



Australian Capital Territory

Nature Conservation Act 1980

A1980-20

Republication No 16

Effective: 12 November 2005 – 11 April 2007

Republication date: 12 November 2005

Last amendment made by A2005-21
(republication for amendments by A2005-20 and A2005-21)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Nature Conservation Act 1980* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 12 November 2005. It also includes any amendment, repeal or expiry affecting the republished law to 12 November 2005.

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 is—

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



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Nature Conservation Act 1980

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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.

4 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to the offences against this Act in the following divisions:

- div 8.2 (Clearing native vegetation in reserved areas)
- div 8.3 (Damaging land in reserved areas).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

5 Relationship with Emergencies Act

- (1) This Act does not apply to the exercise or purported exercise by a relevant person of a function under the *Emergencies Act 2004* for the purpose of protecting life or property, or controlling, extinguishing or preventing the spread of a fire.
- (2) In this section:
relevant person means—
 - (a) the chief officer (fire brigade); or
 - (b) any other member of the fire brigade; or
 - (c) the chief officer (rural fire service); or
 - (d) any other member of the rural fire service; or
 - (e) any other person under the control of the chief officer (fire brigade) or the chief officer (rural fire service); or
 - (f) a police officer.

6 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.

10 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 11, may exercise the power with such assistance as is necessary.

11 Delegation

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

12 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

13 Establishment

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

14 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.

15 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) A report prepared by the conservator under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include—

- (a) a copy of any direction given under this section during the year; and
- (b) a statement by the conservator about action taken during the year to give effect to any direction given (whether before or during the year) under this section.

Note **Financial year** has an extended meaning in the *Annual Reports (Government Agencies) Act 2004*.

16 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

17 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)).

18 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.

19 Secretary to committee

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

20 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.

21 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.

22 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 21; 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)).

23 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.

24 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.

25 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

26 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.

27 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 28.

28 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*.

29 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 28 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 30 (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 30 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 28.

30 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*.

31 Notice of rejection of draft nature conservation strategy

- (1) If the Minister rejects a draft nature conservation strategy under section 30, 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.

32 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 26 (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**

33 **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 38 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.

34 **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

35 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 38 (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*.

36 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 39 (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*.

37 Public consultation on preparation of relevant criteria and guidelines

- (1) Before specifying criteria under section 35, 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 36, 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

38 Declaration of species, community or process

- (1) Where, having regard to the criteria specified under section 35, 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 35, 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 35; 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*.

39 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 38.
- (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

40 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 38.
- (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.

41 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.

42 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

43 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.

44 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.

45 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.

46 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.

47 Selling animals

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.

48 Import and export of animals

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.

49 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.

50 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

51 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.
- (3) 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.
- (4) 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.

52 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.

53 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.

54 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

55 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*.

56 Possession of prohibited organisms

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

Maximum penalty: 50 penalty units.

57 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

58 Meaning of *native animal* in pt 7

In this part:

native animal includes any live fish.

59 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.

60 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 62.
- (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.

61 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 62.

- (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.

62 Conservation criteria

- (1) The conservator may, in writing, determine criteria for the purposes of sections 60 (2) (b) and 61 (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 in reserved areas

63 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).
- (5) In this section:
- reserved area* includes an area of public land that—
- (a) is reserved under the Territory plan as a special purpose reserve; and
 - (b) is not leased land.

64 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.

65 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.

66 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.

67 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.

68 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.

69 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.

70 Offences in wilderness areas

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.

71 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.

72 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.

Division 8.2 Clearing native vegetation in reserved areas

Subdivision 8.2.1 Interpretation for div 8.2

73 Definitions for div 8.2

In this division:

cause serious or material harm, means substantially contribute directly or indirectly to the harm.

native vegetation, in relation to an area, means any of the following kinds of vegetation indigenous to the area:

- (a) trees;
- (b) understorey plants;
- (c) groundcover consisting of any kind of grass or herbaceous vegetation;
- (d) plants occurring in a wetland or stream.

Ramsar wetland means a declared Ramsar wetland under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), section 17.

74 Meaning of *clearing* native vegetation

- (1) In this division:

clearing native vegetation includes any of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation;
 - (b) burning native vegetation;
 - (c) doing anything else that kills or is likely to kill native vegetation.
- (2) Native vegetation is *cleared* in an area if vegetation cleared in the area is substantially native vegetation.

