



Australian Capital Territory

Nature Conservation Act 1980 No 20

Republication No 8

Republication date: 2 November 2001

Last amendment made by Act 2001 No 70

Amendments incorporated to 14 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Nature Conservation Act 1980* as in force on 2 November 2001. It includes any amendment, repeal or expiry affecting the republished law to 14 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to
14 September 2001



Australian Capital Territory

Nature Conservation Act 1980

Contents

	Page	
Part 1	Preliminary	
1	Name of Act	2
2	Dictionary	2
3	Notes	2
6	Application of Bushfire Act	2
6A	Construction consistent with environment laws	2
Part 2	Nature conservation strategies, declarations and action plans	
Division 2.1	The conservator and the service	
7	Conservator of Flora and Fauna	4

Contents

	Page
8 Conservation officers	4
9 Identity cards	5
13 Exercise of powers	5
14 Delegation	5
15 Australian Capital Territory Parks and Conservation Service	5
Division 2.2 Flora and Fauna Committee	
Subdivision 2.2.1 Establishment, functions and powers	
15A Establishment	6
15B Functions	6
15C Directions to committee	6
15D Powers	7
Subdivision 2.2.2 Constitution and meetings	
15E Membership	7
15F Appointment of chairperson and deputy chairperson	7
15G Secretary to committee	8
15J Leave of absence	8
15K Disclosure of interests	8
15M Termination of appointment	8
15P Convening meetings	9
15Q Procedure at meetings	9
15R Quorum	10
Part 3 Nature conservation and declarations	
Division 3.1 Nature conservation strategy	
15S Draft nature conservation strategy	11
15U Public notification of draft nature conservation strategy	11
15V Confirmation, revision, deferral or withdrawal of draft nature conservation strategy	12
15W Submission or resubmission of draft nature conservation strategy to Minister	13
15X Minister's powers in relation to draft nature conservation strategy	14
15Y Notice of rejection of draft nature conservation strategy	15
15Z Commencement of nature conservation strategy etc	15

	Page
Division 3.2	Declarations about special protection status and protected and exempt flora and fauna
16	Special protection status 15
17	Declaration of protected and exempt flora and fauna 16
Division 3.3	Declaration of species, community or process
Subdivision 3.3.1	Criteria and guidelines for declarations
18	Criteria for recommending declaration 17
19	Guidelines for dealing with applications for declarations 17
20	Public consultation on preparation of relevant criteria and guidelines 18
Subdivision 3.3.2	Making of declarations
21	Declaration of species, community or process 18
22	Request to committee to recommend making of declaration 19
Division 3.4	Action plans
23	Draft action plan 20
23B	Public notification of draft action plan 20
23C	Preparation of action plan 21
Part 4	Protection of animals and fish
24	Nests of native animals 22
25	Killing native animals 23
26	Taking native animals 24
27	Keeping animals 24
28	Selling animals 25
29	Import and export of animals 25
39	Release of animals from captivity 25
40	Escape of native animals 27
Part 5	Protection of plants
42	Taking plants 28
43	Preservation of native timber 29
44	Dealing in protected native plants 31
45	Plant tags 32

	Page
Part 6	Prohibited and controlled organisms
45AA	Declarations 33
45AB	Possession of prohibited organisms 33
45AC	Controlled organisms 33
Part 7	Conservation directions
45A	Meaning of <i>native animal</i> in pt 7 34
46	Entry onto land for purpose of carrying out examination 34
47	Conservation directions 35
49	Diseased native animals and plants 35
50	Conservation criteria 36
Part 8	Reserved areas
Division 8.1	Restriction on activities within reserved areas and wilderness zones
53	Access to reserved areas 37
53A	Entry to reserved areas 38
54	Signs in reserved areas 38
55	Rubbish and fires in reserved areas 39
56	Activities in reserved areas 39
57	Taking animals and plants into reserved areas 41
58	Powers of conservation officers in reserved areas 41
59	Offences in wilderness zones 42
60	Compensation 43
60A	Restoration of excavation sites by permit holders 43
Part 9	Management agreements
60AA	Definitions for pt 9 44
60AB	Management agreements 45
60AC	Formulation of agreements 46
60AD	Refusal to enter into management agreement 47
60AE	Activities inconsistent with management agreement 47
Part 10	Licences
61	Application 48

	Page
62	48
63	48
64	49
65	50
66	50
67	50
69	50
70	51
72	51
73	52
Part 11	
Review by the administrative appeals tribunal	
74	53
74A	53
Part 12	
On-the-spot fines	
74AA	54
74AB	55
74AC	56
74AD	57
74AE	58
74AF	58
74AG	60
74AH	60
74AI	61
74AJ	62
74AK	63
Part 13	
Miscellaneous	
75	64
76	65
76A	65
77	65
78	67

Contents

	Page
78A Seizure and release of bird wildlife	67
79 Seizure and forfeiture of animals and plants	68
80 Release of animals—court orders	69
80A Conduct of directors, servants and agents	71
80B Approved forms	72
81 Evidence	73
83A Determination of fees	73
84 Regulation-making power	73
Schedule 1 On-the-spot fines	74
Dictionary	76
Endnotes	
1 About the endnotes	83
2 Abbreviation key	83
3 Legislation history	84
4 Amendment history	88
5 Earlier republications	103

Amendments incorporated to
14 September 2001



Australian Capital Territory

Nature Conservation Act 1980

An Act to make provision for the protection and conservation of native animals and native plants, and for the reservation of areas for those purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Nature Conservation Act 1980*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*motor vehicle*—see the *Road Transport (General) Act 1999*, dictionary.' means that the expression 'motor vehicle' is defined in the dictionary to that Act and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

6 Application of Bushfire Act

This Act shall have effect subject to the *Bushfire Act 1936*.

6A Construction consistent with environment laws

- (1) This Act shall be construed and administered in a manner that is consistent with an environment law unless the contrary intention appears from this Act or that law.

(2) This Act shall be taken to be consistent with an environment law to the extent that it is capable of operating concurrently with that law.

(3) In this section:

environment law means a law of the Territory that has as 1 of its objects or purposes the protection of the environment.

Part 2 **Nature conservation strategies, declarations and action plans**

Division 2.1 **The conservator and the service**

7 **Conservator of Flora and Fauna**

- (1) There shall be a Conservator of Flora and Fauna.
- (2) The chief executive shall create and maintain an office in the public service the duties of which include performing the functions of the Conservator of Flora and Fauna.
- (3) The conservator shall be the public servant for the time being performing the duties of the public service office referred to in subsection (2).

8 **Conservation officers**

- (1) There shall be 1 or more conservation officers.
- (2) The chief executive shall create and maintain 1 or more offices in the public service the duties of which include performing the functions of a conservation officer.
- (3) The following persons shall be conservation officers:
 - (a) any public servant for the time being performing the duties of a public service office of conservation officer referred to in subsection (2);
 - (b) the conservator;
 - (c) any other person appointed in writing by the chief executive for the purpose.

9 Identity cards

- (1) The chief executive shall issue to the conservator an identity card that specifies the conservator's name and office, and on which appears a recent photograph of the conservator.
- (2) The chief executive shall issue to a conservation officer an identity card that specifies the officer's name and office, and on which appears a recent photograph of the officer.
- (3) Upon ceasing—
 - (a) to occupy, or to act in, the office of the conservator; or
 - (b) to occupy, or to act in, an office of a conservation officer; or
 - (c) to be appointed as a conservation officer under section 8 (3) (c);

a person shall not, without reasonable excuse, fail to return his or her identity card to the chief executive.

Maximum penalty (subsection (3)): 1 penalty unit.

13 Exercise of powers

The conservator or a conservation officer, in exercising a power conferred on him or her under this Act, other than a power conferred by part 10, may exercise the power with such assistance as is necessary.

14 Delegation

The conservator may, by instrument, delegate to a conservation officer any of his or her powers under this Act.

15 Australian Capital Territory Parks and Conservation Service

- (1) There is established by this Act a service by the name of the Australian Capital Territory Parks and Conservation Service.

- (2) The Australian Capital Territory Parks and Conservation Service shall consist of the conservation officers.
- (3) It is the function of the Australian Capital Territory Parks and Conservation Service to assist the conservator in the exercise of his or her functions under this Act.

Division 2.2 Flora and Fauna Committee

Subdivision 2.2.1 Establishment, functions and powers

15A Establishment

There is established by this Act a committee by the name of the Flora and Fauna Committee.

15B Functions

The functions of the committee are—

- (a) to provide advice to the Minister in relation to nature conservation; and
- (b) to exercise such powers as are provided for under this Act.

15C Directions to committee

- (1) The Minister may give the committee general directions, in writing, in relation to nature conservation.
- (2) The Minister shall give a copy of any direction under subsection (1) to the conservator.
- (3) The conservator shall include in a report presented by him or her, or information provided by him or her, under the *Annual Reports (Government Agencies) Act 1995*, section 8 a copy of any direction given to the committee by the Minister during the period to which the report or information relates.

15D Powers

The committee has power to do all things necessary or convenient to be done in connection with the performance of its functions.

Subdivision 2.2.2 Constitution and meetings

15E Membership

- (1) The committee shall consist of 7 members appointed, in writing, by the Minister, at least 2 of whom shall not be public servants.
- (2) The Minister shall not appoint a person as a member unless the Minister is satisfied that the person has appropriate expertise in biodiversity or ecology.
- (3) A member holds office as a part-time member.
- (4) A member holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment.
- (5) A member holds office on such terms and conditions (in respect of matters not provided for by this part) as are determined by the Minister in writing.

Note 1 A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Legislation Act 2001*, s 208 (1) (c) and dict, def of *appoint*).

Note 2 A power to appoint a person to a position includes power to appoint a person to act in the position (see *Legislation Act 2001*, s 209 (1)-(3)).

15F Appointment of chairperson and deputy chairperson

- (1) The Minister shall appoint from the members—
 - (a) a chairperson; and
 - (b) a deputy chairperson.
- (2) The chairperson and the deputy chairperson shall not be public servants.

15G Secretary to committee

The secretary to the committee must be a public servant nominated by the chief executive.

15J Leave of absence

The Minister may, by writing, grant leave of absence to a member on specified terms and conditions as to remuneration or otherwise.

15K Disclosure of interests

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the committee shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a committee meeting.
- (2) A disclosure shall be recorded in the minutes of the meeting and, unless the Minister otherwise determines, the member shall not—
 - (a) be present during any deliberation of the committee with respect to that matter; or
 - (b) take part in any decision of the committee with respect to that matter.

15M Termination of appointment

- (1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.
- (2) If a member—
 - (a) without reasonable excuse, contravenes section 15K; or
 - (b) is absent from duty, except on leave of absence granted by the Minister, from 3 consecutive meetings of the committee;

the Minister shall terminate the appointment of the member.

Note The member's appointment also ends if the member resigns (see *Legislation Act 2001*, s 210 (1) and (2)).

15P Convening meetings

- (1) The chairperson, or, if he or she is unable to do so, the deputy chairperson, shall convene such committee meetings—
 - (a) as he or she considers necessary for the efficient performance of its functions; and
 - (b) as the Minister directs by notice in writing given to the chairperson or the deputy chairperson.
- (2) Where the chairperson or the deputy chairperson proposes to convene a meeting of the committee, he or she shall, not later than 5 working days before the date of the proposed meeting, give each member a notice, in writing, specifying—
 - (a) the date, time and place of the meeting; and
 - (b) the matters to be considered at the meeting.

15Q Procedure at meetings

- (1) The chairperson shall preside at all committee meetings at which he or she is present.
- (2) Where the chairperson is not present at a meeting, the deputy chairperson shall preside.
- (3) Where the chairperson and the deputy chairperson are both absent from a meeting, the members present shall elect 1 of their number to preside.
- (4) The member presiding at a meeting may give directions regarding the procedure to be followed in connection with the meeting.
- (5) Questions arising at a meeting shall be decided by a majority of the votes of the members present and voting.
- (6) The member presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.
- (7) The committee shall keep minutes of its proceedings.

15R Quorum

At a meeting of the committee, a majority of the members for the time being constitute a quorum.

Part 3 **Nature conservation and declarations**

Division 3.1 **Nature conservation strategy**

15S **Draft nature conservation strategy**

- (1) The conservator shall prepare a draft nature conservation strategy in writing.

Note Power given under an Act to make a statutory instrument (including the draft nature conservation strategy) includes power to amend or repeal the instrument (see *Legislation Act 2001*, s 46 (1)).

- (2) A draft nature conservation strategy prepared pursuant to subsection (1) shall include proposals in relation to the protection, management and conservation of flora and fauna indigenous to the Territory.

15U **Public notification of draft nature conservation strategy**

- (1) If the conservator prepares a draft nature conservation strategy, the conservator must also prepare a written notice—
- (a) stating that copies of the draft strategy are available for inspection during office hours at a place stated in the notice; and
 - (b) inviting interested people to make written comments about the draft strategy to the conservator at the place, and within the period (the *consultation period*), stated in the notice.

- (2) The consultation period must be at least 21 days after the day the notice is notified under the *Legislation Act 2001*.

- (3) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

- (4) The conservator must also publish the notice in a newspaper.

(5) During the consultation period, the conservator must make copies of the draft nature conservation strategy available for inspection in accordance with the notice.

(6) In this section:

draft nature conservation strategy includes a draft nature conservation strategy that has been revised under section 15V.

15V Confirmation, revision, deferral or withdrawal of draft nature conservation strategy

(1) After the end of the consultation period for a draft nature conservation strategy, the conservator may, in writing—

- (a) confirm the draft strategy; or
- (b) revise the draft strategy; or
- (c) defer the submission of the draft strategy to the Minister until a stated date or the happening of a stated event; or
- (d) withdraw the draft strategy.

(2) An instrument under subsection (1) (c) or (d) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

(3) In deciding whether to confirm, revise, defer or withdraw a draft nature conservation strategy under this section, the conservator must consider the comments (if any) made to the conservator about the draft strategy during the consultation period.

(4) If a draft nature conservation strategy is deferred under this section, as soon as practicable after the date, or the happening of the event, stated in the instrument of deferral, the conservator must prepare a written notice stating that the draft strategy is revived.

