

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Shane Rattenbury)

Commissioner for the Environment Amendment Bill 2012

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(Mr Shane Rattenbury)

Commissioner for the Environment Amendment Bill 2012

A Bill for

An Act to amend the *Commissioner for the Environment Act 1993*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Section 1

1	1 Name of Act
2	This Act is the <i>Commissioner for the Environment Amendment</i>
3	<i>Act 2012.</i>
4	2 Commencement
5	This Act commences on the day after its notification day.
6	<i>Note</i> The naming and commencement provisions automatically commence on
7	the notification day (see Legislation Act, s 75 (1)).
8	3 Legislation amended
9	This Act amends the <i>Commissioner for the Environment Act 1993</i> .
10	<i>Note</i> This Act also amends the following legislation (see sch 1);
11	• <i>Environment Protection Act 1997</i>
12	• <i>Legislation Act 2001</i>
13	• <i>Ombudsman Act 1989</i> .
14	4 Long title
15	<i>omit</i>
16	Commissioner for the Environment
17	<i>substitute</i>
18	commissioner for sustainability and the environment
19	5 Section 1
20	<i>substitute</i>
21	1 Name of Act
22	This Act is the <i>Commissioner for Sustainability and the</i>
23	<i>Environment Act 1993.</i>

1 **6 New section 2B**

2 *insert*

3 **2B Objects of Act**

4 The objects of this Act are to—

- 5 (a) ensure independent, regular and consistent reporting on matters
6 relating to the condition of the environment of the ACT; and
- 7 (b) ensure regular and independent reporting on progress towards
8 ecologically sustainable development by the Territory and
9 territory authorities; and
- 10 (c) encourage decision-making that facilitates ecologically
11 sustainable development; and
- 12 (d) enhance knowledge and understanding of issues relating to
13 ecologically sustainable development and the environment; and
- 14 (e) encourage sound environmental practices and procedures to be
15 adopted by the Territory and territory authorities as a basis for
16 ecologically sustainable development; and
- 17 (f) enable independent evaluation of programs and policies of the
18 Territory and territory authorities relating to the environment
19 and sustainability.

20 **7 Section 4 heading**

21 *substitute*

22 **4 Commissioner for Sustainability and the Environment**

1 **8 Section 4 (1)**

2 *omit*

3 Commissioner for the Environment

4 *substitute*

5 Commissioner for Sustainability and the Environment

6 **9 Functions**
7 **Section 12 (1) (a)**

8 *substitute*

9 (a) investigating complaints about—

10 (i) the management of the environment of the ACT by the
11 Territory or a territory authority; and

12 (ii) issues relating to ecologically sustainable development in
13 the ACT;

14 **10 Complaints**
15 **Section 13 (1) and note**

16 *substitute*

17 (1) A person may make a complaint to the commissioner about the
18 following:

19 (a) the management of the environment of the ACT by the
20 Territory or a territory authority;

21 (b) issues relating to ecologically sustainable development in the
22 ACT.

23 *Note* If a form is approved under s 28 for this provision, the form must be
24 used.

1 **11 State of the environment report**
2 **Section 19 (1)**

3 *substitute*

- 4 (1) The commissioner must prepare a state of the environment report
5 for each reporting period.
6 (1A) The report must be prepared by the reporting day for the period.

7 **12 Section 19 (2) (c)**

8 *substitute*

- 9 (c) an assessment of the sustainability of the following:
10 (i) the energy, water and other resources used by the
11 Territory and territory authorities;
12 (ii) the waste produced and recycling undertaken by the
13 Territory and territory authorities;
14 (iii) the impact of the resources used by the Territory and
15 territory authorities on biodiversity in the ACT; and
16 (d) an evaluation of the extent to which the Territory and territory
17 authorities operate in a carbon neutral manner; and
18 (e) an assessment of the extent to which the Territory and territory
19 authorities use sustainability decision-making tools in making
20 decisions and developing policy; and
21 (f) an assessment of the extent to which the ACT community has
22 made progress towards sustainability goals, including goals set
23 in strategic plans published by the ACT government.

24 **Example—strategic plan**

25 The Canberra Plan

26 *Note* An example is part of the Act is not exhaustive and may extend,
27 but does not limit, the meaning of the provision in which it
28 appears (see Legislation Act, s 126 and s 132).

6 13 Section 19 (3)

substitute

1 **14 Section 19 (4)**

2 *omit*

3 within 12 months after the day the Minister presents a state of the
4 environment report to the Legislative Assembly under section 22

5 *substitute*

6 within 12 months after a report is presented to the Legislative
7 Assembly under this section

8 **15 New section 19 (4A)**

9 *insert*

10 (4A) Within 15 sitting days after receiving a recommendation under
11 section 19 (4) the Minister must present the recommendation to the
12 Legislative Assembly.

