

Game and Feral Animal Control Bill 2018

EXPLANATORY MEMORANDUM

The *Game and Feral Animal Control Bill 2018* (Bill) is intended to provide an opportunity for orderly and safe recreational hunting on certain types of Crown land (public land); which in turn will contribute to the control of game and feral animals, and improved biodiversity, on that land.

Hunting under the Bill may only occur on public land that is declared for this purpose (public hunting land), by the Minister responsible for the administration of the area of Crown land. This will ensure that the decision to declare the land available for hunting is properly and fully informed, and takes into account all relevant considerations including public safety, conservation and other land values, and other current or proposed use of the land. Conditions may applied to hunting on public hunting land.

The types of Crown land that may be declared are:

- (a) certain types of land to which the *Conservation and Land Management Act 1984* (CALM Act) applies;
- (b) unallocated Crown land, as defined in the *Land Administration Act 1997* (LA Act);
- (c) unmanaged reserves, as defined in the LA Act; and
- (d) any other category of Crown land as may be prescribed from time to time.

The Bill does not apply to hunting on freehold land or land that is leased from the Crown.

The Bill is primarily aimed at regulating hunting of non-native game and feral animals. However there is provision to allow hunting of declared pests even if they are native animals, in the areas in which they are declared, as this will have similar biodiversity and environmental outcomes.

The Bill also aims to provide administrative efficiencies, by aligning the exercise of functions under the Bill with the exercise of comparable functions under the existing Acts that apply to the relevant public hunting land, being the CALM Act, the LA Act and the *Biodiversity Conservation Act 2016* (BC Act). This includes the:

- (a) appointment of enforcement officers under those Acts also being able to appointed as inspectors for the purposes of the Bill;
- (b) chief executive officers of the department responsible for administering the public hunting land under one of those Acts also being able to perform certain functions under the Bill in respect of that land, even if the Bill is administered by another Minister and department; and
- (c) comparable inspection powers and other enforcement provisions.

A detailed explanation of the clauses in the Bill follows.

Clause 1	provides that the short title of the Act is the <i>Game and Feral Animal Control Act 2018</i> .
Clause 2	sets out the commencement provisions. Subclause (a) provides that sections 1 and 2 of the Bill commence on Royal Assent and subclause (b) provides the rest of the Bill commences on a day fixed by proclamation.

<p>Clause 3</p>	<p>sets out the defined terms used in the Bill. Many of the terms are self-explanatory or refer to the relevant provision in the Bill where the term is defined in detail.</p> <p>In respect of the definitions that may not be self-evident:</p> <p>CALM Act land means the following types of land to which the CALM Act applies:</p> <p>(a) land defined in sections 5(1)(a), (b), (c), (ca), (d), (g) and (h) of the CALM Act, being respectively:</p> <ul style="list-style-type: none"> (i) State forest; (ii) timber reserves; (iii) national parks; (iv) conservation parks; (v) nature reserves; (vi) any other land reserved under the <i>Land Act 1933</i> and vested in the Conservation and Parks Commission; and (vii) any other land reserved under Part 4 of the <i>Land Administration Act 1997</i> and under the care, control and management of the Conservation and Parks Commission or the Conservation and Land Management Act Executive Body. <p>By implication, this definition excludes land defined in sections 5(1)(e), (f) and (fa) of the CALM Act, being respectively:</p> <ul style="list-style-type: none"> (i) marine nature reserves; (ii) marine parks; and (iii) marine management areas. <p>(b) unallocated Crown land or unmanaged reserves that have been put under the management of the chief executive officer of the Department responsible for the administration of the CALM Act (CEO), provided the CEO's functions that are specified in the order made section 8C of the CALM Act includes managing the land for the purposes of the Bill.</p> <p>To ensure the Bill only applies to public land, subclause (c) expressly excludes private or other land which the CEO has agreed to manage under section 8A of the CALM Act, from the definition of CALM Act land.</p> <p>Director General means the chief executive officer (as defined in the <i>Interpretation Act 1984</i>) of the department assisting in the administration of the Bill. The Bill has been drafted so there is flexibility as to which department that may be. It may, but need not, be either of</p>
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the departments responsible for the administration of CALM Act land or LA Act land (as defined below).

hunt defines the activities that may be undertaken in respect of a game animal under the Bill. The definition provides that hunting means to search for, pursue, follow, stalk or drive out an animal in order to capture or kill the animal using a hunting device.

LA Act land means the following types of land to which the LA Act applies:

- (a) unallocated Crown land; and
- (b) unmanaged reserves.

owner in relation to public hunting land means the relevant Minister, statutory authority or other person that is responsible for managing the public land on which hunting may take place. The definition is relevant to, amongst other things, the owner giving permission and setting the conditions on which a game hunting licence holder may hunt on the relevant public land.

public hunting land is the defined term of the public land on which hunting is permitted by a declaration made under the Bill.

public land sets out the list of the public land that may be declared public hunting land. This is CALM Act land, LA Act land, and any other Crown land or class of Crown land as prescribed.

To avoid any risk of inconsistent land use as between pre-existing private users of public land and game hunting licence holders under the Bill, the definition expressly excludes any land that is occupied under a right of exclusive possession, such as a lease, and pastoral leases.

responsible Minister for public land means:

- (a) in the case of CALM Act land, the CALM Act Minister;
- (b) in the case of LA Act land, the Minister for Lands;
- (c) in the case of land prescribed for the purposes of paragraph (c) of the definition of public land:
 - (i) if the land is set aside, dedicated or vested under an Act — the Minister responsible for the administration of that Act; or
 - (ii) in any other case — the Minister responsible for the care, control and management of the land or responsible for the statutory authority or other person that has the care, control and management of the land.

unallocated Crown land has the meaning given in the LA Act, being Crown land:

	<p>(a) in which no interest is known to exist, but in which native title within the meaning of the <i>Native Title Act 1993</i> of the Commonwealth may or may not exist; and</p> <p>(b) which is not reserved, declared or otherwise dedicated under the LA Act or any other written law.</p> <p>unmanaged reserve has the meaning given in the LA Act, being a reserve the care, control and management of which is not placed with a management body.</p>
Clause 4	<p>defines what is a game animal for the purposes of the Bill. Specifically, under subclause:</p> <p>(1) a game animal is an animal that is living in the wild (which may include birds) and is either specified in Schedule 1 or prescribed to be a game animal; and</p> <p>(2) native fauna, as defined in section 5(1) of the BC Act, is prohibited from being prescribed as a game animal, unless that native fauna is a declared pest under the BAM Act.</p>
Clause 5	<p>defines what is a hunting device for the purposes of the Bill. Specifically, under subclause (1):</p> <p>(a) a hunting device is a firearm or other device as prescribed, so the devices that may be used to hunt animals under the Bill are limited; and</p> <p>(b) the use of poisonous, noxious and narcotising substances being used as hunting devices under the Bill is expressly prohibited; and</p> <p>Also under subclause (2), the regulations may limit or restrict the types of hunting devices that may be used by reference to the range of matters set out in paragraphs (a) – (f) which are the type of game animal that may be hunted with that type of hunting device; where, when and how the hunting may be done; how many game animals may be killed or other circumstances in which the hunting may occur.</p>
Clause 6	<p>provides administrative efficiencies in the enforcement of the Bill. The chief executive officer of the department that is responsible for the administration of the relevant public hunting land may exercise various functions under the Bill, in addition to the Director General of the department that is responsible for assisting in the administration of the Bill, if they are not the same person.</p> <p>For example, if the Bill is administered by the Minister for Lands:</p> <p>(a) the chief executive officer of the department responsible for the LA Act will be responsible for assisting in the administration of the Bill including exercising the functions of the Director General under the Bill in relation to land to which the LA Act applies (including LA Act land) and inspectors appointed in respect of that land (who may also be authorised under the LA Act); and</p>