(5) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

15W Submission or resubmission of draft nature conservation strategy to Minister

- (1) If the conservator—
- (a) confirms a draft nature conservation strategy; or
 - (b) prepares a notice under section 15V stating that a draft nature conservation strategy is revived;

the conservator must submit the draft nature conservation strategy to the Minister for approval, together with a written report setting out the issues raised in the written comments (if any) received by the conservator about the draft strategy during the consultation period.

- (2) If a draft nature conservation strategy is deferred under section 15X (Minister's powers in relation to draft nature conservation strategy), as soon as practicable after the date, or the happening of the event, stated in the instrument of deferral, the conservator must prepare a written notice stating the draft strategy is revived.
- (3) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

- (4) If the conservator—
- (a) gives effect to a direction of the Minister under section 15X in relation to a draft nature conservation strategy (other than a direction to defer resubmission of the draft strategy or to withdraw it); or
 - (b) prepares a notice under subsection (2) in relation to a draft strategy;

the conservator must resubmit the draft strategy to the Minister for approval.

- (5) In this section:

draft nature conservation strategy includes a draft nature conservation strategy that has been revised under section 15V.

15X Minister's powers in relation to draft nature conservation strategy

- (1) If a draft nature conservation strategy is submitted or resubmitted to the Minister for approval, the Minister must—
- (a) approve the draft strategy in the form in which it is submitted or resubmitted; or
 - (b) return the draft strategy to the conservator and direct the conservator to take any 1 or more of the following actions in relation to it:
 - (i) conduct further specified consultation;
 - (ii) consider any relevant environmental report, the report of any relevant inquiry under the *Land (Planning and Environment) Act 1991*, or any other relevant report;
 - (iii) consider any revision suggested by the Minister;
 - (iv) revise the draft strategy in a specified manner;
 - (v) defer, by written notice, resubmission of the draft strategy to the Minister;
 - (vi) withdraw the draft strategy by written notice; or
 - (c) reject the draft strategy.
- (2) A draft nature conservation strategy approved under this section is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Note 2 An amendment or repeal of a draft nature conservation strategy is also a disallowable instrument (see *Legislation Act 2001*, s 46 (2)).

- (3) A notice under subsection (1) (b) (v) or (vi) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

15Y Notice of rejection of draft nature conservation strategy

(1) If the Minister rejects a draft nature conservation strategy under section 15X, the Minister must prepare a written notice stating that the draft strategy has been rejected.

(2) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

(3) The Minister must also publish the notice in a newspaper.

15Z Commencement of nature conservation strategy etc

(1) To the extent that they have not been disallowed under the *Legislation Act 2001*, the provisions of an instrument prepared for the purposes of section 15S (1) (including any revision of the instrument) become the text of the nature conservation strategy for the Territory (the *strategy*).

(2) As soon as practicable after the provisions of an instrument become the text of the strategy, or variation of the strategy, the Minister must, in writing, fix a day when the strategy or variation is to commence.

Note An instrument under this subsection is a *commencement notice* (see *Legislation Act 2001*, s 11). A commencement notice must be notified under the *Legislation Act 2001*.

Division 3.2 Declarations about special protection status and protected and exempt flora and fauna

16 Special protection status

(1) The conservator may, in writing, declare the members of a species of migratory animal to have special protection status if the protection of the species is the object, or part of the object, of an Act of the Commonwealth, or of an international agreement (however described) entered into by the Commonwealth.

- (2) The conservator shall, in writing, declare the members of a species of native animal or native plant to have special protection status if—
- (a) he or she believes on reasonable grounds that the species is threatened with extinction; or
 - (b) the Minister makes a declaration under section 21 that the species is endangered.
- (3) A declaration under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (4) In this section:

migratory animal means a migratory animal that periodically or occasionally visits Australia, the Australian coastal sea or the sea over the continental shelf of Australia.

17 Declaration of protected and exempt flora and fauna

- (1) The conservator may, in writing, declare—
- (a) fish or invertebrates of a particular kind to be protected fish or protected invertebrates; or
 - (b) animals of a particular kind to be exempt animals; or
 - (c) native plants of a particular kind to be protected native plants; or
 - (d) native animals of a particular kind to be protected native animals.
- (2) In making a declaration under subsection (1), the conservator shall take into consideration—
- (a) the need to protect native animals and native plants generally in the Territory; and
 - (b) the need to conserve the significant ecosystems of the Territory, New South Wales and Australia; and

- (c) in relation to a declaration under subsection (1) (a), (c) or (d)—
the specialised welfare and security requirements of the
animal, plant, fish or invertebrate.
- (3) A declaration under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the
Legislative Assembly, under the *Legislation Act 2001*.

Division 3.3 Declaration of species, community or process

Subdivision 3.3.1 Criteria and guidelines for declarations

18 Criteria for recommending declaration

- (1) The committee must, in writing, specify criteria for assessing
whether the committee should recommend the making of a
declaration under section 21 (Declaration of species, community or
process).
- (2) In specifying criteria for the purposes of subsection (1) the
committee shall have regard only to factors relevant to—
- (a) the conservation of a species or ecological community; or
- (b) the ecological significance of a threatening process;
in relation to the Territory and the surrounding region.
- (3) An instrument under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the
Legislative Assembly, under the *Legislation Act 2001*.

19 Guidelines for dealing with applications for declarations

- (1) The committee must, in writing, specify guidelines for the
procedures to be followed by the committee in relation to making a
decision on an application under section 22 (Request to Committee
to recommend making of declaration).

- (2) An instrument under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

20 Public consultation on preparation of relevant criteria and guidelines

- (1) Before specifying criteria under section 18, the committee shall cause a notice to be published in a newspaper—
- (a) outlining the proposed criteria; and
 - (b) inviting written suggestions in relation to the inclusion of relevant criteria to be lodged with it within 28 days after the date of the invitation.
- (2) Before specifying guidelines under section 19, the committee shall cause a notice to be published in a newspaper—
- (a) outlining the proposed guidelines; and
 - (b) inviting written suggestions in relation to the inclusion of relevant criteria to be lodged with it within 28 days after the date of the invitation.
- (3) On receiving any such suggestions the committee shall consider those suggestions.

Subdivision 3.3.2 Making of declarations

21 Declaration of species, community or process

- (1) Where, having regard to the criteria specified under section 18, the committee has reasonable grounds to believe that a species is vulnerable or endangered, the committee shall advise the Minister of that opinion and recommend to the Minister that the species be declared to be vulnerable or endangered, as the case may be.
- (2) Where, having regard to the criteria specified under section 18, the committee has reasonable grounds to believe that an ecological community is endangered, the committee shall advise the Minister

of that opinion and recommend to the Minister that the community be declared to be an endangered community.

- (3) Where, having regard to—
- (a) the criteria specified under section 18; and
 - (b) the significance of a process within the Territory and the surrounding region;

the committee has reasonable grounds to believe that the process is a threatening process, the committee shall advise the Minister of that opinion and recommend to the Minister that the process be declared to be a threatening process.

- (4) If the Minister accepts a recommendation under this section, the Minister must, in writing, make the declaration recommended.
- (5) A declaration under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

22 Request to committee to recommend making of declaration

- (1) A person may make an application to the committee requesting the committee to recommend the making of a declaration under section 21.
- (2) An application shall be—
- (a) in writing; and
 - (b) in a form approved by the committee; and
 - (c) accompanied by a statement containing the reasons why the applicant considers that the declaration should be made.
- (3) On application, in accordance with this section, the committee may, after considering the relevant criteria—
- (a) make the recommendation sought; or

- (b) refuse to make that recommendation.
- (4) Where the committee, in accordance with subsection (3) (b), refuses to make a recommendation, the chairperson shall give to the applicant a written notice including a statement of reasons for the decision.
- (5) A form approved for this section is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Division 3.4 Action plans

23 Draft action plan

- (1) The conservator shall prepare, for public information, a draft action plan in relation to each species, ecological community or process the subject of a declaration under section 21.
- (2) A draft action plan prepared pursuant to subsection (1) shall include—
 - (a) proposals to ensure, as far as is practicable, the identification, protection and survival of the species, or the ecological community; or
 - (b) proposals to minimise the effect of any process which threatens any species or ecological community.

23B Public notification of draft action plan

- (1) If the conservator prepares a draft action plan, the conservator must also prepare a written notice—
 - (a) stating that copies of the draft action plan are available for inspection during office hours at a place stated in the notice; and
 - (b) inviting interested people to make written comments about the draft action plan to the conservator at the place, and within the period (the *consultation period*), stated in the notice.

(2) The consultation period must be at least 21 days after the day the notice is notified under the *Legislation Act 2001*.

(3) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

(4) The conservator must also publish the notice in a newspaper.

(5) During the consultation period, the conservator must make copies of the draft action plan available for inspection in accordance with the notice.

23C Preparation of action plan

(1) After the end of the consultation period for a draft action plan for a species, ecological community or process, the conservator may prepare an action plan for the species, ecological community or process.

(2) In preparing the action plan, the conservator must consider the comments (if any) received by the conservator about the draft plan during the consultation period.

(3) An action plan is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Part 4 Protection of animals and fish

24 Nests of native animals

- (1) A person shall not, except in accordance with a licence, interfere with a nest of a native animal, or with anything in the immediate environment of such a nest, if the interference—
- (a) places the animal or its progeny in danger of death; or
 - (b) places the animal in danger of not being able to breed—
 - (i) if the interference occurs during the animal's breeding season—during that season; or
 - (ii) in any other case—during the animal's next breeding season.

Maximum penalty:

- (a) if the animal has special protection status—100 penalty units, imprisonment for 1 year or both; or
 - (b) in any other case—50 penalty units, imprisonment for 6 months or both.
- (2) A person shall not, except in accordance with a licence, interfere with a nest of a native animal, or with anything in the immediate environment of such a nest.

Maximum penalty:

- (a) if the animal has special protection status—30 penalty units; or
 - (b) in any other case—20 penalty units.
- (3) It is a defence to a prosecution for an offence against subsection (1) if it is established that the defendant believed on reasonable grounds that the alleged danger did not exist.

- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if it is established that the defendant believed on reasonable grounds that the place, structure or object alleged to have been interfered with—
- (a) was not a nest; or
 - (b) was not in the immediate environment of a nest;
- as the case may be.
- (5) In this section:
- interfere with* includes damage or destroy.
- nest*, in relation to a native animal, includes—
- (a) a particular place, structure or object that is being, or has been within the previous 2 years, used as a nesting place by the animal; or
 - (b) a partially constructed nest that has not been used as a nesting place by the animal.

25 Killing native animals

- (1) A person shall not, except in accordance with a licence, kill a native animal.
- Maximum penalty:
- (a) if the animal has special protection status—100 penalty units, imprisonment for 1 year or both; or
 - (b) in any other case—50 penalty units, imprisonment for 6 months or both.
- (2) subsection (1) does not apply to or in relation to the killing of an animal in circumstances in which the animal constitutes a danger to a person.

26 Taking native animals

- (1) A person shall not, except in accordance with a licence, take a native animal, whether dead or alive.

Maximum penalty:

- (a) if the animal has special protection status—100 penalty units, imprisonment for 1 year or both; or
- (b) in any other case—50 penalty units, imprisonment for 6 months or both.
- (2) This section does not apply to the taking of an animal that is suffering from a disease, illness or injury for the purpose of treating it or giving it to a conservation officer.

27 Keeping animals

- (1) A person shall not, except in accordance with a licence, keep an animal other than an exempt animal.

Maximum penalty:

- (a) if the animal has special protection status—100 penalty units, imprisonment for 1 year or both; or
- (b) in any other case—50 penalty units, imprisonment for 6 months or both.
- (2) Subsection (1) does not apply to or in relation to an animal kept by a person if—
- (a) the animal is suffering from a disease, illness or injury; and
- (b) the animal is being kept by the person for the purpose of being given treatment for that disease, illness or injury or being delivered to a conservation officer; and
- (c) the period for which the animal has been kept by the person does not exceed 48 hours.

28 Selling animals

- (1) A person shall not, except in accordance with a licence, sell an animal other than an exempt animal.

Maximum penalty:

- (a) if the animal has special protection status—100 penalty units, imprisonment for 1 year or both; or
- (b) in any other case—50 penalty units, imprisonment for 6 months or both.

29 Import and export of animals

- (1) A person shall not, except in accordance with a licence, import into or export from the Territory an animal other than an exempt animal.

Maximum penalty:

- (a) if the animal has special protection status—100 penalty units, imprisonment for 1 year or both; or
- (b) in any other case—50 penalty units, imprisonment for 6 months or both.

39 Release of animals from captivity

- (1) A person shall not, except in accordance with a licence, release a native animal from captivity if the release—

- (a) places the animal in greater danger of injury or death than if it had been kept in captivity; or
- (b) threatens the survival, abundance or evolution of any species of native animals.

Maximum penalty:

- (a) if the animal has special protection status—100 penalty units, imprisonment for 1 year or both; or

- (b) in any other case—50 penalty units, imprisonment for 6 months or both.
- (2) A person shall not, except in accordance with a licence, release an animal that is not a native animal from captivity if the release—
- (a) places any native animal in danger of injury or death; or
 - (b) threatens the survival, abundance or evolution of any species of native animals.
- Maximum penalty: 50 penalty units.
- (3) A person shall not, except in accordance with a licence, release an animal from captivity.
- Maximum penalty: 50 penalty units.
- (4) It is a defence to a prosecution for an offence against subsection (1) if it is established that the defendant believed on reasonable grounds that the release of the animal—
- (a) did not place the animal in greater danger of injury or death than if it had been kept in captivity; and
 - (b) did not threaten the survival, abundance or evolution of any species of native animals.
- (5) It is a defence to a prosecution for an offence against subsection (2) if it is established that the defendant believed on reasonable grounds that the release of the animal—
- (a) did not place any native animal in danger of injury or death; and
 - (b) did not threaten the survival, abundance or evolution of any species of native animals.
- (6) This section does not apply to a person who—
- (a) finds and takes a native animal that is suffering from a disease, illness or injury; and
 - (b) within 48 hours of having taken the animal—

- (i) treats the animal; and
- (ii) releases it within 500m of the place where it was taken.

40 Escape of native animals

Where a native animal escapes from custody—

- (a) the interest held by any person in the animal is divested from that person; and
- (b) any licence held by a person in respect of the animal ceases to apply to the animal.