75 Meaning of clearing causing *serious harm* to reserved area

- (1) The clearing of native vegetation in a reserved area causes *serious harm* to the area if—

- (a) it causes the loss of an endangered ecological community or part of an endangered ecological community; or
- (b) it causes a substantial loss of habitat of native flora or fauna; or
- (c) it happens in a Ramsar wetland; or
- (d) the total area cleared of native vegetation is more than 2 hectares; or
- (e) the cost of action needed to restore native vegetation to the area cleared is more than the prescribed amount.

- (2) In this section:

prescribed amount means—

- (a) \$50 000; or

- (b) if a higher amount is prescribed under the regulations—that amount.

76 **Meaning of clearing causing *material harm* to reserved area**

- (1) The clearing of native vegetation in a reserved area causes *material harm* to the area if—
 - (a) it happens in a wetland other than a Ramsar wetland; or
 - (b) the total area cleared of native vegetation is more than 0.2 hectares but not more than 2 hectares; or
 - (c) the cost of action needed to restore native vegetation to the area cleared is within the prescribed range.
- (2) In this section:
prescribed range means—
 - (a) more than \$5 000 but not more than \$50 000; or
 - (b) if a higher range is prescribed under the regulations—that range.

Subdivision 8.2.2 **Offences of clearing native vegetation in reserved areas**

77 **Clearing causing serious harm**

- (1) A person commits an offence if—
 - (a) the person clears native vegetation in a reserved area; and
 - (b) the clearing causes serious harm to the area; and
 - (c) the person is reckless about whether—
 - (i) the vegetation is native vegetation; and
 - (ii) the area cleared is in a reserved area; and

(iii) the clearing causes serious harm to the reserved area.

Maximum penalty: 2 000 penalty units, imprisonment for 5 years or both.

(2) A person commits an offence if—

- (a) the person clears native vegetation in a reserved area; and
- (b) the clearing causes serious harm to the area; and
- (c) the person is negligent about whether—
 - (i) the vegetation is native vegetation; and
 - (ii) the area cleared is in a reserved area; and
 - (iii) the clearing causes serious harm to the reserved area.

Maximum penalty: 1 500 penalty units, imprisonment for 3 years or both.

(3) A person commits an offence if—

- (a) the person clears native vegetation in a reserved area; and
- (b) the clearing causes serious harm to the reserved area.

Maximum penalty: 1 000 penalty units.

(4) An offence against subsection (3) is a strict liability offence.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant proves that the defendant took all reasonable steps to avoid committing the offence.

78 Clearing causing material harm

(1) A person commits an offence if—

- (a) the person clears native vegetation in a reserved area; and
- (b) the clearing causes material harm to the area; and
- (c) the person is reckless about whether—

- (i) the vegetation is native vegetation; and
- (ii) the area cleared is in a reserved area; and
- (iii) the clearing causes material harm to the reserved area.

Maximum penalty: 1 000 penalty units, imprisonment for 2 years or both.

- (2) A person commits an offence if—
- (a) the person clears native vegetation in a reserved area; and
 - (b) the clearing causes material harm to the area; and
 - (c) the person is negligent about whether—
 - (i) the vegetation is native vegetation; and
 - (ii) the area cleared is in a reserved area; and
 - (iii) the clearing causes material harm to the reserved area.

Maximum penalty: 750 penalty units, imprisonment for 1 year or both.

- (3) A person commits an offence if—
- (a) the person clears native vegetation in a reserved area; and
 - (b) the clearing causes material harm to the area.

Maximum penalty: 500 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant proves that the defendant took all reasonable steps to avoid committing the offence.

79 Clearing generally

- (1) A person commits an offence if the person clears native vegetation in a reserved area.

Maximum penalty: 100 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant took all reasonable steps to avoid committing the offence.

80 Lawful clearing

Section 77, section 78 and section 79 do not apply to the clearing of native vegetation—

- (a) in accordance with a licence under this Act; or
- (b) in accordance with an approval for a development under the *Land (Planning and Environment) Act 1991*, part 6; or
- (c) in accordance with a fuel management plan under the *Bushfire Act 1936*, part 6 (Bushfire-prone government land); or
- (d) in accordance with a strategic bushfire management plan under the *Emergencies Act 2004*.

81 Alternative verdicts for offences against s 77 and s 78

- (1) This section applies if, in a prosecution for a relevant offence, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an alternative offence.
- (2) The trier of fact may find the defendant guilty of the alternative offence but only if the defendant has been given procedural fairness in relation to that finding of guilt.