	<p>(b) the chief executive officer of the department responsible for the CALM Act may exercise certain functions under the Bill in relation to land to which the CALM Act applies (including CALM Act land) and inspectors appointed in respect of that land (who may also be appointed wildlife officers under the CALM Act).</p> <p>In particular, subclause:</p> <p>(1) defines references to CEO in the Bill to be either the chief executive officer of the department assisting in the administration of the CALM Act or the LA Act, as the case requires under subclause (2);</p> <p>(2) provides that the CEO for the CALM Act may exercise functions under the Bill in respect of inspectors appointed under the Bill who are exercising powers over land to which the CALM Act applies; wildlife officers under the CALM Act being also appointed inspectors under the Bill; and any matter relating to land to which the CALM Act applies generally;</p> <p>(3) is similar to subclause (2) by providing the CEO for the LA Act may exercise functions under the Bill in respect of inspectors appointed under the Bill who are exercising powers over land to which the LA Act applies; persons authorised under the LA Act being also appointed inspectors under the Bill; and any matter relating to land to which the LA Act applies generally;</p> <p>(4) confirms the Director General of whichever department is assisting in the administration of the Bill may exercise a function under the Bill even if it is in respect of a function that may be exercised by a CEO under subclause (2) or (3).</p>
Clause 7	confirms that nothing in the Bill affects the <i>Firearms Act 1973</i> , the <i>Weapons Act 1999</i> , or the <i>Animal Welfare Act 2002</i> .
Clause 8	confirms that the Bill binds the State.
Clause 9	<p>establishes a Game and Feral Animal Control Advisory Board (Advisory Board) to exercise various functions under the Bill.</p> <p>Under subclause:</p> <p>(1) the Minister responsible for the administration of the Bill is required to establish the Advisory Board by appointing the members and the chairperson;</p> <p>(2) the Minister may change the membership and chairperson of the Advisory Board from time to time;</p> <p>(3) the term of appointment of a member may not exceed 3 years;</p> <p>(4) a member may be reappointed by the Minister; and</p> <p>(5) the Minister is to determine the remuneration of the Advisory Board members, on the advice of the Public Sector Commissioner.</p>

<p>Clause 10</p>	<p>provides that the Advisory Board will consist of between 5 and 7 members. The persons appointed as members must have interest, knowledge or expertise in one or more of the listed matters, being:</p> <ul style="list-style-type: none"> (a) representing the interests of people in regional Western Australia; (b) pest management, biodiversity conservation or protection, veterinary science, hunting or community engagement. <p>This is to ensure board members hold appropriate knowledge or expertise in areas relevant to the Bill and the exercise of the Advisory Board's functions under the Bill.</p>
<p>Clause 11</p>	<p>sets out the functions of the Advisory Board.</p> <p>Under subclause (1), the Advisory Board is to:</p> <ul style="list-style-type: none"> (a) provide advice to the Minister or Director General on matters relating to game and feral animal control, whether on the request of the Minister or Director General or at the Advisory Board's own instigation; (b) provide advice to the Minister or responsible Minister (on a variation or revocation of a declaration) on any matter the Minister or responsible Minister is required to consult with the Advisory Board under the Bill; and (c) with the Act Minister's approval, provide advice to any other Minister on matters relating to game and feral animal control. <p>Subclause (2) provides that the relevant Minister must have regard to the Advisory Board's advice when it is required to be consulted by the Minister on a matter under the Bill.</p>
<p>Clause 12</p>	<p>requires the Advisory Board to submit an annual report to the Minister before 30 November of each year, which the Minister must table in each House of Parliament within 14 sitting days after receiving the report.</p>
<p>Clause 13</p>	<p>sets out the defined term Act Minister used within Part 3 Division 1 of the Bill.</p> <p>The Bill has been drafted to ensure the Minister with responsibility for the relevant public land maintains responsibility for decisions under the Bill relating to that land, particularly whether or not it is declared as public hunting land and therefore available for hunting under this Division.</p> <p>Clause 13 defines the Act Minister to mean the Minister responsible for the administration of the Bill. The definition is in contradistinction to the responsible Minister (defined in clause 3) who may make a declaration that public land under its administration may be made available for hunting.</p>

	<p>Depending on which Minister is given responsibility for administering the Bill, the Act Minister and a responsible Minister may be the same person or a different person.</p>
<p>Clause 14</p>	<p>sets out the mechanism by which public land is made available for hunting.</p> <p>Under subclause (1) public land may be declared to be available for hunting by order of the responsible Minister, being the Minister responsible for the relevant public land.</p> <p>Under subclause (2), the responsible Minister may, in the declaration, restrict hunting on the relevant public land by reference to a number of criteria including the type of game animals that may be hunted; where, when and how the hunting may be done; how many game animals may be killed or other circumstances in which the hunting may occur.</p> <p>Subclause:</p> <p>(3) requires the responsible Minister to give consult with the Act Minister, if they are not the same person, and to give public notice, before making a declaration;</p> <p>(4) requires the responsible Minister to have regard to certain matters prior to making the declaration, so that relevant factors are taken into account before public land is made available for hunting. The matters to be taken into account are the impact of the declaration on public safety; the rights of others to use the land; any written law, management plan, or other document relating to the use of the land; any recommendation or comment given by the Act Minister; any recommendation or comment given by a statutory authority with the care, control and management of the public land; and any public submissions received; and</p> <p>(5) requires the public to be notified of the order by publication in the <i>Gazette</i> – either the whole declaration can be published in the <i>Gazette</i> or a notice that the declaration has been made is to be published and the full details are to be available at the department's head office and on its website.</p> <p>Subclause (6) provides that a declaration is not subsidiary legislation for the purposes of the <i>Interpretation Act 1984</i>, so that the requirements of Part VI of that Act will not apply to this type of order made under the Bill.</p> <p>However subclauses (7) and (8) provide exceptions to this exclusion.</p> <p>Subclause (7) provides that the following provisions of the <i>Interpretation Act 1984</i> applies to this type of order made under the Bill:</p> <p>(a) section 43, being powers applying to the making of subsidiary legislation, other than section 43(6) (offence provision for contraventions, which is not relevant to a declaration by order);</p>