Part 5 Protection of plants

42 Taking plants

- (1) A person shall not, except in accordance with a licence, take a plant that—
- (a) has special protection status; or
 - (b) is a protected native plant; or
 - (c) is a native plant growing on unleased land.

Maximum penalty:

- (a) if the plant has special protection status—100 penalty units, imprisonment for 1 year or both; or
 - (b) if the plant does not have special protection status but the court finds that the defendant intended to sell it—50 penalty units, imprisonment for 6 months or both; or
 - (c) in any other case—50 penalty units.
- (2) Subsection (1) does not apply where—
- (a) an occupier of land not in a built-up area—
 - (i) cultivates a protected native plant on the land; or
 - (ii) takes seeds from a protected native plant growing on the land for the purposes of cultivating such a plant on the land; or
 - (b) an occupier of land takes a protected native plant growing on the land which had been planted or caused to be planted by the occupier; or
 - (c) a person takes seeds for domestic use from a native plant (other than a plant having special protection status or a protected native plant) growing on unleased land; or

- (d) an occupier of land in a built-up area takes a protected native plant growing on the land; or
 - (e) an occupier of land outside any built-up area takes a protected native plant in the course of preparing or using the land for primary production in accordance with the lease or licence under which the land is occupied; or
 - (f) a conservation officer or public servant takes a native plant in the exercise of his or her functions.
- (4) Where, in a prosecution for an offence against subsection (1), the plant to which the offence relates is seaweed, it is a defence to the prosecution that the quantity of seaweed picked by the defendant was not reasonably sufficient to enable the seaweed to be used for commercial purposes.
- (5) In this section:
- cultivates*, in relation to a native plant, means sowing its seeds, fertilising it, applying chemicals to it or trimming, lopping or digging it up—
- (a) for a purpose reasonably beneficial to the plant, or to a protected native plant growing in close proximity; or
 - (b) for the purpose of its propagation.

native plant does not include native timber.

protected native plant does not include native timber.

43 Preservation of native timber

- (1) A person shall not, without reasonable excuse—
- (a) fell, or cause to be felled; or
 - (b) damage, or cause to be damaged;

standing native timber on unleased land in the built-up area, or leased or unleased land outside the built-up area, except in accordance with a licence.

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply in relation to felling or damage of native timber on leased land outside the built-up area where—
- (a) the timber was planted by or on behalf of an occupier and felled or damaged by or on behalf of that occupier or a subsequent occupier; or
 - (b) in the case of timber which is felled—in the opinion of the person responsible for the felling, based on reasonable grounds, the felling of the timber was necessary to avert an immediate danger of injury to a person or damage to property; or
 - (c) the timber is felled or damaged with the intention of using it on the land for a purpose other than sale or trade.
- (3) A person shall not, without reasonable excuse, remove or cause to be removed fallen native timber on unleased land in the built-up area, or leased or unleased land outside the built-up area, except in accordance with a licence.

Maximum penalty: 50 penalty units.

- (4) A person shall not without reasonable excuse damage, or cause to be damaged, fallen native timber on unleased land, except—
- (a) in accordance with a licence; or
 - (b) if the timber has a diameter of less than 10cm.

Maximum penalty: 50 penalty units.

- (5) Subsections (1), (3) and (4) do not apply in relation to the felling, removal or damage of native timber—
- (a) by a conservation officer, or a public servant, in the exercise of his or her functions; or

- (b) with the authority of the conservator.
- (6) In addition to the penalty that may be imposed for an offence against this section involving the felling or removal of native timber, the court may order the defendant to pay to the Territory an amount equal to the value of the timber felled or removed in contravention of this section.
- (7) Where the court makes an order under subsection (6), the same proceedings may be taken upon the order as if it were a judgment of the Magistrates Court entered in civil proceedings in favour of the Territory.
- (8) In this section:
- removal* means—
- (a) in relation to native timber on leased land—removal of the timber from the land subject to the lease; or
- (b) in relation to native timber on unleased land—removal from the immediate vicinity.

44 Dealing in protected native plants

- (1) A person shall not, except in accordance with a licence—
- (a) sell a protected native plant; or
- (b) import into the Territory, or export from the Territory, a protected native plant for the purposes of sale or trade.

Maximum penalty:

- (a) if the plant has special protection status—100 penalty units, imprisonment for 1 year or both; or
- (b) in any other case—50 penalty units, imprisonment for 6 months or both.
- (2) Nothing in subsection (1) applies to or in relation to the importation into the Territory of native timber.

45 Plant tags

- (1) A person shall not sell or export from the Territory a protected native plant, or a plant that has special protection status, other than a seed or a dead plant, unless there is attached to the plant a tag of an approved kind on which the particulars referred to in subsection (2) are clearly and indelibly marked.

Maximum penalty:

- (a) if the plant has special protection status—50 penalty units; or
- (b) in any other case—25 penalty units.
- (2) The particulars to be marked on a tag for the purpose of subsection (1) are—
- (a) the name of the person proposing to sell or export the plant; and
- (b) the botanical name and common name (if any) of the plant.
- (3) For the purposes of subsection (1), a tag shall be taken to be a tag of an approved kind if it is made of metal, plastic, cloth or some other durable material.

Part 6 Prohibited and controlled organisms

45AA Declarations

- (1) The conservator may, in writing, declare organisms of a particular kind to be prohibited organisms.
- (2) The conservator may, in writing, declare organisms of a particular kind to be controlled organisms.
- (3) In making a declaration under this section, the conservator shall consider—
 - (a) the need to protect native animals and native plants in the Territory; and
 - (b) the need to conserve the significant ecosystems of the Territory, New South Wales and Australia.
- (4) A declaration under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

45AB Possession of prohibited organisms

A person shall not possess a prohibited organism, except in accordance with a licence.

Maximum penalty: 50 penalty units.

45AC Controlled organisms

A person shall not perform an action prescribed by the regulations in relation to a controlled organism, except in accordance with a licence.

Maximum penalty: 50 penalty units.

Part 7 Conservation directions

45A Meaning of *native animal* in pt 7

In this part:

native animal includes any live fish.

46 Entry onto land for purpose of carrying out examination

- (1) Subject to subsection (2), a conservation officer may enter land and carry out on the land such investigations and examinations in relation to native animals or native plants on the land as the conservation officer considers necessary or desirable for the purpose of ensuring the protection and conservation of those animals or plants.
- (2) A conservation officer shall not enter occupied land, or exercise a power conferred by subsection (1) in relation to occupied land, unless—
 - (a) he or she has received permission in writing to do so from the occupier of the land; or
 - (b) he or she has, not less than 24 hours before entering the land, given the occupier written notice of intention to enter the land.
- (3) Where an occupier (not being the Territory or Commonwealth or a statutory authority) of land suffers loss or damage by reason of the exercise, in relation to the land, of a power conferred by this section, there is due to the person by the Territory such amount as is necessary to compensate the person for the loss or damage suffered by him or her.

47 Conservation directions

- (1) The conservator may give the occupier of land directions for the protection or conservation of native animals, native plants and native timber on the land.
- (2) Directions under subsection (1) shall—
 - (a) specify a period, expiring no earlier than 14 days after the date of the directions, within which the directions are to be complied with; and
 - (b) be in accordance with the criteria determined under section 50.
- (3) A person to whom directions are given in accordance with this section shall not, without reasonable excuse, fail to comply with the directions within the time specified in the directions.

Maximum penalty:

- (a) if the directions relate to the protection or conservation of native animals or plants having special protection status—100 penalty units; or
- (b) in any other case—50 penalty units.

49 Diseased native animals and plants

- (1) Where the conservator has reasonable cause to believe—
 - (a) that a native animal or a native plant is suffering from a disease; and
 - (b) that it is necessary or desirable for treatment of a particular kind to be carried out in connection with that disease;the conservator may, by notice in writing, direct the owner of the animal or plant, within such period as is specified in the notice, to carry out that treatment.
- (2) The conservator shall only issue a notice under subsection (1) in accordance with the criteria determined under section 50.

- (3) Where a notice is given to a person under subsection (1) and—
- (a) the person does not comply with the notice; or
 - (b) the notice is complied with but the animal or plant does not, within a reasonable time, respond satisfactorily to the treatment;
- the conservator may, by notice in writing, require the person, within such period as is specified in the notice, to deliver up the animal or plant to the conservator or to destroy it.
- (4) If a person to whom a notice in respect of a native animal is given under subsection (3) fails to comply with the notice, a conservation officer may—
- (a) enter the land or premises where the animal is kept; and
 - (b) seize the animal.
- (5) A conservation officer may, in respect of an animal seized by the officer under subsection (4)—
- (a) carry out such treatment, and dispose of the animal in such manner, as he or she thinks fit; or
 - (b) destroy the animal.

50 Conservation criteria

- (1) The conservator may, in writing, determine criteria for the purposes of sections 47 (2) (b) and 49 (1).
- (2) A determination under subsection (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Part 8 **Reserved areas**

Division 8.1 **Restriction on activities within reserved areas and wilderness zones**

53 **Access to reserved areas**

- (1) The conservator may—
- (a) restrict access to a reserved area, or part of a reserved area, to certain persons or persons included in a class of persons; or
 - (b) prohibit access to a reserved area, or part of a reserved area; where he or she has reasonable cause to believe that—
 - (c) public safety would be endangered; or
 - (d) the management of the reserved area, or that part of the reserved area, would be interfered with;

by public access to the reserved area, or that part of the reserved area.

- (2) Notice of a restriction or prohibition under subsection (1) shall—
- (a) be published in a newspaper circulating in the Territory; and
 - (b) be prominently displayed at all entrances to the reserved area or part of the reserved area.
- (3) A person who, or a person included in a class of persons which, is, by virtue of subsection (1), prohibited from entering a reserved area or part of a reserved area shall not enter the reserved area or that part of the reserved area.

Maximum penalty: 50 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (3) that—

- (a) the presence of the defendant in the reserved area, or the part of the reserved area, as the case may be—
 - (i) was due to the existence of an emergency; or
 - (ii) was unavoidable by the taking of reasonable care; or
- (b) the defendant had no reasonable grounds for suspecting that entry into the reserved area, or part of the reserved area, was prohibited under subsection (1).

53A Entry to reserved areas

If, when asked by a conservation officer, a person fails to pay a fee payable by the person for entry into a reserved area, the person must not enter the area.

Maximum penalty: 20 penalty units.

54 Signs in reserved areas

- (1) The conservator may authorise the erection, at or near the entrances to a reserved area or a part of a reserved area, of signs containing directions to be followed by, warnings for the guidance of, and requirements to be observed by, persons entering the reserved area or that part of the reserved area.
- (2) A person in a reserved area shall not contravene a direction or requirement on a sign erected in pursuance of subsection (1).

Maximum penalty: 10 penalty units.

- (3) Unless the contrary is proved, evidence that a sign was erected at or near the entrance to a reserved area or a part of a reserved area is evidence that it was erected with the authority of the conservator.

55 Rubbish and fires in reserved areas

- (1) A person shall not, in a reserved area, cause any rubbish or litter to be placed elsewhere than in a receptacle provided for the purpose by the conservator.

Maximum penalty: 10 penalty units.

- (2) A person shall not, in a reserved area, light, maintain or use a fire otherwise than in—
- (a) a portable barbecue or portable stove, being a barbecue or stove in which heat is provided by the combustion of liquefied petroleum gas; or
 - (b) a fireplace made available by the conservator; or
 - (c) a location approved by the conservator.

Maximum penalty: 50 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2)—
- (a) that the fire was lit, maintained or used by the defendant in circumstances that constituted an emergency; or
 - (b) that the defendant had no reasonable grounds for suspecting that the fire was within a reserved area.

56 Activities in reserved areas

- (1) A person shall not, in a reserved area, without the consent in writing of the conservator—
- (a) drive or park a motor vehicle except on a road or track or in a part of the reserved area that is designated to be an area in which the driving or parking of motor vehicles is permitted; or
 - (b) moor a vessel except in a part of the reserved area that is designated to be an area in which the mooring of vessels is permitted; or

- (c) camp except in a part of the reserved area that is designated to be an area in which camping is permitted; or
- (d) erect a building, booth, stall, post, sign or other structure; or
- (e) supply goods or services; or
- (f) plant a plant; or
- (g) deposit garden waste, soil or landscaping material that contains plant material capable of propagating.

Maximum penalty: 30 penalty units.

- (2) A person shall not, in a reserved area, without the consent in writing of the conservator, use or possess—
- (a) a firearm of any kind; or
 - (b) a spear, spear gun, bow or arrow; or
 - (c) a trap, net, snare or other device designed, or capable of use, for the taking or capturing of animals; or
 - (d) any substance that is capable of being used for the taking or capturing of animals.

Maximum penalty: 50 penalty units.

- (3) A person shall not, in a reserved area, without the consent in writing of the conservator—
- (a) damage or destroy a natural or constructed structure or feature; or
 - (b) damage or destroy a site, or remove an object, of historical, archaeological, palaeontological or geological interest.

Maximum penalty: 50 penalty units.

- (4) For the purposes of subsection (1) (a), driving or parking a motor vehicle is not to be taken to be permitted on or adjacent to a road to which access is barred by a gate or a barrier.

- (5) The conservator shall not give consent under subsection (1) in respect of any of the matters referred to in subsection (1) (d) or (e) where the reserved area is, or forms part of, a wilderness area.
- (6) Subsection (2) does not apply to the use or possession of a firearm by a police officer in the course of his or her duties as a police officer.

57 Taking animals and plants into reserved areas

- (1) A person shall not—
 - (a) without the consent in writing of the conservator, take into, or knowingly permit to enter, a reserved area an animal other than a native animal; or
 - (b) take a pest plant into a reserved area.

Maximum penalty: 5 penalty units.

- (2) Subsection (1) does not apply to or in relation to the taking by a blind person of his or her guide dog into a reserved area.
- (3) In a prosecution for an offence against subsection (1), evidence that a person had an animal in possession in a reserved area is evidence that the person took the animal into or knowingly permitted the animal to enter, the reserved area.

58 Powers of conservation officers in reserved areas

- (1) A conservation officer may, in a reserved area—
 - (a) require any person whom he or she finds acting, or whom he or she reasonably suspects of having acted, in an offensive manner, or in such a manner as to create a public nuisance, to leave the reserved area; and
 - (b) require any person whom he or she reasonably suspects of having done an act in respect of which the person is required to hold an authority under this Act to produce the authority or evidence of the authority.