(3) In this section:

alternative offence, in relation to a relevant offence, means an offence mentioned in table 81, column 3 for the offence.

relevant offence means an offence mentioned in table 81, column 2.

Table 81

column 1 item	column 2 relevant offence	column 3 alternative offence
1	section 77 (1) (clearing, recklessly causing serious harm)	section 77 (2) (clearing, negligently causing serious harm) section 77 (3) (clearing, causing serious harm)
2	section 77 (2) (clearing, negligently causing serious harm)	section 77 (3) (clearing, causing serious harm)
3	section 78 (1) (clearing, recklessly causing material harm)	section 78 (2) (clearing, negligently causing material harm) section 78 (3) (clearing, causing material harm)
4	section 78 (2) (clearing, negligently causing material harm)	section 78 (3) (clearing, causing material harm)

82 Order for restoration etc—clearing offences

(1) This section applies if a court convicts or finds a person guilty of an offence against any of the following sections in relation to the clearing of native vegetation in a reserved area:

- (a) section 77 (Clearing causing serious harm);
- (b) section 78 (Clearing causing material harm);
- (c) section 79 (Clearing generally).

- (2) The court may, in addition to or instead of any other penalty it may impose for the offence, order the person to do any of the following:
- (a) take any action the court considers appropriate, including action—
 - (i) to mitigate the effect of the clearing; and
 - (ii) to restore native vegetation in the area cleared;
 - (b) pay an amount to the Territory for reasonable costs incurred, or to be incurred, by the Territory in taking action—
 - (i) to mitigate the effect of the clearing; or
 - (ii) to restore native vegetation in the area cleared; or
 - (iii) to monitor the outcome of action ordered under paragraph (a) or action mentioned in subparagraph (i) or (ii).
- (3) The court may order the person to provide security for the performance of any obligation under the order.

Division 8.3 Damaging land in reserved areas

Subdivision 8.3.1 Interpretation for div 8.3

83 Definitions for div 8.3

In this division:

cause serious or material harm, means substantially contribute directly or indirectly to the harm.

damage, to land, includes the destruction of, or removal from, the land of any of the following:

- (a) clay;
- (b) gravel;
- (c) rock;

- (d) sand;
- (e) soil;
- (f) stone.

Examples of damage to land

- 1 crushing rocks
- 2 contaminating soil
- 3 heaping rocks, stones, gravel, sand, clay or soil
- 4 altering the soil profile

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

84 Meaning of damage causing *serious harm* to reserved area

- (1) Damage to land in a reserved area causes *serious harm* to the area if—
 - (a) it causes the loss of an endangered ecological community or part of an endangered ecological community; or
 - (b) it causes a substantial loss of habitat of native flora or fauna; or
 - (c) the total area damaged is more than 2 hectares; or
 - (d) the cost of action needed to rehabilitate the land damaged is more than the prescribed amount.
- (2) In this section:
prescribed amount means—
 - (a) \$50 000; or
 - (b) if a higher amount is prescribed under the regulations—that amount.

85 Meaning of damage causing *material harm* to a reserved area

(1) Damage to land in a reserved area causes *material harm* to the area if the cost of action needed to rehabilitate the area damaged is within the prescribed range.

(2) In this section:

prescribed range means—

- (a) more than \$5 000 but not more than \$50 000; or
- (b) if a higher range is prescribed under the regulations—that range.

Subdivision 8.3.2 Offences of damaging land in reserved areas

86 Damage causing serious harm

(1) A person commits an offence if—

- (a) the person damages land in a reserved area; and
- (b) the damage causes serious harm to the area; and
- (c) the person is reckless about whether—
 - (i) the land damaged is in a reserved area; and
 - (ii) the damage causes serious harm to the area.

Maximum penalty: 2 000 penalty units, imprisonment for 5 years or both.

(2) A person commits an offence if—

- (a) the person damages land in a reserved area; and
- (b) the damage causes serious harm to the area; and
- (c) the person is negligent about whether—

- (i) the land damaged is in a reserved area; and
- (ii) the damage causes serious harm to the area.

Maximum penalty: 1 500 penalty units, imprisonment for 3 years or both.

- (3) A person commits an offence if—
- (a) the person damages land in a reserved area; and
 - (b) the damage causes serious harm to the area.

Maximum penalty: 1 000 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant proves that the defendant took all reasonable steps to avoid committing the offence.