	<p>(b) section 44, relating to the interpretation of words and expressions used in subsidiary legislation; and</p> <p>(c) Part VIII, relating to the interpretation of time and distance provisions.</p> <p>Subclause (8) has the effect that section 42 of the <i>Interpretation Act 1984</i> applies to a declaration, so that it is required to be laid before each House of Parliament and is subject to disallowance.</p> <p>To ensure consistency with other written laws, subclause (9) clarifies that a declaration does not give a game hunting licence holder authority:</p> <p>(a) to enter public land – this authority must be obtained from the Minister or other body responsible for the administration of the relevant public land, which is dealt with under clause 20(2)(c) of the Bill; and</p> <p>(b) to do any thing that is inconsistent with another written law – the declaration merely establishes public land that is available for hunting.</p> <p>Subclause (10) ensures the general public can identify what public land is available for hunting, by requiring the order to be made publicly available at the department's head office and requiring publication on the department's website.</p>
Clause 15	<p>prohibits certain public land from being the subject of a declaration and so cannot be made available for hunting.</p> <p>This is the public land specified in Schedule 2 to the Bill; any declared World Heritage property, and any public land that is prescribed as being prohibited from declaration under this provision (including CALM Act land or LA Act land).</p> <p>The public land specified in Schedule 2 is, in summary:</p> <p>(a) Kings Park, Bold Park and other designated land under the <i>Botanic Gardens and Parks Authority Act 1998</i>;</p> <p>(b) Rottnest Island Reserve;</p> <p>(c) the Bibbulmun Track;</p> <p>(d) the Munda Bididi Trail; and</p> <p>(e) the Cape to Cape Track.</p>
Clause 16	<p>allows the responsible Minister to vary (subclause (1)) or revoke in whole or part (subclause (3)) a declaration made under clause 14.</p> <p>Subclause (2) provides that clauses 14 and 15 apply similarly to a variation of a declaration as if it were a declaration.</p> <p>Under subclause (4), the responsible Minister is required to consult the Advisory Board prior to varying or revoking a declaration.</p>

	Subclause (5) requires public notice of a revocation to be given in a similar manner as public notice of a declaration (ie. per clause 14(5)).
Clause 17	<p>gives the Minister power to approve an incorporated body, such as a hunting club, to be an approved hunting club for the purposes of the Bill (subclause (1)). An approved hunting club must be an incorporated body such as a company or an incorporated association.</p> <p>Subclause:</p> <p>(2) requires the Minister to consult with the Advisory Board prior to approving an incorporated body as an approved hunting club under the Bill;</p> <p>(3) provides the regulations may prescribe relevant matters which the Minister must consider in relation to the approval of an approved hunting club under subclause (1); and</p> <p>(4) confirms incorporated bodies that are incorporated or operating outside Western Australia may be appointed as an approved hunting club. This will permit the approval of national clubs and hunting clubs incorporated in other Australian jurisdictions.</p>
Clause 18	provides the Minister with discretion to vary or revoke the approval of an approved hunting club (subclause (1)) provided the Minister first consults with the Advisory Board on the proposed variation or revocation (subclause (2)).
Clause 19	gives an applicant to be an approved hunting club or an approved hunting club to apply to the State Administrative Tribunal for a review of the Minister's decision not to approve the club, vary or revoke an approved hunting club's approval respectively.
Clause 20	<p>In clause 20, subclause:</p> <p>(1) prohibits the hunting of game animals on public land, and imposes a penalty of \$5,500;</p> <p>(2) enables the effective licensing of game hunting on public land, this subclause provides an exemption to the prohibition in subclause (1). A person is not liable to prosecution if the person:</p> <p>(a) hunts on public hunting land; and</p> <p>(b) holds a valid and current game hunting licence; and</p> <p>(c) has authority to enter the public hunting land from the Minister or other body responsible for the administration of the public hunting land (ie. from the owner of the public hunting land); and</p> <p>(d) has complied with all the relevant requirements of the declaration; the game hunting licence; the conditions of the owner of the public hunting land; and the provisions of the Bill relating to the use of dogs or other animals while hunting; and</p> <p>(e) if the game animal being hunted is native fauna that is a declared pest under the BAM Act (per subclause (3)), it is being</p>

	<p>hunted in the area of the State in which it has been declared a pest;</p> <p>(4) provides an exemption to the prohibition in subclause (1) if the person is a registered veterinary surgeon and destroys the game animal for humane reasons (in circumstances similar to section 41(1) of the <i>Animal Welfare Act 2002</i>);</p> <p>(5) provides an exemption to the prohibition in subclause (1) if a person otherwise has lawful authority to destroy the game animal. The intention of this subclause is to ensure it is not an offence for a person to destroy a game animal if that destruction is approved under another Act, for example, by an inspector under the <i>Animal Welfare Act 2002</i>, or by persons acting under the authority of other Acts, such as rangers and wildlife officers;</p> <p>(6) expands on subclause (5) to provide clarity on what is included in lawful authority under another Act. This includes if the person:</p> <p>(a) is required to destroy the animal by order under another Act such as the BAM Act;</p> <p>(b) has authority to hunt animals on the public land under a permit, licence or other authority given under another Act such as the CALM Act (such as by professional shooters) or the LA Act;</p> <p>(c) is a public service officer or contractor who is undertaking activities as part of their employment duties or contract, to manage or control game animals on Crown land for which their chief executive officer is responsible or which they are authorised to do under another written law.</p>
<p>Clause 21</p>	<p>ensures that a person who is licensed under the Bill and is hunting a game animal on public hunting land in accordance with the Bill is not committing an offence under the BC Act, the BAM Act or the LA Act that involves an activity associated with hunting (subclause (1)). The intention of this section is to ensure that activities permitted under the Bill do not constitute an offence under those other Acts.</p> <p>Subclause (2) clarifies that an activity associated with hunting for the purposes of subclause (1) includes carrying or discharging a hunting device.</p> <p>Subclause (3) prohibits a dog or other animal being taken onto public hunting land to assist in hunting, if it is prohibited to take a dog or other animal onto that land by another written law. The intention of this section is to ensure activities under the Bill in relation to the use of dogs or other animals in hunting, are consistent with existing Acts which provide for the protection of native fauna on public land.</p> <p>If a person hunts using a dog or other animal in contravention of another written law, the penalty provision under that other law will apply.</p>