- (2) Where a conservation officer makes a requirement of a person under subsection (1), the conservation officer shall produce his or her identity card for inspection by that person and, if he or she fails to do so, that other person is not obliged to comply with the requirement.
- (3) Subject to subsection (2), a person shall not, without reasonable excuse, contravene a requirement made of him or her by a conservation officer under subsection (1).

Maximum penalty: 50 penalty units.

- (4) It is a defence to a prosecution for an offence against this section of contravening a requirement to produce an authority or evidence of an authority for the doing of an act if the authority or evidence is, within 2 working days after the requirement was made, produced at the office of the conservator for inspection by a person apparently employed at that office.
- (5) In this section:

authority includes a licence.

59 Offences in wilderness zones

A person shall not, in a wilderness area—

- (a) excavate, except in accordance with a licence; or
- (b) establish a track or road; or
- (c) use a motor vehicle except on a track or road that—
- (i) was formed for the use of vehicles having 4 or more wheels; and
 - (ii) was in existence at the time of the declaration of the wilderness area.

Maximum penalty: 50 penalty units.

60 Compensation

- (1) In a prosecution for an offence against this part involving damage to a reserved area, the court may, in addition to the penalty that may be imposed, order the defendant to pay to the Territory an amount equal to the amount incurred or to be incurred by the Territory in making good the damage.
- (2) Where the court makes an order under subsection (1), the same proceedings may be taken upon the order as if it were a judgment of the Magistrates Court entered in civil proceedings in favour of the Territory.

60A Restoration of excavation sites by permit holders

- (1) A person who excavates a site in a wilderness area in accordance with a licence shall, after completing the excavation, restore the site excavated and its surroundings as far as possible to their former state.
- (2) If, in the opinion of the conservator based on reasonable grounds, a person fails to comply with subsection (1), that person shall pay to the Territory an amount equal to any amount incurred by the Territory in restoring the site excavated and its surroundings to their former state.

Part 9 Management agreements

60AA Definitions for pt 9

In this part:

activities means—

- (a) in relation to an agency which supplies gas, electricity, water or sewerage services—construction, repair or maintenance carried out by the agency in association with the supply of those services; or
- (b) the construction, repair and maintenance of navigation serving beacons and telecommunications towers; or
- (c) in relation to an agency responsible for the development of land—the agency’s development activities.

agency means—

- (a) a supplier of gas, electricity, water or sewerage services; or
- (b) a person responsible for the construction, repair and maintenance of navigation serving beacons and telecommunications towers; or
- (c) a person responsible for a development of land.

controlled land means—

- (a) public land; or
- (b) Territory land which is not subject to a lease within the meaning of the Land Act, section 159 (1).

development, in relation to land, means—

- (a) the erection, alteration or demolition of a building on the land; or
- (b) the carrying on of work on the land; or

- (c) the use or change of use of the land; or
- (d) the use or change of use of a building or works on the land; or
- (e) the subdivision or consolidation of the land.

Land Act means the *Land (Planning and Environment) Act 1991*.

land management objectives means—

- (a) in relation to public land—management objectives applicable under the Land Act, section 195, as applied by any plan of management for that land under the Land Act, part 5 division 5, subdivision D; and
- (b) in relation to any controlled land—
 - (i) any objectives, policies or purposes specified in the Territory plan for that land; and
 - (ii) the objective of the conservation of the qualities of the natural environment on, and in the vicinity of, the land.

management agreement means an agreement under section 60AB between the conservator and an agency.

natural environment means all biological, physical and visual elements of the earth and its atmosphere, whether natural or modified.

public land means land identified as such in the Territory plan.

60AB Management agreements

- (1) The conservator may propose a management agreement to an agency if—
 - (a) the activities of the agency affect, or may affect, controlled land; and
 - (b) in the opinion of the conservator, those activities may conflict with the land management objectives for that land.

- (2) A management agreement shall set out standards and conditions for avoiding or minimising any conflict with land management objectives for controlled land which might arise as a result of the agency's activities.
- (3) A management agreement may deal with matters including the following:
- (a) access to land;
 - (b) fire management;
 - (c) drainage;
 - (d) management and maintenance of public or private facilities;
 - (e) rehabilitation of land or public or private facilities;
 - (f) indemnities;
 - (g) emergency procedures;
 - (h) internal stockpiling;
 - (i) fencing;
 - (j) feral animals and weed control.
- (4) A management agreement must not conflict with an approval within the meaning of the Land Act, section 222.

60AC Formulation of agreements

- (1) The conservator shall consult with the agency in formulating a management agreement, and shall consider any representations made on behalf of the agency about the proposed agreement.
- (2) The conservator shall submit a proposed management agreement with an agency to the agency together with a notice stating the date of submission and the consequences under this part of—
- (a) a refusal to sign the proposed agreement; and

- (b) breach of a term of the agreement, if the agreement is entered into.
- (3) If an agency decides to enter into a management agreement submitted to it under subsection (2), the agency shall return the agreement to the conservator, signed on behalf of the agency, within 28 days after the date of submission.

60AD Refusal to enter into management agreement

- (1) If an agency refuses to enter into a management agreement, the Territory may recover from the agency any cost reasonably incurred by the Territory in connection with the repair of any damage to controlled land caused by the agency's activities.
- (2) An agency is to be taken to have refused to enter into a management agreement if—
 - (a) the agency notifies the conservator accordingly in writing; or
 - (b) the agency does not return the agreement to the conservator in accordance with section 60AC (3).

60AE Activities inconsistent with management agreement

If an agency enters into a management agreement, the Territory may recover from the agency any cost reasonably incurred by the Territory in connection with the repair of any damage to controlled land caused by activities of the agency inconsistent with the agreement.

Part 10 Licences

61 Application

- (1) An application for a licence must be given to the conservator.

Note 1 If a form is approved under s 80B (Approved forms) for an application, the form must be used.

Note 2 A fee may be determined under s 83A (Determination of fees) for this section.

- (2) On written notice from the conservator, an applicant for a licence shall give the conservator such further information about the application, or such documentation, as is reasonably required.

62 Grant of licence

- (1) On application under section 61, the conservator shall, in accordance with section 64—

- (a) grant a licence; or
- (b) refuse to grant a licence.

- (2) The conservator may grant a licence, in accordance with section 64—

- (a) subject to any condition, including a condition referred to in section 63; and
- (b) for such duration as he or she thinks fit.

63 Conditions

- (1) The conditions subject to which a licence may be granted include the following:

- (a) conditions requiring compliance with a management plan approved by the conservator under subsection (3) for the activities to be undertaken pursuant to the licence;

- (b) different conditions in relation to species having special protection status, protected fish, protected invertebrates, protected native animals, protected native plants, exempt animals, controlled organisms and prohibited organisms.
- (2) A licence granted for the keeping of animals for public display shall be subject to the condition of compliance with a management plan approved by the conservator under subsection (3).
- (3) For the purposes of this section, the conservator may, in accordance with section 64, approve a management plan by written notice to the licensee.
- (4) Subject to this section, the conservator may, by written notice to a licensee, vary a condition of a licence in accordance with section 64.
- (5) The variation of a licence condition under subsection (4) takes effect from the date of the notice under that subsection, or from a later date specified in the notice.

64 Licensing criteria

- (1) The conservator shall not grant a licence, or impose or vary a licence condition, except in accordance with the criteria determined under subsection (2).
- (2) The Minister may, in writing, determine criteria for—
 - (a) the grant or refusal of a licence; and
 - (b) the imposition of conditions; and
 - (c) determining the duration of a licence.
- (3) For the purposes of subsection (2), the Minister may determine different criteria in relation to—
 - (a) species having special protection status; and
 - (b) protected native animals and protected native plants; and
 - (c) other native animals and native plants; and

- (d) prohibited organisms and controlled organisms; and
 - (e) any other animals, plants, fish and invertebrates.
- (4) A determination under subsection (2) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

65 Duration

A licence remains in force for the period specified in the licence, unless sooner surrendered or cancelled.

66 Surrender

- (1) A licensee may surrender the licence by written notice to the conservator.
- (2) The surrender of a licence takes effect from the date of the notice of surrender, or from a later date specified in the notice.

67 Nature of rights conferred by licences

The grant of a licence does not authorise the licensee to enter upon—

- (a) land held in fee simple; or
- (b) land held under a lease granted by or in the name of the Commonwealth; or
- (c) land that is occupied by a person in pursuance of a licence granted to the person by the Territory or Commonwealth.

69 Cancellation

The conservator may cancel a licence where—

- (a) the licensee is convicted of an offence against this Act; or
- (b) the licensee fails to comply with a licence condition; or

- (c) since the granting of the licence, a change has occurred in relation to a matter that was taken into account in determining the application for the licence and the conservator is of the opinion that the change is such as to necessitate the cessation of the activity in respect of which the licence was granted.

70 Production of licences

A licensee shall, within 2 working days of being so requested by a conservation officer, produce the licence at the office of the conservator for inspection by a person apparently employed at that office.

Maximum penalty:

- (a) if the licence relates to an animal with special protection status—10 penalty units; or
- (b) in any other case—5 penalty units.

72 Records to be kept by licence holders

- (1) A holder of a licence relating to animals who keeps an animal, not being an exempt animal shall keep such records as are prescribed.
- (2) A holder of a licence relating to live fish who keeps live fish shall keep such records as are prescribed.
- (3) A holder of a licence relating to native plants who sells or exports from the Territory such plants shall keep such records as are prescribed.

Maximum penalty:

- (a) if the animal or fish kept, or plant sold or exported, as the case requires, has special protection status—20 penalty units; or
- (b) in any other case—10 penalty units.

73 Production of records

A person who is, by virtue of section 72, required to keep records shall, within 2 working days of being so requested by a conservation officer, produce at the office of the conservator for inspection by a person apparently employed at that office such records as the firstmentioned person is so required to keep.

Maximum penalty: 50 penalty units.

Part 11 Review by the administrative appeals tribunal

74 Review of conservator's decisions

Application may be made to the administrative appeals tribunal for the review of a decision of the conservator—

- (a) giving a direction under section 47 or 49; or
- (b) restricting or prohibiting access to a reserved area or part of a reserved area under section 53; or
- (c) refusing to grant consent under section 56 (1), (2) or (3) or 57 (1); or
- (d) granting a licence under section 62 (1) (a); or
- (e) refusing to grant a licence under section 62 (1) (b); or
- (f) granting a licence subject to any condition under section 62 (2) (a); or
- (g) granting a licence for a particular duration under section 62 (2) (b); or
- (h) varying a licence condition under section 63 (4); or
- (i) cancelling a licence under section 69.

74A Notification of decisions

- (1) Where the conservator or a conservation officer makes a decision referred to in section 74, that person shall cause notice in writing of the decision to be given to the person whose interests are affected by the decision.
- (2) A notice under subsection (1) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Part 12 On-the-spot fines

74AA Definitions for pt 12

In this part:

final infringement notice means a notice under section 74AC.

infringement notice means a notice under section 74AB.

on-the-spot fine, in relation to a schedule 1 offence, means—

- (a) in the case of a natural person—the fine for that offence ascertained by reference to schedule 1; or
- (b) in the case of a body corporate—5 times the amount of that fine.

relevant amount means—

- (a) in relation to an infringement notice—the on-the-spot fine for the alleged schedule 1 offence to which the notice relates; or
- (b) in relation to a final infringement notice—the on-the-spot fine for the alleged schedule 1 offence to which the notice relates, in addition to the fee determined under section 83A (Determination of fees) for section 74AC.

relevant period for payment means—

- (a) in relation to an infringement notice—28 days after the date of the notice; or
- (b) in relation to a final infringement notice—14 days after the date of the notice; or
- (c) such extended period as the conservator allows under section 74AF (4) (b) or section 74AG.

schedule 1 offence means an offence against a provision mentioned in column 1 of schedule 1.

74AB Infringement notices

- (1) A conservation officer may serve an infringement notice on a person if the officer believes on reasonable grounds that the person has committed a schedule 1 offence.
- (2) An infringement notice must—
 - (a) identify the conservation officer who issues the notice; and
 - (b) state the full name, or surname and initials, and address of the person on whom it is served; and
 - (c) specify the nature of the alleged offence and the amount of the on-the-spot fine; and
 - (d) specify the day, time and place of the alleged commission of the offence; and
 - (e) include a statement to the effect that if the person on whom the notice is served does not wish the offence to be prosecuted in court, the person may pay the on-the-spot fine to the conservator within—
 - (i) 28 days after the date of the notice; or
 - (ii) if the fee determined under section 83A (Determination of fees) for section 74AC is paid in addition—14 days after the date of a final infringement notice; or
 - (iii) such extended period as is allowed under this part; and
 - (f) specify the place at which, and the manner in which, the fine may be paid; and
 - (g) include a statement of the possible consequences if the offence were to be prosecuted in court, including the maximum penalty applicable; and
 - (h) include a statement about the procedures for obtaining an extension of time under this part; and

- (j) include a statement about the procedures for the withdrawal of the notice under this part; and
- (k) be dated and signed by the conservation officer who serves the notice.

Note If a form is approved under s 80B (Approved forms) for an infringement notice, the form must be used.

74AC Final infringement notices

- (1) A conservation officer may serve a final infringement notice on a person where, after the service on the person of an infringement notice—
 - (a) within 28 days after the date of the infringement notice, or within such extended period as the conservator allows under section 74AG—
 - (i) the person fails to pay the on-the-spot fine; and
 - (ii) the person fails to apply for the withdrawal of the infringement notice under section 74AE; or
 - (b) if the person applies for the withdrawal of the infringement notice under section 74AE—
 - (i) the application is rejected; and
 - (ii) the person fails to pay the on-the-spot fine within the extended period allowed under section 74AF (4) (b).
- (2) An infringement notice must—
 - (a) identify the conservation officer who serves the notice; and
 - (b) state the full name, or surname and initials, and address of the person on whom it is served; and
 - (c) specify the nature of the alleged offence and the amount of the on-the-spot fine; and
 - (d) specify the day, time and place of the alleged commission of the offence; and

- (e) specify the date of the relevant infringement notice, and include a statement to the effect that the person has not paid the on-the-spot fine for the alleged offence to which the notice relates; and
- (f) include a statement to the effect that if the person on whom the notice is served does not wish the offence to be prosecuted in court, the person may pay the on-the-spot fine, in addition to the fee determined under section 83A (Determination of fees) for this section, to the conservator within—
 - (i) 14 days after the date of the notice; or
 - (ii) such extended period as is allowed under this part; and
- (g) specify the place at which, and the manner in which, the fine and the fee may be paid; and
- (h) include a statement of the possible consequences if the offence were to be prosecuted in court, including the maximum penalty applicable; and
- (j) include a statement about the procedures for obtaining an extension of time under this part; and
- (k) include a statement about the procedures for the withdrawal of the notice under this part; and
- (m) be dated and signed by the conservation officer who serves the notice.