87 Damage causing material harm

- (1) A person commits an offence if—
- (a) the person damages land in a reserved area; and
 - (b) the damage causes material harm to the area; and
 - (c) the person is reckless about whether—
 - (i) the land damaged is in a reserved area; and
 - (ii) the damage causes material harm to the area.

Maximum penalty: 1 000 penalty units, imprisonment for 2 years or both.

- (2) A person commits an offence if—
- (a) the person damages land in a reserved area; and
 - (b) the damage causes material harm to the area; and
 - (c) the person is negligent about whether—

- (i) the land damaged is in a reserved area; and
- (ii) the damage causes material harm to the area.

Maximum penalty: 750 penalty units, imprisonment for 1 year or both.

- (3) A person commits an offence if—
- (a) the person damages land in a reserved area; and
 - (b) the damage causes material harm to the area.

Maximum penalty: 500 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant proves that the defendant took all reasonable steps to avoid committing the offence.

88 Damage causing harm

- (1) A person commits an offence if—
- (a) the person damages land in a reserved area; and
 - (b) the damage causes harm to the area.

Maximum penalty: 100 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant took all reasonable steps to avoid committing the offence.

89 Lawful damage

Section 86, section 87 and section 88 do not apply to damage to land—

- (a) in accordance with a licence under this Act; or

- (b) in accordance with an approval for a development under the *Land (Planning and Environment) Act 1991*, part 6; or
- (c) in accordance with a fuel management plan under the *Bushfire Act 1936*, part 6 (Bushfire-prone government land); or
- (d) in accordance with a strategic bushfire management plan under the *Emergencies Act 2004*.

90 Alternative verdicts for offences against s 86 and s 87

- (1) This section applies if, in a prosecution for a relevant offence, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an alternative offence.
- (2) The trier of fact may find the defendant guilty of the alternative offence but only if the defendant has been given procedural fairness in relation to that finding of guilt.
- (3) In this section:

alternative offence, in relation to a relevant offence, means an offence mentioned in table 90, column 3 for the offence.

relevant offence means an offence mentioned in table 90, column 2.

Table 90

column 1 item	column 2 relevant offence	column 3 alternative offence
1	section 86 (1) (damage, recklessly causing serious harm)	section 86 (2) (damage, negligently causing serious harm) section 86 (3) (damage, causing serious harm)
2	section 86 (2) (damage, negligently causing serious harm)	section 86 (3) (damage, causing serious harm)
3	section 87 (1) (damage, recklessly causing material harm)	section 87 (2) (damage, negligently causing material harm)

column 1 item	column 2 relevant offence	column 3 alternative offence
4	section 87 (2) (damage, negligently causing material harm)	section 87 (3) (damage, causing material harm) section 87 (3) (damage, causing material harm)

91 Order for rehabilitation etc—damage offences

- (1) This section applies if a court convicts or finds a person guilty of an offence against any of the following sections in relation to the damaging of land in a reserved area:
- (a) section 86 (Damage causing serious harm);
 - (b) section 87 (Damage causing material harm);
 - (c) section 88 (Damage causing harm).
- (2) The court may, in addition to or instead of any other penalty it may impose for the offence, order the person to do any of the following:
- (a) take any action the court considers appropriate, including action—
 - (i) to mitigate the effect of the damage; and
 - (ii) to rehabilitate the land damaged as closely as possible to its condition before the damage;
 - (b) pay an amount to the Territory for reasonable costs incurred, or to be incurred, by the Territory in taking action—
 - (i) to mitigate the effect of the damage; or
 - (ii) to rehabilitate the land damaged as closely as possible to its condition before the damage; or
 - (iii) to monitor the outcome of action ordered under paragraph (a) or action mentioned in subparagraph (i) or (ii).

- (3) The court may order the person to provide security for the performance of any obligation under the order.

Part 9 Injunctive orders

92 Application for order

- (1) An application for an order under section 93 may be made to the Supreme Court by—
 - (a) the conservator; or
 - (b) someone else with the court's leave.
- (2) The Supreme Court may grant leave under subsection (1) (b) only if satisfied that—
 - (a) the person has asked the conservator to apply for an order under section 93 and the conservator has failed to do so within a reasonable time; and
 - (b) it is in the public interest that the proceeding should be brought.