	<p>However under subclause (4), a dog or other animal may be taken onto public hunting land, to assist in hunting if:</p> <ul style="list-style-type: none"> (a) subclause (3) does not apply (ie. there is no express prohibition in another written law); and (b) the game hunting licence holder is authorised to do so by the declaration or a condition of their licence, and the owner of the public hunting land. <p>This clause allows the authority responsible for the land to decide whether or not a dog or other animal will be permitted to be used for hunting in respect of the relevant public hunting land (if there is no express prohibition).</p> <p>If a person hunts using a dog or other animal in contravention of subclause (4), it is an offence and the person is liable to a penalty of \$5,500.</p>
<p>Part 3 Division 3 Subdivision 2</p>	<p>has been drafted to ensure the restrictions on hunting on public land in the Bill are not inconsistent with traditional Aboriginal rights such as native title rights and interests. These provisions are based on similar provisions in the BC Act and CALM Act, which apply in similar circumstances. The intention is that, as much as possible, a consistent approach is taken in written laws that relate to access by Aboriginal persons (including native title holders) to public land for an Aboriginal customary purpose.</p>
<p>Clause 22</p>	<p>contains definitions relevant to the provisions in the Subdivision relating to hunting a game animal by Aboriginal people on public land for Aboriginal customary purposes. The definitions are consistent with similar definitions in the BC Act and CALM Act.</p>
<p>Clause 23</p>	<p>relates to hunting for Aboriginal customary purposes on public land.</p> <p>Subclause (1) confirms that the section does not affect the BC Act or the CALM Act.</p> <p>Subclause (2) provides a defence to the offence of hunting on public land without a game hunting licence granted under the Bill, if the accused is an Aboriginal person who hunted the game animal for an Aboriginal customary purpose and in accordance with any restriction or exclusion prescribed in the regulations. If the hunting occurred in an area of determined exclusive native title, the accused must also be a native title holder or have hunted with the permission of the native title holder.</p> <p>Where the hunting is inconsistent with the continued existence, enjoyment or exercise of native title rights by another Aboriginal person, the defence applies to the hunting of a game animal sufficient only for food for the accused and their family and not for sale (subclause (3)).</p>

Clause 24	permits an Aboriginal person to possess, for an Aboriginal customary purpose, a game animal (or its carcass or any part of it) hunted in accordance with the defence provided in clause 23(2).
Clause 25	prohibits the sale of a game animal (or its carcass or any part of it) hunted for an Aboriginal customary purpose, except where permitted under the regulations. It is an offence to contravene this clause and the person is liable to a penalty of \$5,500.
Clause 26	provides that the giving of consent by an exclusive native title holder to the hunting of game animals on their determined exclusive native title land does not constitute an offence under the Bill.
Clause 27	provides that the regulations may restrict or exclude the operation of the defence in clause 23(2) by reference to a number of matters including the type of game animals that may be hunted; where, when and how the hunting may be done; how many game animals may be killed or other circumstances in which the hunting may occur.
Clause 28	<p>Division 4 of Part 3 of the Bill deals with the granting of game hunting licences.</p> <p>In clause 28, subclause:</p> <ol style="list-style-type: none"> (1) gives the Director General the power to grant game hunting licences; (2) provides that a licence may only be granted to an individual, ie. someone who is a natural person (per the definition in the <i>Interpretation Act 1984</i>); (3) requires the Director General to refuse to grant a licence to a person if any of the following circumstances apply: <ol style="list-style-type: none"> (a) if the person has, in the last 5 years, been found guilty of certain offences relating to cruelty to animals, violence or assault, property damage or unlawful entry; (b) if the person has been found guilty under the Bill of releasing animals for the purposes of hunting; (c) if the Director General is satisfied the person is not a fit and proper person to hold a game hunting licence; (d) if the person has been disqualified from holding a licence under other provisions of the Bill; or (e) in other prescribed circumstances; (4) provides the Director General must refuse an application if the applicant is not a member of an approved hunting club and has not undertaken adequate training; (5) provides for the regulations to prescribe what is adequate training;

	(6) provides the Director General with discretion to refuse to grant a game hunting licence to a person who has been found guilty of an indictable offence under the <i>Firearms Act 1973</i> in the last 5 years.
Clause 29	<p>provides game hunting licences may be granted for a period specified in the licence, which must not exceed the relevant maximum period (subclause (1)).</p> <p>Under subclause (2) the relevant maximum period is 12 months unless another period is prescribed in the regulations, in which case it is the period prescribed (which may be longer or shorter than 12 months).</p> <p>Subclause (3) confirms that a licence is not in force while it is suspended.</p>
Clause 30	<p>sets out the conditions to which a game hunting licence is subject. In particular subclause (1) imposes the following conditions on every game hunting licence granted under the Bill:</p> <ul style="list-style-type: none"> (a) any condition the Director General determines appropriate to be applied. This provides the Director General with flexibility to impose conditions based on the unique characteristics of the public hunting land, the type of game animal being hunted, or any other relevant factors; (b) any provision of an approved code of practice for game hunting licence holders that is specified as being mandatory for licence holders to comply with; and (c) any condition prescribed in the regulations. <p>Under subclause (2), any condition imposed under any of the paragraphs in subclause (1) may require the game hunting licence holder to do any of the following:</p> <ul style="list-style-type: none"> (a) register for a hunt prior to undertaking hunting on public hunting land; (b) comply with an exclusion notice relevant to the public hunting land issued by the statutory authority or other person responsible for the management of the land (for example, in the event of a prescribed burn or other management activities in the area); (c) compile and keep information or records relating to the hunting or related activities; (d) provide that information or records to the Director General. <p>Subclause (3) clarifies that a condition may restrict or limit activities otherwise permitted by the game hunting licence.</p> <p>Subclause (4) gives the Director General power to impose new or additional conditions on a game hunting licence. The Director General may also revoke or vary existing conditions on a game hunting licence,</p>

	other than any condition that is a mandatory provision of an approved code of practice or imposed by regulation.
Clause 31	provides that a licence is not transferable. It is granted to the licence holder personally and cannot be sold, transferred or otherwise provided to another person.
Clause 32	provides the effect of holding a game hunting licence. Subclause: (1) allows the game hunting licence holder to possess the carcass of a game animal (or any part of it) killed under the authority of the licence. This ensures the licensee may take the carcass of the animal from the public hunting land after killing the animal; (2) confirms the game hunting licence does not authorise entry onto any public land, including declared public hunting land; (3) provides that the game hunting licence does not authorise the game hunting licence holder to do anything prohibited by another Act, except for the exemptions provided in clause 21 (such as under the BC Act, the CALM Act and the LA Act).
Clause 33	gives the Minister the power to approve a code of practice for game hunting licence holders (subclause (1)). Subclause: (2) provides that the approved code of practice may incorporate other codes or subsidiary legislation, which may be as existing or in force at a particular point in time or from time to time; (3) provides that an approved code must specify any provision that must be observed (ie. is mandatory) by game hunting licence holders; (4) requires the Minister to consult with the Advisory Board, give public notice and allow for at least 30 days public consultation prior to approving a code of practice; (5) requires public notice of the code of practice to be given by publication in the <i>Gazette</i> – either the whole code can be published in the <i>Gazette</i> or a notice that the code of practice has been approved is to be published and the full details are to be available at the department's head office and on its website; and (6) requires the approved code of practice to be made available at the head office of the department and published on, or through (such as in the case of a code of practice incorporated under subclause (2)) the department's website.
Clause 34	allows the Minister to vary (subclause (1)) or revoke (subclause (3)) a code of practice approved under clause 33.