Note If a form is approved under s 80B (Approved forms) for a final infringement notice, the form must be used.

74AD Discharge of liability for schedule 1 offences

- (1) This section applies where an infringement notice or a final infringement notice has been served on a person in respect of a schedule 1 offence and, before the expiration of the relevant period for payment—
 - (a) the relevant amount is paid in accordance with the notice; or

- (b) the relevant notice is withdrawn.
- (2) Where this section applies—
- (a) any liability of the person in respect of the offence is discharged; and
 - (b) no further proceedings shall be taken in respect of the offence; and
 - (c) the person shall not be regarded as having been convicted of the offence.
- (3) For the purposes of this section, where a cheque is tendered in payment of the relevant amount, such payment shall not be taken to have been made unless and until the cheque is honoured on presentation.

74AE Application for withdrawal of infringement notices

- (1) A person on whom an infringement notice or a final infringement notice is served in relation to the alleged commission of a schedule 1 offence may, by notice in writing to the conservator within the relevant period, apply for the withdrawal of the notice.
- (2) A person shall not make more than 1 application under this section in relation to any particular alleged commission of a schedule 1 offence.

74AF Withdrawal of infringement notices

- (1) On receipt of an application under section 74AE, the conservator may withdraw the relevant infringement notice or final infringement notice if satisfied on reasonable grounds that any of the following grounds is made out:
 - (a) the applicant did not commit the offence;
 - (b) the applicant had a reasonable excuse for committing the act constituting the offence;

- (c) it would be unreasonable in the circumstances to prosecute the applicant for the commission of the offence.
- (2) If the conservator withdraws an infringement notice or final infringement notice, he or she shall give the person on whom the notice was served written notice of the decision.
- (3) A notice under subsection (2) shall—
 - (a) specify the infringement notice or final infringement notice that is withdrawn; and
 - (b) include a statement of the effect of subsections 74AD (1) and (2).
- (4) If the conservator does not withdraw an infringement notice or final infringement notice under subsection (1), the conservator shall—
 - (a) give the person written notice of the decision; and
 - (b) extend the period within which the relevant amount is to be paid, by a period of—
 - (i) in the case of a decision not to withdraw an infringement notice—28 days commencing on the date of the notice under paragraph (a); or
 - (ii) in the case of a decision not to withdraw a final infringement notice—14 days commencing on the date of the notice under paragraph (a).
- (5) If the conservator does not give notice to a person under subsection (2) or (4) within 60 days after the receipt of an application for withdrawal of an infringement notice or a final infringement notice under section 74AE, the notice is to be taken to have been withdrawn.
- (6) Where an infringement notice or final infringement notice served on a person is withdrawn under this section, the conservator shall refund any amount paid under section 74AB or 74AC in payment of the relevant on-the-spot fine.

74AG Extension of time for pensioners

- (1) A pensioner on whom an infringement notice or a final infringement notice is served may, within the relevant period, apply for an extension of the relevant period.
- (2) On application under subsection (1), the conservator may, by written notice to the applicant, extend the relevant period by a period expiring no later than 90 days after the date of the notice.
- (3) The conservator may grant an application under this section subject to the condition that the applicant pay the relevant amount by specified instalments within the extended period.
- (4) Where a condition is imposed under subsection (3) that a person pay a relevant amount by specified instalments, if he or she fails to pay an instalment of the relevant amount by the date specified in the notice under subsection (2), this part applies to that person as if—
 - (a) the extended period for payment had expired; and
 - (b) he or she had failed to pay the relevant amount within that period.
- (5) A person shall not make more than 1 application under this section in relation to any particular alleged commission of a schedule 1 offence.
- (6) In this section:

pensioner means a person who holds, or who is entitled to hold, a pensioner concession card issued by the Commonwealth, or, if that card is superseded, any later replacement for that card.

74AH Prosecution of schedule 1 offences

- (1) The conservator shall not institute a prosecution for an offence in respect of which an infringement notice has been served on a person—

- (a) until the expiration of the period of 14 days after the date of service of a final infringement notice in relation to that offence; or
 - (b) if that period is extended under section 74AG—until the extended period has expired; or
 - (c) if the person applies for the withdrawal of the final infringement notice under section 74AE—unless and until the application is rejected and the extended period granted under section 74AF (4) (b) has expired.
- (2) Nothing in section 74AB or 74AC shall be construed as—
- (a) affecting the liability of a person to be prosecuted for a schedule 1 offence in relation to which an infringement notice has not been served; or
 - (b) subject to subsection (1), prejudicing or affecting the institution or prosecution of proceedings for a schedule 1 offence; or
 - (c) limiting the amount of the fine that may be imposed by the court in respect of a schedule 1 offence.
- (3) Where a prosecution is instituted for an offence in respect of which an infringement notice has been served, the conservator shall refund any amount paid under section 74AB or 74AC in payment of the on-the-spot fine.

74AI Non-antecedent value of infringement notice offences

- (1) For the purposes of the *Crimes Act 1900*, section 429A, in sentencing an accused for any offence, a court shall not have regard to—
- (a) the alleged commission of any infringement notice offence; or
 - (b) the circumstances surrounding any infringement notice offence; or

- (c) the investigation of any infringement notice offence, or any related action under this part.
- (2) In subsection (1):
- infringement notice offence*, in relation to an accused, means an alleged offence—
- (a) in relation to which an infringement notice has been served on the accused; and
 - (b) which has not been found proved by a court.

74AJ Service of notices

- (1) For the purposes of this part, a notice may be served on the person to whom it is directed—
- (a) by delivering the notice personally; or
 - (b) by sending the notice by post addressed to the person at the person's last-known place of residence or business; or
 - (c) by leaving the notice at the person's last-known place of residence or business with some other person who is apparently—
 - (i) over the age of 16 years; and
 - (ii) an occupant of the place, or employed at that place.
- (2) Nothing in this section prevents the service on a person of more than 1 infringement notice or final infringement notice in respect of the same alleged offence, but it is sufficient for the application of section 74AD to such a person for the person to pay the relevant amount in accordance with any of the notices so served.
- (3) Where an infringement notice is served on a child and the person serving the notice believes, on reasonable grounds, that the child is residing with a person who stands in loco parentis to that child, the person serving the notice shall serve a copy of the notice on that person.

74AK Evidence

- (1) For the purposes of this part, a document that purports to have been signed by the conservator shall be taken to have been so signed unless the contrary is proved.
- (2) In a prosecution for a schedule 1 offence, a certificate signed by the conservator stating any of the following matters is evidence of the matters so stated:
 - (a) that a notice was served under this part on a specified person on a specified date;
 - (b) where an infringement notice or a final infringement notice has been served on a person under this part, that—
 - (i) further time for payment was, or was not, allowed under section 74AF (4) (b) or section 74AG; or
 - (ii) the notice was not withdrawn; or
 - (iii) the relevant amount was not paid in accordance with the notice within the relevant period for payment.

Part 13 Miscellaneous

75 Royalty

- (1) A licensee shall pay to the Territory royalty at the prescribed rate in relation to the sale or disposal of—
 - (a) native animals; or
 - (b) native plants; or
 - (c) native timber;taken or removed in accordance with the licence.
- (3) A rate of royalty prescribed for the purposes of this section may be expressed—
 - (a) as a flat rate in respect of each animal or plant; or
 - (b) as a proportion of the amount received by the licensee for the sale or disposal.
- (4) Different rates of royalty may be prescribed in relation to native timber depending on—
 - (a) the type of timber; and
 - (b) whether the land from which the timber was taken is—
 - (i) held under lease from the Commonwealth; or
 - (ii) occupied by a person in pursuance of a licence granted to him or her by the Territory or Commonwealth.
- (5) Royalty is not payable in respect of animals, plants or timber—
 - (a) that is included in a prescribed class; or
 - (b) that is taken in a prescribed part of the Territory; or
 - (c) that is taken during a prescribed period; or

- (d) that is taken by a person included in a prescribed class of persons.

76 Certain provisions not to apply to conservation officers

Nothing in section 24, 25, 26, 27, 39, 42, 43, 45AB, 45AC, 55, 56 or 57 applies to or in relation to the conservator or a conservation officer acting in the performance of his or her duties as conservator or a conservation officer, as the case may be.

76A Act not to apply to certain appointed people

This Act does not apply in relation to a person appointed for the purposes of the *Electricity Safety Act 1971*, section 33 (Connecting electrical installations to network—inspections) in the exercise of his or her powers under that section as a person so appointed.

77 Power of entry and search

- (1) In this section:

animal means—

- (a) an animal other than an exempt animal; or
- (b) a live fish.

plant means a native plant.

- (2) For the purposes of this Act, a conservation officer may, at such times, and at such intervals, as are reasonable, enter land or premises on which any animal or plant is kept in accordance with a licence and—
- (a) search the land or premises; and
 - (b) inspect the animal or plant; and
 - (c) inspect the accounts, books, documents and other records relating to the animal or plant.
- (3) A conservation officer may—

- (a) where he or she has reasonable grounds for suspecting that an animal or plant is on land or premises in contravention of this Act—at any reasonable time, enter the land or premises and carry out a search of the land or premises; and
 - (b) where he or she has reasonable grounds for suspecting that an animal or plant is contained in a vehicle or vessel in contravention of this Act—
 - (i) stop and search the vehicle or vessel; or
 - (ii) stop the vehicle or vessel and require it to be taken to another place in the Territory where a search may conveniently be carried out.
- (4) Where a conservation officer, in pursuance of subsection (2) or (3), enters land or premises, stops a vehicle or vessel or requires a person to take the action referred to in subsection (3) (b) (ii), the conservation officer shall, if requested by the occupier or person in charge of the land or premises, or the person in charge of the vehicle or vessel, produce his or her identity card for inspection by that person, and if he or she fails to do so—
- (a) where the conservation officer has entered land or premises—he or she is not authorised to remain on the land or premises; and
 - (b) where the conservation officer has stopped a vehicle or vessel—he or she is not authorised to search the vehicle or vessel; and
 - (c) where the conservation officer has required a person to take the action referred to in subsection (3) (b) (ii)—that person is not obliged to comply with the requirement.
- (5) A person shall not, without reasonable excuse—
- (a) obstruct or hinder a conservation officer in the exercise of his or her powers under this section; or

- (b) except where subsection (4) (c) applies—contravene a requirement made by a conservation officer under this section.

Maximum penalty (subsection (5)): 50 penalty units, imprisonment for 6 months or both.

78 Further powers of conservation officers

- (1) A conservation officer—
- (a) may require any person whom he or she finds committing, or whom he or she reasonably suspects of having committed, an offence against this Act to state the person's full name and usual place of residence; and
 - (b) if the person is in a reserved area—may require the person to leave the reserved area.
- (2) Where a conservation officer makes a requirement of a person under subsection (1), the conservation officer shall produce his or her identity card for inspection by that person and, if he or she fails to do so, that other person is not obliged to comply with the requirement.
- (3) Subject to subsection (2), a person shall not, without reasonable excuse, contravene a requirement made by a conservation officer under subsection (1).

Maximum penalty (subsection (3)): 50 penalty units.

78A Seizure and release of bird wildlife

- (1) Where—
- (a) a person is found by a conservation officer to be in possession of a bird that is a native animal, not being—
 - (i) a bird that is on premises occupied by the person; or
 - (ii) an exempt animal; and

- (b) the conservation officer suspects on reasonable grounds that the bird is in the possession of the person in contravention of this Act; and
- (c) the person does not, upon being requested to do so by the conservation officer, produce for inspection by the conservation officer a licence in accordance with which the person is entitled to have the bird in his or her possession; and
- (d) the conservation officer believes on reasonable grounds that—
 - (i) the bird is suffering pain or is in a state of distress; or
 - (ii) the keeping of the bird in captivity, or in captivity of the kind in which it is being kept by the person, is likely to endanger the life of, or cause distress or otherwise be harmful to, the bird;

the conservation officer may, subject to subsection (2), seize the bird and, if the conservation officer believes on reasonable grounds that the welfare of the bird can be best provided for by releasing the bird from captivity, he or she may release it.

- (2) A conservation officer is not entitled to seize a bird under subsection (1) if, on the request of the person in whose possession the bird is found, the conservation officer fails to produce his or her identity card for inspection by that person.

79 Seizure and forfeiture of animals and plants

- (1) In this section:

animal includes a live fish.

plant means a native plant.

- (2) A conservation officer may seize any animal, plant, substance or thing in connection with which he or she believes, on reasonable grounds, an offence against this Act has been committed.
- (3) Where—

- (a) an animal, plant, substance or thing is seized under subsection (2); and
 - (b) a prosecution for an offence against this Act relating to the animal, plant, substance or thing is not instituted within 6 months of the seizure;
- the animal, plant, substance or thing shall, upon the expiration of that period, be returned to the person from whom it was seized.
- (4) Where, in proceedings for an offence against this Act—
 - (a) the defendant is a person from whom an animal, plant, substance or thing has been seized under subsection (2); and
 - (b) the court does not find the offence proved;the animal, plant, substance or thing, as the case may be, shall be returned to the defendant.
 - (5) Where, in proceedings for an offence against this Act, the court finds the offence proved, the court may declare that any animal or plant the subject of the offence, or any substance or thing used in or in connection with the commission of the offence, be forfeited to the Territory.
 - (6) Where an animal, plant, substance or other thing is forfeited to the Territory by virtue of a declaration under subsection (5), it shall be destroyed or otherwise dealt with in such manner as the Minister directs.
 - (7) This section has effect subject to section 80.

80 Release of animals—court orders

- (1) In this section:
animal includes a live fish.
- (2) Where the conservator is of the opinion that an animal seized under section 79 (2) is likely to die or suffer pain or be subjected to distress unless it is released from captivity, the conservator may

apply to the Magistrates Court for an order that the animal be released from captivity.

