commonly known as Christmas Bush) or the flower thereof which has been grown on private land and picked by or with the consent of the owner or lessee of that land; or
 - (b)

Substituted,
Sec. 5.

Selling
forbidden.

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(b) any protected wild flower or protected native plant which has been grown in pursuance of a license issued under this section and picked by or with the consent of the holder of such license.

(3) A license may be issued as prescribed to the owner or lessee of private land authorising such owner or lessee to grow upon the land specified in the license protected wild flowers and protected native plants for the purposes of sale.

**Substituted,
Sec. 6.**

(d) by omitting section six and by inserting in lieu thereof the following new section:—

Penalties.

6. (1) Any person convicted of an offence against this Act shall be liable to a penalty not exceeding fifty pounds and in respect of a third or subsequent offence against the provisions of section five of this Act shall, in addition to the said penalty, be liable to imprisonment for a term not exceeding one month.

(2) All proceedings for offences against this Act or the regulations made thereunder shall be disposed of in a summary manner by a stipendiary or police magistrate or two justices in petty sessions.

Sec. 7.
(Carriage
by Railway
Commis-
sioner and
Transport
Trust.)

(e) (i) by inserting at the end of paragraph (a) of subsection two of section seven the words “the sale of which is prohibited by section five of this Act”;

(ii) by omitting from the same subsection the words “This subsection shall not extend” and by inserting in lieu thereof the words “The provisions of paragraphs (b) and (c) of this subsection shall not extend”;

(iii) by omitting from the same subsection the words “and picked” and by inserting in lieu thereof the words “(whether in pursuance of a license issued under section five of this Act or otherwise) and picked by or”;

(iv) by omitting from paragraph (a) of subsection four of the same section the words “shall be prima facie evidence that such
wild

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wild flower or native plant was picked in contravention of this Act” and by inserting in lieu thereof the words “shall in the case of any such prosecution for the sale or offering or exposing for sale of a protected wild flower or protected native plant be prima facie evidence that such sale or offering or exposing for sale was in contravention of this Act and shall in respect of any other such prosecution be prima facie evidence that such wild flower or native plant was picked or held in possession in contravention of this Act”;

- (v) by omitting from paragraph (b) of subsection four of the same section the word “regulations” and by inserting in lieu thereof the words “by-laws or regulations other than a prosecution for the sale or offering or exposing for sale of a protected wild flower or protected native plant”;
- (vi) by inserting in sub-paragraph (ii) of the same paragraph after the word “picked” the words “by or”;
- (vii) by inserting next after the same paragraph the following new paragraph:—
 - (e) In any prosecution under such by-laws or regulations for the sale or offering or exposing for sale of a protected wild flower or protected native plant it shall be a sufficient defence to prove—
 - (i) in the case of the sale or offering or exposing for sale of the native plant known by the botanical name of *Ceratopetalum gummiferum* (commonly known as Christmas Bush) or the flower thereof that such plant has been grown on private land and picked by or with the consent of the owner or lessee of that land; and
 - (ii) in the case of the sale or offering or exposing for sale of any other protected wild flower or protected native plant

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plant that such protected wild flower or protected native plant was grown in pursuance of a license issued under section five of this Act and picked by or with the consent of the holder of such license.

New Sec. 9.

(f) by inserting next after section eight the following new section:—

Regulations.

9. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular without prejudice to the generality of the foregoing power, may make regulations for and with respect to—

- (a) the licensing of persons as growers of protected wild flowers and protected native plants, including—
 - (i) the terms, conditions and particulars to be set out in the licenses;
 - (ii) matters relating to the granting, refusal, renewal, suspension or cancellation thereof;
 - (iii) the fees payable in respect thereof;
- (b) the affixing of labels or distinguishing marks to protected wild flowers and protected native plants or packages or bundles thereof grown by a person licensed as a grower;
- (c) the furnishing by a person licensed as a grower of returns showing such particulars as may be prescribed;
- (d) the entry upon and inspection of any lands upon which protected wild flowers and protected native plants are grown by a person licensed as a grower and the requiring of the doing of any thing

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thing or things to prevent the land from being stripped of such wild flowers and native plants.

(2) The regulations may prescribe penalties not exceeding in any case fifty pounds for any contravention or breach thereof.

(3) Any license issued in pursuance of the regulations may apply to protected wild flowers and protected native plants generally or to any specified protected wild flowers or protected native plants or to protected wild flowers and protected native plants other than those specified.

(4) A regulation may authorise any matter or thing to be from time to time determined, applied, or regulated, by the Governor or the Minister or by an inspector or other officer authorised in that behalf by the regulations either generally or for any class of cases or in any particular case.

(5) All regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and, if not, then within fourteen sitting days after the commencement of the next session.

(6) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House, disallowing such regulations or any part thereof, such regulations or part shall thereupon cease to have effect.

PHYSIOTHERAPISTS