	<p>Subclause (2) provides that clause 33 applies similarly to a variation of an approved code of practice as if it were the original approval of a code of practice.</p> <p>Under subclause (4), the Minister is required to consult the Advisory Board prior to revoking an approved code of practice.</p> <p>Subclause (5) requires public notice of a revocation must be given in a similar manner as public notice of an approved code of practice (ie. per clause 33(5)).</p>
<p>Clause 35</p>	<p>creates a number of offences relating to game hunting licences.</p> <p>Subclause:</p> <p>(1) imposes a penalty of \$5,500 for a contravention of a condition of a game hunting licence, which is any condition referred to in clause 30(1);</p> <p>(2) imposes a penalty of \$5,500 for pretending to hold a game hunting licence;</p> <p>(3) imposes a penalty of \$5,500 for providing false or misleading information when applying for a game hunting licence. Subclause (4) sets out in detail what is false or misleading information for this purpose.</p>
<p>Clause 36</p>	<p>requires the Director General to cancel a game hunting licence if the game hunting licence holder ceases to be qualified to hold the licence (subclause (1)).</p> <p>Subclause (2) gives the Director General a discretion to suspend or cancel a game hunting licence:</p> <ul style="list-style-type: none"> (a) if the game licence holder contravenes a condition of the licence, which is any condition referred to in clause 30(1); (b) if the game licence holder has been found guilty of certain offences (similar to those which would disqualify the person from being granted a game hunting licence if the person was applying for one under clause 28(3)(a)); (c) if the game licence holder has been found guilty of an offence under the Bill of releasing animals for the purposes of hunting; (d) if the game licence holder has been found guilty of an indictable offence under the <i>Firearms Act 1973</i>; (e) if the game licence holder is no longer a fit and proper person, in the opinion of the Director General; (f) in any other circumstances prescribed. <p>Under subclause (3) the Director General is required to give notice of a cancellation or suspension of a game hunting licence to a game hunting licence holder.</p>

	<p>The Director General has a discretion as to the period of suspension of a game hunting licence or can remove a suspension, under subclause (4).</p> <p>Under subclause (5), if the Director General cancels a game hunting licence under subclause (1) or (2), the Director General may also disqualify the person from holding a game hunting licence for a specified period.</p>
Clause 37	<p>gives an applicant for a game hunting licence, or a game hunting licence holder the right to apply to the State Administrative Tribunal for a review of the Director General's decision to:</p> <ul style="list-style-type: none"> (a) refuse the application; (b) grant the application subject to conditions, or impose additional conditions on an existing game hunting licence; (c) vary or revoke a condition of a game hunting licence; (d) suspend or cancel a game hunting licence; or (e) disqualify a person from holding a game hunting licence (clause 36(1) or (2)). <p>Under subclause (3), the Director General is deemed to have refused an application for a game hunting licence if it is not granted within 60 days of the application being made.</p>
Clause 38	<p>provides that regulations may be made in relation to game hunting licences (subclause (1)).</p> <p>Subclause (2) sets out in more detail the types of matters in respect of which regulations may be made.</p> <p>Subclause (3) confirms that nothing in the provision affects the power to prescribe regulations under any other provision in the Division.</p>
Part 4	<p>has been drafted to ensure consistency, where appropriate, with the inspection and compliance provisions in the BC Act, which apply in similar circumstances. The intention is that, where appropriate, a consistent approach is taken in written laws that relate to inspection and compliance on public land for similar purposes, particularly where those powers are being exercised by the same officers under different Acts.</p>
Clause 39	<p>defines terms used in Part 4 of the Bill.</p> <p>The term <i>dwelling</i> is defined in the same terms as under the <i>Criminal Investigation Act 2006</i> (CI Act). Some of the provisions of that Act apply for the purposes of the Bill.</p> <p>An <i>identification card</i> is a form of identification issued to an inspector under clause 44 of the Bill.</p>

Clause 40	defines the meaning of reasonably suspects for the purposes of Part 4 of the Bill, which is in similar terms as defined in the CI Act.
Clause 41	defines the meaning of thing relevant to an offence for the purposes of Part 4 of the Bill, which is in similar terms as defined in the CI Act.
Clause 42	<p>provides for inspectors who can exercise powers under the Bill. An inspector is either a police officer or a public servant appointed under subclause (2), (4) or (5).</p> <p>Under subclause (2), the Director General may appoint an inspector who is a named public service officer; a public service officer holding an office in the public service; a person prescribed by name or belonging to a class of prescribed persons; or a person who may be appointed under subclause (4) or (5). The area of land to which the appointment applies may be, but need not be, limited.</p> <p>An inspector term of appointment under subclause (2) may not exceed 5 years, but they can be reappointed.</p> <p>Under subclause (4) the CEO of the CALM Act may appoint a wildlife officer as an inspector for the purposes of the Bill, but the inspector may only exercise an inspector's powers under the Bill in respect of land to which the CALM Act applies.</p> <p>Under subclause (5) the CEO of the LA Act may appoint an officer who is authorised under the LA Act as an inspector for the purposes of the Bill, but the inspector may only exercise an inspector's powers under the Bill in respect of land to which the LA Act applies.</p> <p>The functions of an inspector appointed by the Director General or a CEO may be limited by the instrument of appointment, except for a police officer (subclause (6)). A police officer is not subject to the control or direction of the Director General or a CEO.</p> <p>The clause creates efficiencies in the enforcement of the Act by providing similar enforcement powers to public sector officers and police officers who are empowered to undertake, and in some cases are likely to be undertaking, functions in respect of the relevant land in any event (e.g. under the BC Act, the CALM Act or the LA Act).</p>
Clause 43	provides the Director General and the CEOs with the functions and immunities of inspectors, so they can exercise the powers of an inspector (but with limitations in the case of the CEOs, to land which it is responsible to administer).
Clause 44	<p>requires inspectors (other than police officers) to be issued with an identification card (subclause (1)). It can form part of an identification card issued under the CALM Act or the LA Act, or can be a separate card (subclause (2)). A separate card may be issued by the Director General, or the relevant CEO to whom the inspector reports.</p> <p>Subclause (3) sets out the detailed information that must be included in an identification card of either form.</p>