- (3) An application under subsection (2) shall clearly state the reasons for seeking the order.
- (4) An application under subsection (2) shall only be made before a prosecution is initiated for an offence against this Act in relation to the relevant animal or during such a prosecution.
- (5) The court may, before determining an application under subsection (2), require notice of the application to be given to such persons as the court thinks fit.
- (6) On determining an application under subsection (1), the court—
 - (a) may make an order that the animal be released from captivity; or
 - (b) dismiss the application.
- (7) Where the court makes an order for the release of an animal, it may give such directions relating to observations to be made, and records to be kept, in respect of the animal as the court thinks fit and the animal shall not be released until those directions have been complied with.
- (8) Where an animal is released from captivity in accordance with this section and—
 - (a) a prosecution for an offence against this Act relating to the animal is not instituted; or
 - (b) where such a prosecution is instituted—the court does not find the offence proved;

there is due to the person from whom the animal was seized by the Territory such amount as is necessary to compensate the person for the loss suffered by the person as a result of the release of the animal.

80A Conduct of directors, servants and agents

- (1) Where, in proceedings for an offence, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show—
 - (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
 - (b) that the director, servant or agent had that state of mind.
- (2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence, to have been engaged in also by the body corporate unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.
- (3) Where, in proceedings for an offence, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show—
 - (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
 - (b) that the servant or agent had that state of mind.
- (4) Any conduct engaged in on behalf of a person other than a body corporate by a servant or agent of the person within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence, to have been engaged in also by the firstmentioned person unless the firstmentioned person establishes that the firstmentioned person took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) Where—

- (a) a person other than a body corporate is convicted of an offence; and
 - (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;
- the person is not liable to be punished by imprisonment for that offence.
- (6) A reference in subsection (1) or (3) to the *state of mind* of a person includes a reference to—
 - (a) the knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
 - (7) A reference in this section to a *director* of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Territory, the Commonwealth, another Territory or a State.
 - (8) A reference in this section to *engaging* in conduct includes a reference to failing or refusing to engage in conduct.
 - (9) In this section:

offence means an offence against this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

80B Approved forms

- (1) The conservator may approve forms for this Act.
- (2) If the conservator approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

81 Evidence

- (1) In any proceedings for an offence against this Act, a certificate signed by the conservator stating—
 - (a) that the person specified in the certificate was, on the date or during the period specified in the certificate, the holder of a licence of the kind specified in the certificate; or
 - (b) that a licence of the kind specified in the certificate granted to the person specified in the certificate was granted subject to the conditions specified in the certificate;is evidence of the matters so stated.
- (2) For the purposes of subsection (1), a document that purports to have been signed by the conservator shall be taken to have been so signed unless the contrary is proved.

83A Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

84 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may provide for the imposition of fees to be charged for access to reserved areas.

- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Schedule 1 On-the-spot fines

(see s 74AA)

item	offence provision	on-the-spot fine
1	section 25 (1)—	
1.1	penalty paragraph (a)	\$500
1.2	penalty paragraph (b)	\$250
2	section 26 (1)—	
2.1	penalty paragraph (a)	\$500
2.2	penalty paragraph (b)	\$250
3	section 27 (1)—	
3.1	penalty paragraph (a)	\$500
3.2	penalty paragraph (b)	\$250
4	section 28 (1)—	
4.1	penalty paragraph (a)	\$500
4.2	penalty paragraph (b)	\$250
5	section 29 (1)—	
5.1	penalty paragraph (a)	\$500
5.2	penalty paragraph (b)	\$250
6	section 30 (1)—	
6.1	penalty paragraph (a)	\$500
6.2	penalty paragraph (b)	\$250
7	section 39 (1)—	
7.1	penalty paragraph (a)	\$500
7.2	penalty paragraph (b)	\$250
8	section 39 (2)	\$100
9	section 39 (3)	\$75

item	offence provision	on-the-spot fine
10	section 42 (1)—	
10.1	penalty paragraph (a)	\$500
10.2	penalty paragraph (b)	\$250
10.3	penalty paragraph (c)	\$150
11	section 43 (2)	\$75
12	section 44 (1)—	
12.1	penalty paragraph (a)	\$500
12.2	penalty paragraph (b)	\$250
13	section 45 (1)—	
13.1	penalty paragraph (a)	\$250
13.2	penalty paragraph (b)	\$150
14	section 53 (3)	\$100
15	section 54 (2)	\$75
16	section 55 (1)	\$75
17	section 55 (2)	\$75
18	section 56 (1)	\$75
19	section 56 (2) (b), (c) or (d)	\$150
20	section 56 (3)	\$150
21	section 57 (1)	\$75
22	section 59	\$100
23	section 70—	
23.1	penalty paragraph (a)	\$500
23.2	penalty paragraph (b)	\$250
24	section 71—	
24.1	penalty paragraph (a)	\$500
24.2	penalty paragraph (b)	\$250
25	section 72 (3)—	
25.1	penalty paragraph (a)	\$500
25.2	penalty paragraph (b)	\$250
26	section 73—	
26.1	penalty paragraph (a)	\$500
26.2	penalty paragraph (b)	\$250

Dictionary

(see s 2)

action plan means an instrument prepared under section 23C.

activities, for part 9 (Management agreements)—see section 60AA.

agency, for part 9 (Management agreements)—see section 60AA.

animal means any member, alive or dead, of the animal kingdom (other than humans, invertebrates, fish or imported animal products), and includes—

- (a) eggs or parts of eggs; and
- (b) the skin, feathers, horns, shell, or any part of the skin or shell, of an animal; and
- (c) any other part of an animal; and
- (d) a protected fish or a protected invertebrate.

built-up area—see the *Bushfire Act 1936*, section 3.

committee means the Flora and Fauna Committee established under section 15A.

conservation officer means a conservation officer under section 8.

conservator means the Conservator of Flora and Fauna under section 7.

consultation period—

- (a) for a draft nature conservation strategy—see section 15U (1);
or
- (b) for a draft action plan—see section 23B (1).

controlled land, for part 9 (Management agreements)—see section 60AA.

controlled organism means an organism specified in a declaration under section 45AA (2).

development, for part 9 (Management agreements)—see section 60AA.

ecological community means a group of ecologically related species with shared habitat characteristics that—

- (a) may inhabit a particular place; and
- (b) may vary in composition within ecological limits; and
- (c) meet such additional criteria as may be prescribed.

endangered means—

- (a) in relation to a community—an ecological community that is in immediate danger of extinction unless the circumstances and factors threatening its distribution, composition and viability as an ecological unit cease; and
- (b) in relation to a species—
 - (i) its likely extinction unless the circumstances and factors threatening its abundance, survival or evolution cease; or
 - (ii) the reduction of its numbers or habitats to such a level that the species is in immediate danger of extinction.

exempt animal means an animal specified in a declaration under section 17 (1) (b).

final infringement notice, for part 12 (On-the-spot fines)—see section 74AA.

fish includes the eggs of fish.

habitat means an area—

- (a) in which an organism, or a group of organisms, lives; or

- (b) in which an organism, or a group of organisms, has lived and into which the organism or group has the potential to be reintroduced.

imported animal product means—

- (a) a product—
 - (i) made or derived from any part of an animal, including the eggs, skin, feathers, horns or shell, or any part of the eggs, skin or shell; and
 - (ii) lawfully processed, and obtained, outside the Territory; and
 - (iii) imported into the Territory; or
- (b) a dead animal imported into the Territory.

infringement notice, for part 12 (On-the-spot fines)—see section 74AA.

Land Act, for part 9 (Management agreements)—see section 60AA.

land management objectives, for part 9 (Management agreements)—see section 60AA.

licence means a licence granted under section 62.

management agreement, for part 9 (Management agreements)—see section 60AA.

motor vehicle—see the *Road Transport (General) Act 1999*, dictionary.

native animal means—

- (a) an animal of a kind indigenous to Australia; or
- (b) an animal of a kind indigenous to the Australian coastal sea or the seabed and subsoil beneath that sea; or
- (c) an animal of a kind indigenous to the continental shelf of Australia or the superjacent waters; or

-
- (d) a migratory animal of a kind that periodically or occasionally visits Australia, the Australian coastal sea or the sea over the continental shelf of Australia; or
 - (e) an animal of a kind introduced into Australia, directly or indirectly, by Aboriginals before the year 1788;

other than a pest animal.

native plant means—

- (a) a plant of a kind indigenous to Australia; or
- (b) a plant of a kind indigenous to the Australian coastal sea or the seabed and subsoil beneath that sea; or
- (c) a plant of a kind indigenous to the continental shelf of Australia or the superjacent waters; or
- (d) a plant of a kind introduced into Australia, directly or indirectly, by Aboriginals before the year 1788;

other than a pest plant.

native timber means timber from a tree that is a native plant, whether living or dead, including—

- (a) standing or fallen timber; and
- (b) any material from such a tree;

but not including a tree seedling.

natural environment, for part 9 (Management agreements)—see section 60AA.

newspaper means a daily newspaper published and circulating in the Territory.

on-the-spot fine, for part 12 (On-the-spot fines)—see section 74AA.

pest animal—see the *Land (Planning and Environment) Act 1991*, section 4.

pest plant—see the *Land (Planning and Environment) Act 1991*, section 4.

plant means—

- (a) any member, alive or dead, of the plant kingdom or the fungus kingdom; and
- (b) any part of such a member; and
- (c) seeds.

prohibited organism means an organism of a kind specified in a declaration under section 45AA (1).

protected fish means a fish specified in a declaration under section 17 (1) (a).

protected invertebrate means an invertebrate specified in a declaration under section 17 (1) (a).

protected native animal means a native animal of a kind specified in a declaration under section 17 (1) (d).

protected native plant means a native plant of a kind specified in a declaration under section 17 (1) (c).

public land, for part 9 (Management agreements)—see section 60AA.

relevant amount, for part 12 (On-the-spot fines)—see section 74AA.

relevant period for payment, for part 12 (On-the-spot fines)—see section 74AA.

reserved area means an area of public land reserved under the Territory plan as a wilderness area, national park or nature reserve.

schedule 1 offence, for part 12 (On-the-spot fines)—see section 74AA.

seed includes the fruit or spore of a plant.

sell includes—

- (a) offer for sale; and
- (b) expose for sale; and
- (c) barter (or offer or expose for barter); and
- (d) exchange (or offer or expose for exchange); and
- (e) supply for value (or offer or expose for supply for value); and
- (f) supply for free (or offer or expose for supply for free), to gain or maintain custom, or otherwise for commercial gain.

special protection status means the status declared by the conservator under section 16 in relation to the members of a species.

species means a group of native animals (including fish or invertebrates that are indigenous to the Territory) or native plants that—

- (a) interbreed to produce fertile offspring; or
- (b) possess common characteristics derived from a common gene pool;

and includes—

- (c) a subspecies; and
- (d) a distinct population of organisms prescribed as being a species;

but does not include a prescribed species.

statutory authority means an authority established by or under a law of the Commonwealth or of the Territory.

subspecies means a geographically separate population of a species, being a population that is characterised by morphological or biological differences from other populations of that species.

take, in relation to a plant, includes—

- (a) gather, pluck, cut, pull up, dig up, remove or injure the plant; and
- (b) cause or permit the plant to be taken (within the extended meaning given by paragraph (a)).

threatening process, in relation to a species or ecological community, means a process that threatens, or may threaten, the survival, abundance or evolution of the species or community and includes the spreading of a pest animal or pest plant.

tree seedling means a tree that is not more than 2m high.

unleased land does not include—

- (a) land held in fee simple; or
- (b) land that is occupied by a person in pursuance of a licence granted to him or her by the Territory or Commonwealth.

vessel includes hovercraft.

vulnerable, in relation to a species, means a species that within the next 25 years is likely to become endangered unless the circumstances and factors threatening its abundance, survival or evolution cease.

wilderness area means an area of public land reserved under the Territory plan as a wilderness area.

working day means a day other than a Saturday, Sunday or public holiday.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
o = order	sub = substituted
om = omitted/repealed	SL = Subordinate Law
	<u>underlining</u> = whole or part not commenced

Endnotes

3 Legislation history

3 Legislation history

The *Nature Conservation Act 1980* was originally the *Nature Conservation Ordinance 1980*. It became an ACT Act on self-government (11 May 1989).

Before 11 May 1989, ordinances commenced on notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 25).