93 Making of order

- (1) This section applies if, on an application under section 92, the Supreme Court is satisfied that—
 - (a) the respondent has contravened, is contravening or is likely to contravene this Act; and
 - (b) an order under this section is necessary for the protection or conservation of native animals or plants or a reserved area.
- (2) The court may—
 - (a) make an order restraining the respondent from contravening this Act (including an order requiring the respondent to do something); and
 - (b) make any other order the court considers appropriate for giving effect to that order.

- (3) The court may make the order whether or not it appears to the court that—
- (a) the respondent intends to contravene this Act, contravene this Act again or continue to contravene this Act; or
 - (b) the person has previously contravened this Act; or
 - (c) the contravention affects, or is likely to affect, the health or safety of a person or damage property or the environment.

94 Interim order

The Supreme Court may make an interim order under section 93 before deciding an application for an order under that section.

95 Costs—public interest

In deciding the amount of costs to be awarded against a party to a proceeding under section 93 or section 94, the Supreme Court must take into account the public interest in protecting the environment.

96 Security for costs etc

The Supreme Court may order an applicant for an order under section 93 to give—

- (a) security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed; or
- (b) an undertaking about the payment of any amount that may be awarded against the applicant under section 97.

97 Compensation in relation to injunctive proceedings

- (1) This section applies if, on an application for an order under section 93 alleging a contravention of this Act, the Supreme Court is satisfied that—
- (a) there has not been a contravention by the respondent; and

- (b) the respondent has suffered loss or damage because of the actions of the applicant in bringing the proceeding; and
 - (c) in the circumstances it is appropriate to make an order under this section.
- (2) The court may, on the application of the respondent, in addition to any order about costs, order the applicant to pay the respondent an amount, decided by the court, to compensate the respondent for the loss or damage suffered by the respondent.

Part 10 Management agreements

98 Definitions for pt 10

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 99 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.

99 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.

100 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.

101 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 100 (3).

102 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 11 Licences

103 Application

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

Note 1 If a form is approved under s 137 for an application, the form must be used.

Note 2 A fee may be determined under s 139 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.

104 Grant of licence

- (1) On application under section 103, the conservator shall, in accordance with section 106—

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

- (2) The conservator may grant a licence, in accordance with section 106—

- (a) subject to any condition, including a condition referred to in section 105; and
- (b) for such duration as he or she thinks fit.

105 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 (4) 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) Without limiting subsection (1), the conditions to which a licence may be granted for clearing native vegetation, or damaging land, in a reserved area, include the following:
- (a) a condition requiring the licensee to tell the conservator before beginning any activity to which the licence relates;
 - (b) a condition requiring the licensee to restore native vegetation in the affected part of the reserved area, as closely as possible, to its condition before being cleared under the licence;
 - (c) a condition requiring the licensee to rehabilitate land in the affected part of the reserved area, as closely as possible, to its condition before being damaged under the licence;
 - (d) a condition requiring that any activity to which the licence relates must be carried out in accordance with a management plan approved under subsection (4).
- (3) 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 (4).
- (4) For the purposes of this section, the conservator may, in accordance with section 106, approve a management plan by written notice to the licensee.
- (5) Subject to this section, the conservator may, by written notice to a licensee, vary a condition of a licence in accordance with section 106.
- (6) The variation of a licence condition under subsection (5) takes effect from the date of the notice under that subsection, or from a later date specified in the notice.

106 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*.

107 Duration

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

108 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.

109 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.

110 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.

111 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.

112 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.

113 Production of records

A person who is, by virtue of section 112, 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 12 Review by the administrative appeals tribunal

114 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 60 or 61; or
- (b) restricting or prohibiting access to a reserved area or part of a reserved area under section 63; or
- (c) refusing to grant consent under section 67 (1), (2) or (3) or 68 (1); or
- (d) granting a licence under section 104 (1) (a); or
- (e) refusing to grant a licence under section 104 (1) (b); or
- (f) granting a licence subject to any condition under section 104 (2) (a); or
- (g) granting a licence for a particular duration under section 104 (2) (b); or
- (h) varying a licence condition under section 105 (4); or
- (i) cancelling a licence under section 110.

115 Notification of decisions

- (1) Where the conservator or a conservation officer makes a decision referred to in section 114, that person shall cause notice in writing of the decision to be given to the person whose interests are affected by the decision.

Part 12 Review by the administrative appeals tribunal

Section 115

- (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 14 Miscellaneous

127 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.