	Subclause (4) requires a former inspector to return an identification card.
Clause 45	<p>specifies the purposes for which an inspection may be carried out are to:</p> <ul style="list-style-type: none"> (a) ascertain whether the Act and regulations, including any condition of a game hunting licence, are being complied with or contravened; and (b) inspect any record required to be kept under the Bill or that is relevant to whether or not the Act is being complied with or contravened. <p>In addition other purposes can be prescribed in the regulations.</p>
Clause 46	<p>gives an inspector (under subclause (1)) power to enter upon:</p> <ul style="list-style-type: none"> (a) any public land, or any other place, that is not a dwelling at any time; (b) a dwelling with the informed consent of an occupier; or (c) any place with an entry warrant whether or not consent is given. <p>Subclause (2) provides that informed consent is given if the inspector informs the person of various matters relating to the entry.</p>
Clause 47	<p>provides that an inspector may stop and search a vehicle (subclause (1)), except for a mobile home which may only be entered with the informed consent of the occupier (subclause (4)) or with an entry warrant.</p> <p>The effect of subclauses (2) and (3) is that an inspector may use reasonable means to exercise this power, but this does not include means that are likely to cause death or grievous bodily harm.</p> <p>The inspector may detain the vehicle for a reasonable period (subclause (5)) and may move it to a place suitable to carry out the inspection (subclause (6)).</p>
Clause 48	<p>provides that section 31 of the CI Act applies in relation to inspections of vehicles or places under the Bill (subclause (1)). The CI Act sets out an occupier's rights in respect of entry to a place they occupy.</p> <p>Subclause (2) requires an inspector to present their identification card issued under clause 44 of the Bill when entering a place or vehicle, so the occupier is informed the person is an inspector for the purposes of the Bill.</p>
Clause 49	<p>details the powers an inspector may exercise when undertaking an inspection of a place or vehicle. These include taking equipment onto the place or vehicle necessary to conduct the inspection; making use of any equipment in or on the place or vehicle to carry out the inspection; remaining in or on the place or vehicle for as long as is required to carry out the inspection; opening and inspecting</p>

	compartments, cages and cupboards; taking photographs or otherwise making records.
Clause 50	<p>provides that an inspector has the power to seek and obtain relevant records held by persons about game hunting, that are required to be kept under the Bill or is relevant to whether the Bill or regulations are being complied with.</p> <p>Inspectors may direct a record be provided including by printing a document stored on a computer; operate a computer or device; require a person to give a password to obtain a record; take copies or photographs of the record; and take reasonable measures to secure a record or a computer or other thing on which a record may be stored.</p> <p>Subclause (3) requires an inspector who has been given a record to, as soon as practicable, allow a person entitled to possession of the record to have reasonable access to it.</p>
Clause 51	<p>provides that an inspector has the power to give directions. The directions an inspector may give and the circumstances in which they may be given are detailed and relate to being for inspection purposes or in other circumstances.</p> <p>Under subclause (2), the directions which may be given for inspection purposes are to:</p> <ul style="list-style-type: none"> (a) direct an occupier of a place or person in charge of a vehicle to give information such as the name and address of the owner or occupier of it; to answer questions; to give reasonable assistance to an inspector; to produce a specified thing or kind of thing; to open or unlock the place or vehicle; (b) direct a person who appears to be hunting to give their name and address or other information; or to produce their game hunting licence. <p>Directions may also be given under subclause (2) to:</p> <ul style="list-style-type: none"> (a) direct a person to move a vehicle for inspection; (b) direct a person who appears to be in control of a game animal to take it to a specified place for inspection; or to keep it in their possession or leave it at a specified place until further directed; (c) direct a person who the inspector believes is about to commit an offence under the Bill, to leave or not enter specified public hunting land. <p>If the person does not comply, the inspector may move a vehicle or take a game animal to a specified place for inspection (subclause (3)).</p> <p>An inspector may move a vehicle to achieve the purposes of a direction (subclause (4)).</p>
Clause 52	deals with the seizure of things relevant to an offence under the Bill.

	<p>Under subclause:</p> <ol style="list-style-type: none"> (1) an inspector has the power to seize a thing, when exercising a power under the Division; (2) limits an inspector's power to seize the thing to where the inspector reasonably suspects the thing has been unlawfully obtained, is possessed unlawfully, or it is necessary to seize it for certain purposes specified in paragraph (c)(i) to (c)(iii); (3) provides that the CI Act sections 147 (seizing things, ancillary powers), 148 (records relevant to offence), 149 (records, powers to facilitate seizing), 150 (seized things, list to be supplied on request), and 151 (privileged material, procedure on seizure of) apply to the seizure of a thing under the clause and a thing that may be or is seized under the clause; (4) provides that the form prescribed in the CI Act, relating to the notice given to a person that a thing has been seized, may be adapted for use under this clause.
Clause 53	<p>specifies what is to occur after a thing has been seized under the Bill.</p> <p>Subclause:</p> <ol style="list-style-type: none"> (1) defines the term deal with for the purposes of the clause and includes to sell, give away, use or destroy a thing (including a game animal); (2) provides that where a thing seized is perishable or likely to deteriorate if it is not dealt with, an inspector may deal with it accordance with the directions given by the relevant CEO for the inspector (per clause 6) or the Director General; (3) provides that the net proceeds of sale of a thing seized (after deduction of costs) are to be credited to the Consolidated Account, unless subclause (5) applies; (4) identifies that subclause (5) applies when a thing is seized under the Bill or under the CI Act in connection with an offence under the Bill, and is sold under subclause (2), but a prosecution is either decided not to be commenced or no person is convicted of an offence; (5) provides that, in the circumstances of subclause (4), the proceeds of the sale of the thing are to be paid to the person entitled to possession of the thing before it was seized.
Clause 54	<p>permits an inspector to release a live animal seized under the Bill, or under the CI Act in connection with an offence under the Bill, into the wild (subclause (1)), except where the inspector reasonably believes another person is entitled to possession of the animal (subclause (2)).</p>
Clause 55	<p>provides an inspector may apply to a Justice of the Peace for an entry warrant to enter a place or vehicle for inspection purposes (subclause (1)). An entry warrant may be applied for even if the inspector may</p>

	enter without a warrant (subclause (2)). The application must be made in accordance with clause 56 and any regulations (subclause (3)).
Clause 56	<p>sets out how an inspector makes an application for an entry warrant and what information must be contained in the application.</p> <p>An application must be made in person unless the warrant is needed urgently and the applicant reasonably suspects a Justice of the Peace is not available within a reasonable distance (subclause (3)).</p> <p>If an application for a warrant can't be made in person for these reasons, then provision is made for a warrant to be applied for by remote communication (subclause (4)).</p> <p>An application must be made in writing unless it is made by remote application and it is not practicable to send written material to the Justice of the Peace (subclause (5)).</p> <p>If an application for a warrant can't be made in writing for these reasons, then provision is made for a warrant to be applied for orally (subclause (6)).</p> <p>An application must be made on oath unless it is made by remote application and it is not practicable for the Justice of the Peace to administer an oath (subclause (7)).</p> <p>If an application for a warrant can't be made on oath, then provision is made for a warrant to be applied for in an unsworn form (subclause (8)).</p>
Clause 57	<p>has further requirements if an entry warrant is made by remote communication.</p> <p>If practicable, the Justice of the Peace must send a copy of the original warrant to the applicant by remote communication but otherwise the Justice of the Peace and the applicant must follow the procedure set out in subclause (1).</p> <p>A copy of an original warrant, or the form of the warrant completed under the alternative procedure set out in subclause (1) has the same force as the original warrant (subclause (2)).</p> <p>Under subclause (3), evidence obtained under an entry warrant is inadmissible if the procedures under clause 56(8)(b) or subclause (1)(b) of the Bill in relation to applying for the entry warrant are not complied with.</p>
Clause 58	<p>Subclause:</p> <p>(1) provides the Justice of the Peace may issue an entry warrant if it is necessary for an inspector to inspect a place or vehicle for inspection purposes;</p> <p>(2) requires an entry warrant to contain the information detailed in paragraphs (a) to (e); and</p>