Nature Conservation Act 1980 No 20

notified 15 July 1980

commenced 5 June 1982 (Gaz 1982 No S110)

as amended by

Commonwealth Functions Statutes Review Act 1981 No 74 (Cwlth) ss 76-79

assented to 18 June 1981

ss 76-79 commenced 5 June 1982 (Gaz 1982 No S110)

Nature Conservation (Amendment) Ordinance 1982 No 22

notified 4 June 1982

commenced 5 June 1982 (Gaz 1982 No S110)

Nature Conservation (Amendment) Ordinance (No 2) 1982 No 62

notified 18 August 1982

commenced 1 December 1982 (Gaz 1982 No S252)

Nature Conservation (Amendment) Ordinance 1983 No 43

notified 29 September 1983

commenced 1 October 1983 (s 2)

Nature Conservation (Amendment) Ordinance 1984 No 72

notified 5 December 1984

commenced 5 December 1984

Magistrates Court Ordinance 1985 No 67

notified 19 December 1985

commenced 1 February 1986 (see s 2 and Gaz 1986 No 63)

Nature Conservation (Amendment) Ordinance 1986 No 65

notified 23 October 1986
commenced 23 October 1986

Nature Conservation (Amendment) Ordinance 1987 No 1

notified 30 January 1987
commenced 30 January 1987

Electricity and Water (Consequential Amendments) Ordinance 1988 No 31

notified 30 June 1988
commenced 1 July 1988 (s 2)

Interim Territory Planning Ordinance 1988 No 88

notified 21 December 1988
s 1, s 2 commenced 21 December 1988
remainder commenced 31 January 1989 (Gaz 1989 No S38)

Self-Government (Consequential Amendments) Ordinance 1989 No 38

notified 10 May 1989
s 1, s 2 commenced 10 May 1989
remainder 11 May 1989 (s 2 (2) and Gaz 1989 No S164)

Nature Conservation (Amendment) Act 1989 No 4

notified 10 July 1989
commenced 10 July 1989

Nature Conservation (Amendment) Act 1990 No 43

notified 7 November 1990 (Gaz 1990 No S76)
commenced 7 November 1990

Interim Planning (Consequential Amendments) Act 1990 No 60

notified 24 December 1990 (Gaz 1990 No S98)
s 3 commenced 12 March 1991 (Cwlth Gaz 1991 No S62)
remainder commenced 24 December 1990 (s 2 (2))

Land (Planning and Environment) (Consequential Provisions) Act 1991 No 118 sch 1 pt 7

notified 15 January 1992 (Gaz 1992 No S3)
s 1, s 2 commenced 15 January 1992
sch 1 pt 7 commenced 2 April 1992 (s 2 (2) and Gaz 1992 No 13)

Endnotes

3 Legislation history

Acts Revision (Position of Crown) Act 1993 No 44

notified 27 August 1993 (Gaz 1993 No S165)
commenced 27 August 1993 (s 2)

Bushfire (Amendment) Act 1993 No 74

notified 22 October 1993 (Gaz 1993 No S215)
commenced 22 October 1993 (s 2)

Nature Conservation (Amendment) Act 1994 No 56

notified 5 October 1994 (Gaz 1994 No S196)
s 1, s 2 commenced 5 October 1994
remainder commenced 11 October 1994 (s 2 (2) and
Gaz 1994 No S222)

Administrative Appeals (Consequential Amendments) Act 1994 No 60

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994
remainder commenced 14 November 1994 (s 2 (2) and Gaz 1994 No
S250)

Statute Law Revision (Penalties) Act 1994 No 81

notified 29 November 1994 (Gaz 1994 No S253)
s 1, s 2 commenced 29 November 1994
remainder commenced 29 November 1994 (s 2 (2) and
Gaz 1994 No S269)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994
remainder 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

Nature Conservation (Amendment) Act (No 2) 1994 No 110

notified 22 December 1994 (Gaz 1994 No S289)
s 1, s 2 commenced 22 December 1994
ss 3-6, 8, 10-19, 21, 22, 25, 26, 28 and 29 commenced 8 Feb 1995
(s 2 (2) and Gaz 1995 No S41)
remainder commenced 22 June 1995 (s 2 (3))

**Annual Reports (Government Agencies) (Consequential Provisions)
Act 1995 No 25**

notified 5 September 1995 (Gaz 1995 No S212)
commenced 5 September 1995 (s 2)

Nature Conservation (Amendment) Act 1995 No 30

notified 3 October 1995 (Gaz 1995 No S243)
ss 1-3 commenced 3 October 1995
remainder commenced 16 October 1995 (s 2 (2) and
Gaz 1995 No S260)

Statute Law Revision Act 1995 No 46

notified 18 December 1995 (Gaz 1995 No S306)
commenced 18 December 1995 (s 2)

Land (Planning and Environment) (Amendment) Act 1997 No 7

notified 22 April 1997 (Gaz 1997 No S92)
ss 1-3 commenced 22 April 1997
remainder commenced 24 June 1997 (s 2 (2))

Remuneration Tribunal (Consequential Amendments) Act 1997 No 41

notified 19 September 1997 (Gaz 1997 No S264)
s 1, s 2 commenced 19 September 1997
remainder commenced 23 September 1997 (s 2 (2) and
Gaz 1997 No S280)

Environment Protection (Consequential Provisions) Act 1997 No 93

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
remainder commenced 1 June 1998 (s 2 (3))

Statute Law Revision (Penalties) Act 1998 No 54

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998
remainder commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Road Transport Legislation Amendment Act 1999 No 79

notified 23 December 1999 (Gaz 1999 No S65)
commenced 1 March 2000 (s 2 and Gaz 2000 No S5)

Fisheries Act 2000 No 38

notified 20 July 2000 (Gaz 2000 No 29)
s 1, s 2 commenced 20 July 2000 (IA s 10B)
remainder commenced 13 September 2000 (Gaz 2000 No 35)

Utilities (Consequential Provisions) Act 2000 No 66

notified 20 December 2000 (Gaz 2000 No S68)
s 1, s 2 commenced 20 December 2000 (IA s 10B)

Endnotes

4 Amendment history

remainder commenced 1 January 2001 (Gaz 2000 No S69)

Statute Law Amendment Act 2001 No 11

notified 29 March 2001 (Gaz 2001 No 13)

commenced 29 March 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 258 (as am by 2001 No 70 amdt 1.14, amdt 1.15)

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 258 commenced 12 September 2001 (s 2 (1) and Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.38

notified 5 September 2001 (Gaz 2001 No S65)

commenced 5 September 2001 (s 2 (1))

4 Amendment history

title am 1994 No 110

Name of Act

s 1 sub 2001 No 11 amdt 3.130

Dictionary

s 2 sub 2001 No 11 amdt 3.130

Notes

s 3 sub 2001 No 11 amdt 3.130

Crown to be bound

s 4 om 1993 No 44

Interpretation

s 5 am 1981 No 74 (Cwlth); 1989 No 38; 1989 No 4; 1991 No 118; 1994 Nos 56, 60, 97 and 110; 1997 No 7; 1999 No 79 s 5 sch 3; 2001 No 11 amdts 1.8, 3.131
remaining defs reloc to dict 2001 No 11 amdt 3.132
om R6 (LRA)

Application of Bushfire Act

s 6 am 1993 No 74

Construction consistent with environment laws

s 6A ins 1997 No 93

Nature conservation strategies, declarations and action plans

pt 2 hdg (prev pt IA hdg) ins 1994 No 56
renum R6 LRA (see 2001 No 11 amdt 3.188)
sub 2001 No 56 amdt 3.449

The conservator and the service

div 2.1 hdg (prev pt IA div 1 hdg) renum R6 LRA (see 2001 No 11 amdt 3.188)

Conservator of Flora and Fauna

s 7 am 1994 No 56
sub 1994 No 97
am 2001 No 11 amdt 3.133

Conservation officers

s 8 am 1994 No 56
sub 1994 No 97
am 2001 No 11 amdt 3.133

Identity cards

s 9 am 1994 No 56
sub 1994 No 97
am 1998 No 54; 2001 No 11 amdt 3.134

Termination of office of Conservator

s 10 am 1981 No 74 (Cwlth); 1994 No 56
om 1994 No 97

Conservation officers

s 11 am 1994 No 56
om 1994 No 97

Return of identity card

s 12 am 1994 No 56; 1994 No 81
om 1994 No 97

Exercise of powers

s 13 am 1982 No 22; 1994 No 56

Delegation

s 14 am 1994 No 56
sub 1994 No 97

Australian Capital Territory Parks and Conservation Service

s 15 am 1991 No 118; 1994 Nos 56 and 97; 2001 No 11 amdt 3.135

Flora and Fauna Committee

div 2.2 hdg (prev pt IA div 2 hdg) ins 1994 No 56
renum R6 LRA (see 2001 No 11 amdt 3.188)

Establishment, functions and powers

sdiv 2.2.1 hdg (prev pt IA div 2 sdiv A hdg) renum R6 LRA

Establishment

s 15A ins 1994 No 56

Functions

s 15B ins 1994 No 56

Endnotes

4 Amendment history

Directions to committee

s 15C ins 1994 No 56
am 1995 No 25

Powers

s 15D ins 1994 No 56

Constitution and meetings

sdiv 2.2.2 hdg (prev pt IA div 2 sdiv B hdg) renum R6 LRA

Membership

s 15E ins 1994 No 56
am 2001 No 11 amdt 3.136

Appointment of chairperson and deputy chairperson

s 15F ins 1994 No 56

Secretary to committee

s 15G ins 1994 No 56
sub 2001 No 11 amdt 3.137

Remuneration and allowances

s 15H ins 1994 No 56
om 1997 No 41

Leave of absence

s 15J ins 1994 No 56

Disclosure of interests

s 15K ins 1994 No 56

Resignation

s 15L ins 1994 No 56
om 2001 No 11 amdt 3.138

Termination of appointment

s 15M ins 1994 No 56
am 2001 No 11 amdt 3.139

Acting members

s 15N ins 1994 No 56
om 2001 No 11 amdt 3.140

Convening meetings

s 15P ins 1994 No 56

Procedure at meetings

s 15Q ins 1994 No 56

Quorum

s 15R ins 1994 No 56

Nature conservation and declarations

pt 3 hdg orig pt 2 hdg om 1981 No 74 (Cwlth)
(prev pt 2 hdg) ins 1994 No 56

sub 2001 No 11 amdt 3.141
renum R6 LRA (see 2001 No 11 amdt 3.188)

Permits

pt 3 div 1 hdg om 1989 No 4

Licences

pt 3 div 2 hdg om 1989 No 4

Importation and exportation of animals and fish

pt 3 div 3 hdg om 1989 No 4

Nature conservation strategy

div 3.1 hdg (prev pt 2 div 1 hdg) ins 1994 No 56
renum R6 LRA (see 2001 No 11 amdt 3.188)

Draft nature conservation strategy

s 15S ins 1994 No 56
am 2001 No 11 amdt 3.142; 2001 No 44 amdt 1.2910

Variation

s 15T ins 1994 No 56
om 2001 No 44 amdt 1.2911

Public notification of draft nature conservation strategy

s 15U ins 1994 No 56
sub 2001 No 44 amdt 1.2912

Confirmation, revision, deferral or withdrawal of draft nature conservation strategy

s 15V ins 1994 No 56
sub 2001 No 44 amdt 1.2912

Submission or resubmission of draft nature conservation strategy to Minister

s 15W ins 1994 No 56
sub 2001 No 44 amdt 1.2912

Minister's powers in relation to draft nature conservation strategy

s 15X hdg sub 2001 No 44 amdt 1.2913 (see 2001 No 70 amdt 1.14)
s 15X ins 1994 No 56
am 2001 No 44 amdt 1.2913 (see 2001 No 70 amdt 1.14), amdt
1.2915, amdt 1.2916

Notice of rejection of draft nature conservation strategy

s 15Y ins 1994 No 56
sub 2001 No 44 amdt 1.2917

Commencement of nature conservation strategy etc

s 15Z ins 1994 No 56
am 2001 No 11 amdt 3.143
sub 2001 No 44 amdt 1.2918

Endnotes

4 Amendment history

Declarations about special protection status and protected and exempt flora and fauna

div 3.2 hdg (prev pt 2 div 2 hdg) ins 1994 No 56
sub and renum as div 2.2 hdg 2001 No 11 amdt 3.144
renum R6 LRA (see 2001 No 11 amdt 3.188)

Special protection status

s 16 orig s 16 om 1981 No 74 (Cwlth)
ins 1989 No 4
am 1994 Nos 56 and 110; 2001 No 44 amdts 1.2919-1.2921

Declaration of protected and exempt flora and fauna

s 17 orig s 17 om 1981 No 74 (Cwlth)
ins 1989 No 4
am 1994 No 110; 2001 No 44 amdt 1.2922, amdt 1.2923

Declaration of species, community or process

div 3.3 hdg (prev pt 2 div 3 hdg) ins 1994 No 56
renum R6 LRA (see 2001 No 11 amdt 3.188)

Criteria and guidelines for declarations

sdiv 3.3.1 (prev pt 2 div 3 sdiv A hdg) renum R6 LRA

Criteria for recommending declaration

s 18 orig s 18 om 1981 No 74 (Cwlth)
ins 1989 No 4
sub 1994 No 56
am 2001 No 44 amdt 1.2924, amdt 1.2925

Guidelines for dealing with applications for declarations

s 19 orig s 19 om 1981 No 74 (Cwlth)
ins 1994 No 56
sub 2001 No 44 amdt 1.2926

Public consultation on preparation of relevant criteria and guidelines

s 20 orig s 20 om 1981 No 74 (Cwlth)
ins 1994 No 56

Making of declarations

sdiv 3.3.2 hdg (prev pt 2 div 3 sdiv hdg) renum R6 LRA

Declaration of species, community or process

s 21 orig s 21 om 1981 No 74 (Cwlth)
ins 1994 No 56
am 2001 No 44 amdt 1.2927

Request to committee to recommend making of declaration

s 22 orig s 22 om 1981 No 74 (Cwlth)
ins 1994 No 56
am 2001 No 44 amdt 1.2928

Action plans

div 3.4 hdg (prev pt 2 div hdg) ins 1994 No 56

renum R6 LRA (see 2001 No 11 amdt 3.188)

Draft action plan

s 23 orig s 23 om 1981 No 74 (Cwlth)
ins 1994 No 56
am 2001 No 11 amdt 3.145

Variation

s 23A ins 1994 No 56
om 2001 No 44 amdt 1.2929

Public notification of draft action plan

s 23B ins 1994 No 56
sub 2001 No 44 amdt 1.2930

Preparation of action plan

s 23C ins 1994 No 56
sub 2001 No 44 amdt 1.2931

Public notification of action plan

s 23D ins 1994 No 56
om 2001 No 44 amdt 1.2932

Tabling and disallowance

div 3.5 hdg (prev pt 2 div 5 hdg) ins 1994 No 56
renum R6 LRA (see 2001 No 11 amdt 3.188)
om 2001 No 44 amdt 1.2933 (as sub by 2001 No 70 amdt 1.15)

Instruments to be disallowable instruments

s 23E ins 1994 No 56
am 2001 No 11 amdt 3.146
om 2001 No 44 amdt 1.2933

Protection of animals and fish

pt 4 hdg (prev pt 3 hdg) am 1989 No 4
renum R6 LRA (see 2001 No 11 amdt 3.188)

Nests of native animals

s 24 orig s 24 om 1981 No 74 (Cwlth)
ins 1989 No 4
am 1994 Nos 81 and 110

Killing native animals

s 25 hdg sub 2001 No 11 amdt 1.9
s 25 am 1989 No 4; 1994 No 81; 1994 No 110

Taking native animals

s 26 hdg sub 2001 No 11 amdt 1.10
s 26 am 1989 No 4; 1994 No 81; 1994 No 110; 2001 No 11 amdt
3.147