128 Provisions not to apply to conservation officers

The following provisions do not apply to a conservation officer in the exercise of a function under this Act:

- (a) section 43 (Nest of native animals);
- (b) section 44 (Killing native animals);
- (c) section 45 (Taking native animals);
- (d) section 46 (Keeping animals);
- (e) section 49 (Release of animals from captivity);
- (f) section 51 (Taking plants);
- (g) section 52 (Preservation of native timber);
- (h) section 56 (Possession of prohibited organisms);
- (i) section 57 (Controlled organisms);
- (j) section 66 (Rubbish and fires in reserved areas);
- (k) section 67 (Activities in reserved areas);
- (l) section 68 (Taking animals and plants into reserved areas);
- (m) section 77 (Clearing causing serious harm);
- (n) section 78 (Clearing causing material harm);
- (o) section 79 (Clearing generally);
- (p) section 86 (Damage causing serious harm);
- (q) section 87 (Damage causing material harm);
- (r) section 88 (Damage causing harm).

129 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.

130 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.

131 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.

132 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.

133 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 134.

134 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 133 (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.

135 Acts and omissions of representatives

- (1) In this section:

person means an individual.

Note See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

representative, of a person, means an employee or agent of the person.

state of mind, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
 - (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
 - (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
 - (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
 - (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
 - (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

136 Criminal liability of executive officers

- (1) An executive officer of a corporation commits an offence if—
 - (a) the corporation contravenes a provision of this Act; and

- (b) the contravention is an offence against this Act (a *relevant offence*); and
- (c) the officer was reckless about whether, the contravention would happen; and
- (d) the officer was in a position to influence the conduct of the corporation in relation to the contravention; and
- (e) the officer failed to take all reasonable steps to prevent the contravention.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

- (2) This section applies whether or not the corporation is prosecuted for, or convicted of, the relevant offence.
- (3) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the contravention, a court must have regard to the following:
 - (a) any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):
 - (i) that the corporation arranges regular professional assessments of the corporation's compliance with the contravened provision;
 - (ii) that the corporation implements any appropriate recommendation arising from such an assessment;
 - (iii) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirement to comply with the contravened provision;
 - (b) any action the officer took when the officer became aware that the contravention was, or might be, about to happen.

- (4) Subsection (3) does not limit the matters to which the court may have regard.
- (5) This section does not apply if the corporation would have a defence to a prosecution for the relevant offence.

137 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.

Note For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

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

138 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.

139 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*.

140 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.

Dictionary

(see s 2)

Note 1 The Legislation Act, contains definitions and other provisions relevant to these regulations.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- contravene
- exercise
- fire brigade
- function
- rural fire service
- the Territory.

action plan means an instrument prepared under section 42.

activities, for part 10 (Management agreements)—see section 98.

agency, for part 10 (Management agreements)—see section 98.

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 *Emergencies Act 2004*, dictionary.

cause—

- (a) for division 8.2 (Clearing native vegetation in reserved areas)—see section 73; and
- (b) for division 8.3 (Damaging land in reserved areas)—see section 83.

clearing, for division 8.2 (Clearing native vegetation in reserved areas)—see section 74.

committee means the Flora and Fauna Committee established under section 13.

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 27 (1); or
- (b) for a draft action plan—see section 41 (1).

controlled land, for part 10 (Management agreements)—see section 98.

controlled organism means an organism specified in a declaration under section 55 (2).

damage, to land, for division 8.3 (Damaging land in reserved areas)—see section 83.

development, for part 10 (Management agreements)—see section 98.

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 an ecological 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 34 (1) (b).

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.

Land Act, for part 10 (Management agreements)—see section 98.

land management objectives, for part 10 (Management agreements)—see section 98.

licence means a licence granted under section 104.

management agreement, for part 10 (Management agreements)—see section 98.

material harm, to a reserved area—

- (a) for division 8.2 (Clearing native vegetation in reserved areas)—see section 76; and
- (b) for division 8.3 (Damaging land in reserved areas)—see section 85.

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.

native vegetation, for division 8.2 (Clearing native vegetation in reserved areas)—see section 73.

natural environment, for part 10 (Management agreements)—see section 98.

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

pest animal—see the *Pest Plants and Animals Act 2005*, dictionary.

pest plant—see the *Pest Plants and Animals Act 2005*, dictionary.

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 55 (1).

protected fish means a fish specified in a declaration under section 34 (1) (a).

protected invertebrate means an invertebrate specified in a declaration under section 34 (1) (a).

protected native animal means a native animal of a kind specified in a declaration under section 34 (1) (d).

protected native plant means a native plant of a kind specified in a declaration under section 34 (1) (c).

public land, for part 10 (Management agreements)—see section 98.