	(3) requires a Justice of the Peace to provide reasons for refusing to issue an entry warrant.
Clause 59	sets out the effect of an entry warrant, which are it: (1) has effect according to its contents and clause 59; (2) comes into force when issued by the Justice of the Peace; (3) authorises the inspector, during the period of the warrant, to enter the place or vehicle described in the warrant and to exercise the powers set out in Division 3.
Clause 60	permits entry warrants to be executed by the inspector to whom it is issued or by any other inspector (subclause (1)). The inspector executing an entry warrant must produce it at the request of the person in apparent control of the place or vehicle sought to be entered under the entry warrant (subclause (2)).
Clause 61	provides an inspector may specify when and where a direction given under the Bill must be complied with.
Clause 62	permits an inspector to give a direction orally or in writing (subclause (1)) but if it is given orally it must be confirmed in writing within 5 business days unless it is complied with or cancelled in the meantime (subclause (2)). A direction is not invalidated even if subclause (2) is not complied with.
Clause 63	permits an inspector to record the exercise of a power under the Bill, including an audiovisual recording.
Clause 64	provides that an inspector may authorise such number of other persons as is reasonably necessary to assist the inspector in the exercise of a power under the Bill (subclause (1)). Any person assisting must obey any lawful and reasonable direction given to the person by the inspector (subclause (2)). For the purposes of clause 89 (protection from liability for wrongdoing), a person who has been authorised by an inspector to assist is taken to be performing a function under the Bill, and therefore has the benefit of the protection from liability under clause 89 (subclause (3)). The protection does not apply if the person contravenes a lawful and reasonable direction given by the inspector under subclause (2) (subclause (4)).
Clause 65	permits an inspector (or person assisting) to use any force against any person or thing that is reasonably necessary in the circumstances to exercise a power under the Bill or overcome resistance to the exercise of a power (subclause (1)). Subclause (1) does not permit an inspector (or person assisting) to use force that is likely to cause significant damage to property, without the

	<p>prior written authorisation of the relevant CEO for the inspector (per clause 6) or Director General (subclause (2)).</p> <p>Any use of force under the provision will be subject to Chapter XXVI of the <i>Criminal Code</i>, which includes the use of force in compliance operations (subclause (3)).</p>
Clause 66	<p>applies to a thing that is improperly seized or obtained because a requirement under the Bill or an entry warrant to seize or obtain the thing was contravened (subclause (1)).</p> <p>In these circumstances, subclause (2) provides the improperly obtained evidence is not admissible in court in criminal proceedings unless the accused does not object to the admission of the evidence or the court decides the evidence should be admitted under subclause (3).</p> <p>Under subclause (3), the court may decide to admit the improperly obtained evidence if the desirability of admitting it outweighs the undesirability of admitting it.</p> <p>Subclause (4) sets out the matters the court must take into account in making a decision whether or not to admit the improperly obtained evidence, including its probative value. However its probative value does of itself justify its admission under subclause (5).</p>
Clause 67	<p>makes it an offence to fail to comply with a direction given by an inspector under the Bill, and imposes a penalty of \$5,500 (subclause (1)).</p> <p>It is a defence to prove that the person had a reasonable excuse (subclause (2)).</p>
Clause 68	<p>makes it an offence to give giving false or misleading information to an inspector who is carrying out a function under the Bill, and imposes a penalty of \$5,500 (subclause (1). Subclause (2) sets out in detail what is false or misleading information for this purpose.</p>
Clause 69	<p>creates a number of offences relating to inspectors.</p> <p>Subclause:</p> <p>(1) makes it an offence to obstruct an inspector (or person assisting), and imposes a penalty of \$5,500; and</p> <p>(2) makes it an offence to impersonate, or falsely represent the person is, an inspector, and imposes a penalty of \$5,500.</p>
Clause 70	<p>makes it an offence to release a game animal into the wild for the purposes of hunting the animal or its offspring. A penalty of \$5,500 applies.</p>
Clause 71	<p>makes it an offence to interfere with a person who is hunting game animals on public hunting land under a game hunting licence granted under the Bill. A penalty of \$5,500 applies (subclause (1)).</p>

	<p>A person does not commit an offence under subclause (1) if the person has lawful authority to interfere with a person who is so hunting (subclause (2)).</p> <p>This offence cannot be prescribed to be the subject of an infringement notice under clause 86, due to seriousness of consequences that can occur if a person hunting is interfered with (subclause (3)).</p>
Clause 72	<p>provides that self-incrimination is not an excuse to complying with a direction to provide information or answer questions, or to provide a record or thing (subclause (1)).</p> <p>However any information, answer, document or thing given in compliance with a direction is not admissible as evidence in proceedings other than for perjury or the provision of false or misleading information under clause 68 (subclause (2)).</p>
Clause 73	<p>permits a court to order the forfeiture, destruction or disposal of a thing that was seized under the Bill if the court is satisfied the thing was the subject of, used in or involved in the commission of an offence under the Bill, and a person has been convicted of that offence.</p>
Clause 74	<p>provides that the <i>Criminal and Found Property Disposal Act 2006</i> applies to things seized or forfeited under the Bill.</p>
Clause 75	<p>provides that only a CEO or Director General, or a person authorised by any of them, may commence a prosecution for an offence under the Bill.</p>
Clause 76	<p>requires prosecutions to be commenced within 3 years of the alleged offence having been committed (subclause (1)).</p> <p>The day for commencing a prosecution may be later, to be within 3 years after the date on which evidence of the alleged offence first came to the attention of the person who has authority to commence the prosecution (subclause (2)).</p> <p>In the absence of proof to the contrary, the date on which evidence of the alleged offence first came to the attention of the person who has authority to commence the prosecution, is the date specified in the prosecution notice (subclause (3)).</p>
Clause 77	<p>provides that section 555A of the <i>Criminal Code</i> (which deals with attempting to commit an offence or inciting another person to commit an offence) applies to an offence under the Bill (subclause (2)).</p> <p>In addition, a person who becomes an accessory after the fact to an offence commits an offence and is liable to the same penalty as applies to the principal offence (subclauses (1) and (3)).</p>
Clause 78	<p>gives the court discretion to cancel or suspend the game hunting licence of a person who is convicted of a game hunting offence, in addition to any other penalty imposed on the person. If the game hunting licence is cancelled, the court may also disqualify the person from applying for another licence for a specified period (subclause (1)).</p>