13 **16 Section 19 (7), new definitions**

14 *insert*

15 **Speaker**, for a report given to the Deputy Speaker or clerk under
16 section 22 (Reports to be given to Speaker), means the Deputy
17 Speaker or clerk.

18 **sustainability decision-making tool** includes triple bottom line
19 reporting, sustainability assessment, climate change impact
20 assessment and strategic environmental assessment.

21 **17 New section 21 (2) to (5)**

22 *insert*

23 (2) If the Legislative Assembly is sitting when the report is given to the
24 Minister, the Minister must present the report to the Legislative
25 Assembly on the next sitting day.

- 1 (3) If the Legislative Assembly is not sitting when the report is given to
2 the Minister—
 - 3 (a) the Minister must give the report, and a copy for each member
4 of the Legislative Assembly, to the Speaker; and
 - 5 (b) the report is taken for all purposes to have been presented to
6 the Legislative Assembly on the reporting day; and
 - 7 (c) publication of the report is taken to have been ordered by the
8 Legislative Assembly on the reporting day; and
 - 9 (d) the Speaker must arrange for a copy of the report to be given to
10 each member of the Legislative Assembly on the reporting
11 day; and
 - 12 (e) the Speaker may give directions for the printing and
13 circulation, and in relation to the publication, of the report; and
 - 14 (f) despite paragraph (b), the Speaker must present the report to
15 the Legislative Assembly on the next sitting day.
- 16 (4) Within 6 months after the day a report is presented to the Legislative
17 Assembly, the Minister must present to the Legislative Assembly a
18 statement that sets out the response of the government to the report.
- 19 (5) In this section:
20 *Speaker*, for a report given to the Deputy Speaker or clerk under
21 section 22 (Reports to be given to Speaker), means the Deputy
22 Speaker or clerk.

1 **18 Section 22**

2 *substitute*

3 **22 Reports to be given to Speaker**

- 4 (1) A report required by this Act to be given to the Speaker must—
5 (a) if the Speaker is unavailable—be given to the Deputy Speaker;
6 or
7 (b) if both the Speaker and Deputy Speaker are unavailable—be
8 given to the clerk of the Legislative Assembly.
9 (2) For subsection (1), the Speaker or Deputy Speaker is unavailable
10 if—
11 (a) he or she is absent from duty; or
12 (b) there is a vacancy in the office.

13 **22A Minister to respond to report**

14 Within 6 months after a report under section 19 (State of the
15 environment report) is presented to the Legislative Assembly, the
16 Minister must present to the Legislative Assembly a statement that
17 sets out the government's response to the report.

18 **19 Dictionary, note 2**

19 *insert*

- 20 • Speaker
21 • the Territory
22 • territory authority

23 **20 Dictionary, definition of *commissioner***

24 *substitute*

25 **commissioner** means the Commissioner for Sustainability and the
26 Environment appointed under section 4.

1 **21 Dictionary, new definition of ecologically sustainable**
2 **development**

3 *insert*

4 *ecologically sustainable development* means the effective
5 integration of economic and environmental considerations in
6 decision-making processes achievable through implementation of
7 the following principles:

- 8 (a) the precautionary principle;
9 (b) the inter-generational equity principle;
10 (c) conservation of biological diversity and ecological integrity;
11 (d) improved valuation and pricing of environmental resources.

12 **22 Dictionary, new definitions**

13 *insert*

14 *the inter-generational equity principle* means that the present
15 generation should ensure that the health, diversity and productivity
16 of the environment is maintained or enhanced for the benefit of
17 future generations.

18 *the precautionary principle* means that, if there is a threat of serious
19 or irreversible environmental damage, a lack of full scientific
20 certainty should not be used as a reason for postponing measures to
21 prevent environmental degradation.

1 **Schedule 1 Consequential amendments**
2 (see s 3)

3 **Part 1.1 Environment Protection Act 1997**

4 **[1.1] Section 2 (1) (k)**

5 *omit*

6 commissioner for the environment

7 *substitute*

8 commissioner for sustainability and the environment

9 **Part 1.2 Legislation Act 2001**

10 **[1.2] Dictionary, part 1, definition of *commissioner for the environment***

12 *substitute*

13 *commissioner for sustainability and the environment* means the
14 Commissioner for Sustainability and the Environment under the
15 *Commissioner for Sustainability and the Environment Act 1993*.

16 **Part 1.3 Ombudsman Act 1989**

17 **[1.3] Section 5 (2) (g)**

18 *omit*

19 commissioner for the environment

20 *substitute*

21 commissioner for sustainability and the environment

[1.4] Section 6B (1) (a)

2 *omit*

3 commissioner for the environment

4 *substitute*

5 commissioner for sustainability and the environment

[1.5] Dictionary, definition of *prescribed authority*, paragraph (c)

8 *omit*

9 commissioner for the environment

10 *substitute*

11 commissioner for sustainability and the environment

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 February 2012.

2 Notification

Notified under the Legislation Act on 2012.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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