Ramsar wetland, for division 8.2 (Clearing native vegetation in reserved areas)—see section 73.

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

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.

serious harm, to a reserved area—

- (a) for division 8.2 (Clearing native vegetation in reserved areas)—see section 75; and
- (b) for division 8.3 (Damaging land in reserved areas)—see section 84.

serious harm, to a person—see the Criminal Code, dictionary.

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 and expiries 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 endnote.

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.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Nature Conservation Ordinance 1980* No 20 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

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).

Legislation before becoming Territory enactment

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 sch 1

notified 10 May 1989 (Cwlth Gaz 1989 No S160)
s 1, s 2 commenced 10 May 1989 (s 2 (1))
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

Legislation after becoming Territory enactment**Nature Conservation (Amendment) Act 1989 No 4**

notified 10 July 1989
commenced 10 July 1989

Endnotes

3 Legislation history

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)

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
sch 1 (as am by Act 2002 No 49 amdt 3.222)**

notified 19 September 1997 (Gaz 1997 No S264)
commenced 24 September 1997 (s 2 as am by Act 2002 No 49
amdt 3.222)

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))

Endnotes

3 Legislation history

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)
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 see 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))

Statute Law Amendment Act 2002 (No 2) No 49 pt 1.3, amdt 3.222

notified LR 20 December 2002
s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))
pt 1.3 commenced 21 December 2002 (s 2 (3))
amdt 3.222 taken to have commenced 24 September 1997 (s 2 (3))

Land (Planning and Environment) (Compliance) Amendment Act 2003 A2003-34 sch 1 pt 1.5

notified LR 7 July 2003

s 1, s 2 commenced 7 July 2003 (LA s 75 (1))

sch 1 pt 1.5 commenced 1 September 2003 (s 2 and CN2003-8)

Sexuality Discrimination Legislation Amendment Act 2004 A2004-2 sch 1 pt 1.11

notified LR 18 February 2004

s 1, s 2 commenced 18 February 2004 (LA s 75 (1))

sch 1 pt 1.11 commenced 22 March 2004 (s 2 and CN2004-4)

Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.23

notified LR 19 March 2004

s 1, s 2 commenced 19 March 2004 (LA s 75 (1))

sch 1 pt 1.23 commenced 13 April 2004 (s 2 and see Annual Reports (Government Agencies) Act 2004 A2004-8, s 2 and CN2004-5)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.31

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 1 pt 1.31 commenced 9 April 2004 (s 2 (1))

Environment Legislation Amendment Act 2004 A2004-23 pt 2

notified LR 19 May 2004

s 1, s 2 commenced 19 May 2004 (LA s 75 (1))

pt 2 commenced 19 July 2004 (s 2 and CN2004-13)

Emergencies Act 2004 A2004-28 sch 3 pt 3.14

notified LR 29 June 2004

s 1, s 2 commenced 29 June 2004 (LA s 75 (1))

amdt 3.47, amdt 3.48 commenced 19 July 2004 (s 2 (3) and see Environment Legislation Amendment Act 2004 s 2 and CN2004-13)

sch 3 pt 3.14 remainder commenced 1 July 2004 (s 2 (1) and CN2004-11)

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.42

notified LR 12 May 2005

s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))

sch 3 pt 3.42 commenced 12 November 2005 (s 2 (2) and LA s 79)

Endnotes

4 Amendment history

Pest Plants and Animals Act 2005 A2005-21 sch 1 pt 1.3

notified LR 12 May 2005

s 1, s 2 commenced 12 May 2005 (LA s 75 (1))

sch 1 pt 1.3 commenced 12 November 2005 (s 2 and LA s 79)

4 Amendment history

Title

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

Offences against Act—application of Criminal Code etc

s 4 om 1993 No 44
ins A2004-23 s 4

Relationship with Emergencies Act

s 5 orig s 5 am 1981 No 74 (Cwlth); 1989 No 38; 1989 No 4; 1991 No 118; 1994 No 56; 1994 No 60; 1994 No 97; 1994 No 110; 1997 No 7; 1999 No 79 s 5 sch 3; 2001 No 11 amdts 1.8, 3.131
defs reloc to dict 2001 No 11 amdt 3.132
om R6 LRA
(prev s 6) am 1993 No 74
sub A2004-28 amdt 3.46
renum R15 LA (see A2004-23 s 13)