	<p>The court may only order a licence to be cancelled or suspended if the prosecutor applies for that order (subclause (2)).</p> <p>Subclause (3) defines a game hunting offence to mean an offence under the Act or regulations, or an offence relating to hunting of an animal that causes, or causes the risk of, the death of or injury to a person or property damage.</p>
Clause 79	defines the term specified to mean specified in the relevant certificate or prosecution notice.
Clause 80	provides a rebuttable presumption that the accused is taken to be the alleged offender if the accused's name in the prosecution notice was given by the alleged offender at the time or immediately following the events giving rise to the offence.
Clause 81	provides a rebuttable presumption that an act (if proven) occurred on land of a particular description set out in the prosecution notice.
Clause 82	provides a rebuttable presumption that an act (if proven) occurred in relation to a particular species of game animal set out in the prosecution notice.
Clause 83	provides a list of matters (in paragraphs (a) to (j)) in the prosecution notice relating to the authority or status of various matters that are, in the absence of proof to the contrary (ie. rebuttable presumptions), to be taken to be proved.
Clause 84	<p>provides that a copy of a notice given or a code of practice approved under the Bill, that is certified by a CEO or the Director General as a true copy is proof of the contents of the document at the relevant time or period (subclauses (1) and (2)).</p> <p>Subclause (3) provides a rebuttable presumption that a document signed by the Minister, the Director General, a CEO or an inspector was signed by that person while they held that position.</p>
Clause 85	clarifies that the provisions in Division 2 are in addition to the provisions of the <i>Evidence Act 1906</i> which continue to apply.
Clause 86	<p>permits the making of regulations (subclause (1)), including offences against the regulations but the penalty for which may not exceed \$1,100 (subclause (2)).</p> <p>If the Bill is prescribed for the purposes of the <i>Criminal Procedure Act 2004</i>, the regulations may also prescribe offences under the Bill for which an infringement notice may be issued and related matters including the modified penalties payable under the infringement notice for a breach of those offences (subclauses (3) and (4)).</p>
Clause 87	provides how documents required or authorised to be given under the Bill must be given. This will apply to notification, for example, of changes to the conditions of a game hunting licence or revocation of a game hunting licence. It provides for service on the individual; by

	<p>leaving it at the person's place of residence or business; by prepaid post; or by fax or email (subclause (1)).</p> <p>If a person is given a notice by one method of service, the person may be given another document by a different method of service (subclause (2)).</p>
Clause 88	<p>provides that a document that is served by being left, faxed or emailed is deemed to be given on the next business day, unless the contrary is proved.</p> <p>A document that is sent by post is taken to have been given when the letter would have been delivered in the ordinary course of post.</p>
Clause 89	<p>provides a standard form of protection from liability for wrongdoing.</p> <p>An inspector and any other person (including a person assisting) is not liable in tort for acting in good faith in the performance or purported performance of a function under the Bill (subclause (1)).</p> <p>In addition under subclause (2), the State is also not liable for anything done under subclause (1).</p> <p>The protection from liability applies even if the thing done under subclause (1) could have been done if the Bill had not been enacted (subclause (3)).</p> <p>A reference to doing a thing includes a reference to an omission to do, or not doing, a thing (subclause (4)).</p>
Clause 90	<p>defines the terms used in respect of the information sharing provisions in the Bill (subclause (1)).</p> <p>In particular, information sharing agency is defined by reference to those agencies which have functions relating to animals on public land; the administration of public lands; and the use of firearms. It provides for similar agencies in the Commonwealth or other states or territories to be prescribed to facilitate the safe and effective administration of hunting on public land in Western Australia by having regard to what is happening and information available in other jurisdictions in Australia.</p> <p>Subclause (2) gives the Director General the power to authorise a person employed in the department to be an authorised officer (subclause (2)).</p> <p>An authorised officer has the functions, under subclause:</p> <p>(3) to disclose relevant information to an information sharing agency;</p> <p>(4) to request a public authority to disclose relevant information to the authorised officer.</p> <p>If information is disclosed under subclause (3) or (4), then it is not a breach of a written law or a common law duty of confidentiality or secrecy; or a breach of professional ethics or standards, or</p>

	<p>unprofessional conduct; and no civil or criminal liability is incurred in respect of its disclosure (subclauses (5) and (6)).</p> <p>The Director General is required to issue guidelines on the disclosure of information under subclause (3) or the making of a request under subclause (4) (subclause (7)).</p> <p>In addition, under subclause (8) the regulations may prescribe how disclosed information is to be received and stored; and restricting access to that information.</p>
Clause 91	<p>permits the Minister to delegate its functions under the Bill or the regulations to the Director General, except for the function (power) relating to the declaration of public hunting land under Division 1 of Part 3 (subclause (1)). It is inappropriate to delegate this function, given the significance of allowing game hunting on public lands and the order making the declaration is required to be tabled in Parliament and may be subject to disallowance.</p> <p>The Director General may delegate its functions to public service officers (specified by name or holding a specified position) in the department.</p> <p>The standard form of delegation provisions usual in Acts are included and apply to delegations under both subclause (1) and (2), being in subclause:</p> <p>(3) the delegation must be in writing;</p> <p>(4) a delegate cannot further delegate the function;</p> <p>(5) a delegate is taken to have exercised the function in accordance with the terms of the delegation, unless the contrary is shown; and</p> <p>(6) the Director General's ability to exercise a function through an officer or agent is not affected.</p>
Clause 92	<p>requires the Minister responsible for the administration of the Bill to undertake a review into the operation of the Bill 5 years after the Bill comes into operation (subclause (1)).</p> <p>Subclause (2) requires the Minister, in conducting the review, to have regard to:</p> <p>(1) the policy objectives of the Bill;</p> <p>(2) the adequacy of the penalties imposed under the Bill; and</p> <p>(3) anything else that appears to the Minister to be relevant to the operation and effectiveness of the Bill.</p> <p>The Minister is required to prepare and table a report in each House of Parliament as soon as is practicable following the review (subclause (3)).</p>
Clause 93	<p>consequentially amends the CALM Act to provide that wildlife officers under that Act who are appointed inspectors for the purposes of the</p>

	Bill. have the functions provided by the Bill (subclause (2)). Subclauses (3) to (5) consequentially amends other provisions in the CALM Act to insert a reference to the Bill, being sections 46 (function of honorary wildlife officer); 48 (wildlife officer's certificate of appointment); and 133(2) (delegation by CEO).
Clause 94	consequentially amends the list of Government Boards in Schedule V Part 3 of the <i>Constitution Acts Amendment Act 1899</i> to include the Game and Feral Animal Control Advisory Board. Under section 37(3) of that Act, if a person is declared elected as a member of Parliament, then that person's membership of any of the Boards listed in the Schedule is vacated.
Clause 95	consequentially amends section 9(1) of the LA Act (delegation by Minister for Lands) (subclause (2)) and inserts section 275B of the LA Act to give the CEO power to appoint authorised persons as an inspector (subclause (3)).
Schedule 1	lists the species of game animals that may be hunted on public hunting land under the Bill. Other species may be prescribed in the regulations in accordance with clause 4 of the Bill.
Schedule 2	identifies particular public land that may not be declared as public hunting land. It is land under the <i>Botanic Gardens and Parks Authority Act 1998</i> (including Kings Park and Bold Park); Rottneest Island; the Bibbulmun Track; the Munda Biddi Trail; and the Cape to Cape Track. Other areas that should not be declared public hunting land for similar reasons (for example, it would pose a public safety risk or the area has high conservation value) may be similarly excluded by the responsible Minister simply not making a declaration in relation to the land.