Drum net

s 26A ins 1994 No 110

Endnotes

4 Amendment history

am 1998 No 54
om 2000 No 38 s 121 sch

Keeping animals

s 27 am 1982 No 22; 1989 No 4; 1994 No 81; 1994 No 110; 2001 No 11 amdt 3.148

Selling animals

s 28 am 1989 No 4; 1994 No 81; 1994 No 110

Import and export of animals

s 29 am 1989 No 4; 1994 No 81; 1994 No 110

Dealing in live fish

s 30 am 1989 No 4; 1994 No 81; 1994 No 110
om 2000 No 38 s 121 sch

Taking of animals

s 31 om 1989 No 4

Selling of animals

s 32 om 1989 No 4

Import and export of animals

s 33 om 1989 No 4

Dealing in live fish

s 34 om 1989 No 4

Interpretation

s 35 om 1989 No 4

Inspection of animals after importation

s 36 am 1989 No 4; 1994 No 81
om 1994 No 110

Sale of animals after importation

s 37 am 1989 No 4; 1994 No 81
om 1994 No 110

Inspection of animals prior to exportation

s 38 am 1989 No 4
om 1994 No 110

Release of animals from captivity

s 39 hdg am 2000 No 38 s 121 sch
s 39 am 1989 No 4; 1994 No 81; 1994 No 110; 1998 No 54; 2000 No 38 s 121 sch; 2001 No 11 amdts 3.149-3.152

Escape of native animals

s 40 hdg sub 2001 No 11 amdt 1.11
s 40 am 1994 No 110

Special safeguards applicable to birds

s 41 am 1982 No 22

om 1989 No 4

Protection of plants

pt 5 hdg (prev pt 4 hdg) renum R6 LRA (see 2001 No 11 amdt 3.188)

Taking plants

s 42 am 1989 No 38; 1989 No 4; 1994 No 81; 1994 No 110; 2001 No 11 amdt 3.153

Preservation of native timber

s 43 am 1984 No 72; 1985 No 67; 1989 No 38; 1989 No 4; 1993 No 74; 1994 No 81; 1994 No 110; 1995 No 30; 2001 No 11 amdts 3.153-3.155

Dealing in protected native plants

s 44 am 1989 No 4; 1994 No 81; 1994 No 110

Plant tags

s 45 am 1989 No 4; 1994 No 81; 1994 No 110; 2001 No 11 amdt 3.156

Prohibited and controlled organisms

pt 6 hdg (prev pt 4A hdg) ins 1994 No 110
renum R6 LRA (see 2001 No 11 amdt 3.188)

Administration

pt 6 div 1 hdg ins 1986 No 65
om 1991 No 118

Declarations

s 45AA ins 1994 No 110
am 2001 No 11 amdt 3.157; 2001 No 44 amdt 1.2934, amdt 1.2935

Possession of prohibited organisms

s 45AB ins 1994 No 110
am 1998 No 54

Controlled organisms

s 45AC ins 1994 No 110
am 1998 No 54

Conservation directions

pt 7 hdg (prev pt 5 hdg) am 1994 No 110
renum R6 LRA (see 2001 No 11 amdt 3.188)

Meaning of *native animal* in pt 7

s 45A hdg sub 2001 No 11 amdt 3.158
s 45A ins 1989 No 4
am 1994 No 110

Entry onto land for purpose of carrying out examination

s 46 am 1989 No 38; 1989 No 4; 1994 No 56; 1994 No 110

Endnotes

4 Amendment history

Conservation directions

s 47 am 1989 No 4
sub 1994 No 110
am 1998 No 54

Compliance with advice of Conservator

s 48 am 1982 No 22; 1989 No 4; 1994 No 81
om 1994 No 110

Diseased native animals and plants

s 49 am 1982 No 22; 1989 No 4; 1994 No 110; 2001 No 11 amdt
3.159, 3.160

Conservation criteria

s 50 am 1989 No 4
sub 1994 No 110
am 2001 No 11 amdt 3.161, amdt 3.162; 2001 No 44 amdt
1.2936, amdt 1.2937

Reserved areas

pt 8 hdg (prev pt 6 hdg) am 1991 No 118
renum R6 LRA (see 2001 No 11 amdt 3.188)

Restriction on activities within reserved areas etc

div 8.1 hdg (prev pt 6 div 2 hdg) ins 1986 No 65
renum R6 LRA (see 2001 No 11 amdt 3.188)

Declaration of reserved areas

s 51 am 1987 No 1; 1989 No 38
om 1991 No 118

Declaration of wilderness zones

s 52 am 1982 No 22; 1987 No 1; 1989 No 38
om 1991 No 118

Namadgi National Park—plan of management

s 52A ins 1986 No 65
om 1989 No 38

Plans of management

s 52B ins 1986 No 65
om 1991 No 118

Preparation of plan of management

s 52C ins 1986 No 65
am 1988 No 88; 1990 No 60
om 1991 No 118

Adoption of plans of management

s 52D ins 1986 No 65
om 1991 No 118

When plans of management take effect

s 52E ins 1986 No 65
sub 1987 No 1
om 1991 No 118

Amendment or revocation of plans of management

s 52F ins 1986 No 65
sub 1987 No 1
am 1989 No 38
om 1991 No 118

Revocation of declaration to be laid before Parliament

s 52G ins 1986 No 65
sub 1987 No 1
am 1989 No 38
om 1991 No 118

Notice of revocation to be laid before Parliament

s 52H ins 1986 No 65
sub 1987 No 1
am 1989 No 38
om 1991 No 118

Amendment or revocation of plans of management

s 52I ins 1987 No 1
om 1991 No 118

Conservator to comply with plans of management

s 52J ins 1986 No 65
om 1991 No 118

Access to reserved areas

s 53 am 1982 No 22; 1989 No 4; 1994 No 81

Entry to reserved areas

s 53A ins 1994 No 110
am 1998 No 54
sub 2001 No 44 amdt 1.2938

Signs in reserved areas

s 54 am 1989 No 4; 1994 No 81

Rubbish and fires in reserved areas

s 55 am 1989 No 4; 1994 No 81

Activities in reserved areas

s 56 am 1989 No 4; 1991 No 118; 1994 No 81; 1994 No 110; 1997
No 7; 2001 No 11 amdts 3.163, 3.164

Taking animals and plants into reserved areas

s 57 am 1989 No 4; 1994 Nos 81 and 110; 1997 No 7

Endnotes

4 Amendment history

Powers of conservation officers in reserved areas

s 58 am 1989 No 4; 1994 Nos 81, 97 and 110

Offences in wilderness zones

s 59 am 1989 No 4; 1990 No 43; 1991 No 118; 1994 Nos 81 and 110

Compensation

s 60 am 1985 No 67; 1989 No 38; 1991 No 118

Restoration of excavation sites by permit holders

s 60A ins 1990 No 43
am 1991 No 118; 1994 No 110

Management agreements

pt 9 hdg (prev pt 6A hdg) ins 1994 No 110
renum R6 LRA (see 2001 No 11 amdt 3.188)

Definitions for pt 9

s 60AA hdg sub 2001 No 11 amdt 3.165
s 60AA ins 1994 No 110
am 2001 No 11 amdt 3.166

Management agreements

s 60AB ins 1994 No 110
am 2001 No 11 amdt 3.167

Formulation of agreements

s 60AC ins 1994 No 110

Refusal to enter into management agreement

s 60AD ins 1994 No 110

Activities inconsistent with management agreement

s 60AE ins 1994 No 110

Licences

pt 10 hdg orig pt 10 hdg om 1989 No 4
(prev pt 7 hdg) am 1994 No 110
renum R6 LRA (see 2001 No 11 amdt 3.188)

Application

s 61 am 1989 No 38; 1989 No 4; 1990 No 43; 1991 No 118; 2001 No 11 amdt 3.168
sub 1994 No 110
am 2001 No 44 amdt 1.2939

Grant of licence

s 62 am 1990 No 43; 1991 No 118; 1994 No 56
sub 1994 No 110

Permits to excavate or to pick plants in wilderness zones

s 62A ins 1990 No 43
am 1991 No 118; 1994 No 56

om 1994 No 110

Conditions

s 63 am 1983 No 43; 1989 No 38; 1991 No 118; 1994 No 56
sub 1994 No 110

Grant of permits and licences—wildlife having special protection status

s 63A ins 1989 No 4
am 1994 No 56
om 1994 No 110

Licensing criteria

s 64 sub 1994 No 110
am 2001 No 11 amdt 3.169; 2001 No 44 amdt 1.2940, amdt
1.2941

Duration

s 65 am 1989 No 4; 1990 No 43; 1991 No 118
sub 1994 No 110

Surrender

s 66 am 1989 No 4
sub 1994 No 110

Nature of rights conferred by licences

s 67 am 1989 No 38; 1994 No 110

Duration of permits and licences

s 68 om 1994 No 110

Cancellation

s 69 am 1994 No 110

Production of licences

s 70 am 1989 No 4; 1994 Nos 81 and 110

Records to be kept by permit holders

s 71 am 1989 No 4; 1994 Nos 81 and 110
om 1994 No 110 sch 2

Records to be kept by licence holders

s 72 am 1989 No 4; 1994 Nos 81 and 110

Production of records

s 73 am 1989 No 4; 1994 Nos 81 and 110

Review by the administrative appeals tribunal

pt 11 hdg (prev pt 8 hdg) renum R6 LRA (see 2001 No 11 amdt 3.188)

Review of conservator's decisions

s 74 am 1982 No 22; 1994 Nos 56 and 60
sub 1994 No 110
am 1995 No 30

Endnotes

4 Amendment history

Notification of decisions

s 74A ins 1989 No 4
am 1994 Nos 60 and 110

On-the-spot fines

pt 12 hdg (prev pt 8A hdg) ins 1994 No 110
renum R6 LRA (see 2001 No 11 amdt 3.188)

Definitions for pt 12

s 74AA hdg sub 2001 No 11 amdt 3.170
s 74AA ins 1994 No 110
def **on-the-spot fine** am 2001 No 11 amdt 3.171
def **relevant amount** am 2001 No 11 amdt 3.171; 2001 No 44
amdt 1.2942
def **schedule 1 offence** ins 2001 No 11 amdt 3.172
def **schedule 2 offence** ins 2001 No 11 amdt 3.172

Infringement notices

s 74AB ins 1994 No 110
am 2001 No 11 amdt 3.173, amdt 3.174; 2001 No 44 amdt
1.2943, amdt 1.2944

Final infringement notices

s 74AC ins 1994 No 110
am 2001 No 11 amdt 3.174; 2001 No 44 amdt 1.2945, amdt
1.2946

Discharge of liability for schedule 1 offences

s 74AD ins 1994 No 110
am 2001 No 11 amdt 3.175

Application for withdrawal of infringement notices

s 74AE ins 1994 No 110
am 2001 No 11 amdt 3.175

Withdrawal of infringement notices

s 74AF ins 1994 No 110

Extension of time for pensioners

s 74AG ins 1994 No 110
am 2001 No 11 amdt 3.175

Prosecution of schedule 1 offences

s 74AH ins 1994 No 110
am 2001 No 11 amdt 3.175

Non-antecedent value of infringement notice offences

s 74AI ins 1994 No 110

Service of notices

s 74AJ ins 1994 No 110

Evidence

s 74AK ins 1994 No 110
am 2001 No 11 amdt 3.175

Miscellaneous

pt 13 hdg (prev pt 9 hdg) renum R6 LRA (see 2001 No 11 amdt 3.188)

Royalty

s 75 am 1989 No 38; 1994 Nos 56 and 110

Certain provisions not to apply to conservation officers

s 76 am 1989 No 4; 1994 No 110

Act not to apply to certain appointed people

s 76A ins 1982 No 62
am 1988 No 31; 1994 No 56
sub 2000 No 66 sch 1 pt 10

Power of entry and search

s 77 am 1982 No 22; 1989 No 4; 1994 Nos 81, 97 and 110; 2001 No 11 amdt 3.176

Further powers of conservation officers

s 78 am 1989 No 4; 1994 No 81

Seizure and release of bird wildlife

s 78A ins 1989 No 4
am 1994 Nos 97 and 110

Seizure and forfeiture of animals and plants

s 79 am 1982 No 22; 1989 No 38; 1989 No 4; 1994 No 110

Release of animals—court orders

s 80 am 1985 No 67; 1989 No 38; 1994 No 110; 2001 No 11 amdt 3.177, amdt 3.178

Conduct of directors, servants and agents

s 80A ins 1989 No 4
am 2001 No 44 amdt 1.2947, amdt 1.2948

Approved forms

s 80B hdg sub 2001 No 44 amdt 1.2949
s 80B ins 1989 No 4
sub 2001 No 11 amdt 3.179
am 2001 No 44 amdt 1.2950

Evidence

s 81 am 1994 No 110

Manner of giving notices

s 82 om 1994 No 110

Annual report

s 83 am 1994 No 56

Endnotes

4 Amendment history

om 1995 No 25

Determination of fees

s 83A ins 1983 No 43
sub 2001 No 11 amdt 3.180
am 2001 No 44 amdts 1.2951-1.2953

Regulation-making power

s 84 hdg sub 2001 No 11 amdt 3.181
s 84 am 1989 No 38; 1989 No 4; 1994 No 81; 1995 No 46; 2001 No
11 amdt 3.182, amdt 3.183; 2001 No 44 amdt 1.2954, amdt
1.2955

Transitional

s 85 om 1989 No 4

On-the-spot fines

sch 1 orig sch 1 om 2001 No 11 amdt 3.184
(prev sch 2) am 1982 No 22
om 1989 No 4
ins 1994 No 110
am 2001 No 11 amdt 3.185
renum 2001 No 11 amdt 3.186

Restricted plant wildlife

sch 3 om 1989 No 4

Protected fish and invertebrates

sch 4 om 1989 No 4

Exempt animals, being animals that are wildlife

sch 5 sub 1982 No 22
om 1989 No 4

Exempt animals, being animals that are not wildlife

sch 6 sub 1982 No 22
om 1989 No 4

Dictionary

ins 2001 No 11 amdt 3.187
def of **consultation period** ins 2001 No 44 amdt 1.2956
def of **determined fee** om 2001 No 44 amdt 1.2957

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Republication No	Amendments to	Republication date
1	Act 1990 No 60	30 June 1991
2	Act 1993 No 74	31 January 1994
3	Act 1994 No 110	30 June 1995
4	Act 1995 No 46	30 November 1996
5	Act 1997 No 93	1 June 1998
6	Act 2001 No 11	18 July 2001

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

© Australian Capital Territory 2001