Construction consistent with environment laws

s 6 (prev s 6A) ins 1997 No 93
renum R15 LA (see A2004-23 s 13)

Construction consistent with environment laws

s 6A renum as s 6

Nature conservation strategies, declarations and action plans

pt 2 hdg orig pt 2 hdg om 1981 No 74 (Cwlth)
(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

Exercise of powers

s 10 orig s 10 am 1981 No 74 (Cwlth); 1994 No 56
om 1994 No 97
(prev s 13) am 1982 No 22; 1994 No 56
renum R15 LA (see A2004-23 s 13)

Delegation

s 11 orig s 11 am 1994 No 56
om 1994 No 97
(prev s 14) am 1994 No 56
sub 1994 No 97
renum R15 LA (see A2004-23 s 13)

Australian Capital Territory Parks and Conservation Service

s 12 orig s 12 am 1994 No 56; 1994 No 81
om 1994 No 97
(prev s 15) am 1991 No 118; 1994 No 56; 1994 No 97; 2001
No 11 amdt 3.135
renum R15 LA (see A2004-23 s 13)

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 13 orig s 13 renum as s 10
(prev s 15A) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)

Endnotes

4 Amendment history

Functions

s 14 orig s 14 renum as s 11
(prev s 15B) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)

Directions to committee

s 15 orig s 15 renum as s 12
(prev s 15C) ins 1994 No 56
am 1995 No 25; A2004-9 amdt 1.31
renum R15 LA (see A2004-23 s 13)

Establishment

s 15A renum as s 13

Functions

s 15B renum as s 14

Directions to committee

s 15C renum as s 15

Powers

s 15D renum as s 16

Membership

s 15E renum as s 17

Appointment of chairperson and deputy chairperson

s 15F renum as s 18

Secretary to committee

s 15G renum as s 19

Remuneration and allowances

s 15H ins 1994 No 56
om 1997 No 41

Leave of absence

s 15J renum as s 20

Disclosure of interests

s 15K renum as s 21

Resignation

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

Termination of appointment

s 15M renum as s 22

Acting members

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

Convening meetings

s 15P renum as s 23

Procedure at meetings

s 15Q renum as s 24

Quorum

s 15R renum as s 25

Draft nature conservation strategy

s 15S renum as s 26

Variations 15T ins 1994 No 56
om 2001 No 44 amdt 1.2911**Public notification of draft nature conservation strategy**

s 15U renum as s 27

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

s 15V renum as s 28

Submission or resubmission of draft nature conservation strategy to Minister

s 15W renum as s 29

Minister's powers in relation to draft nature conservation strategy

s 15X renum as s 30

Notice of rejection of draft nature conservation strategy

s 15Y renum as s 31

Commencement of nature conservation strategy etc

s 15Z renum as s 32

Powerss 16 orig s 16 om 1981 No 74 (Cwlt)
prev s 16 renum as s 33
(prev s 15D) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)**Constitution and meetings**

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

Memberships 17 orig s 17 om 1981 No 74 (Cwlt)
prev s 17 renum as s 34
(prev s 15E) ins 1994 No 56
am 2001 No 11 amdt 3.136
renum R15 LA (see A2004-23 s 13)

Endnotes

4 Amendment history

Appointment of chairperson and deputy chairperson

s 18 orig s 18 om 1981 No 74 (Cwlth)
prev s 18 renum as s 35
(prev s 15F) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)

Secretary to committee

s 19 orig s 19 om 1981 No 74 (Cwlth)
prev s 19 renum as s 36
(prev s 15G) ins 1994 No 56
sub 2001 No 11 amdt 3.137
renum R15 LA (see A2004-23 s 13)

Leave of absence

s 20 orig s 20 om 1981 No 74 (Cwlth)
prev s 20 renum as s 37
(prev s 15J) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)

Disclosure of interests

s 21 orig s 21 om 1981 No 74 (Cwlth)
prev s 21 renum as s 38
(prev s 15K) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)

Termination of appointment

s 22 orig s 22 om 1981 No 74 (Cwlth)
prev s 22 renum as s 39
(prev s 15M) ins 1994 No 56
am 2001 No 11 amdt 3.139
renum R15 LA (see A2004-23 s 13)

Convening meetings

s 23 orig s 23 om 1981 No 74 (Cwlth)
prev s 23 renum as s 40
(prev s 15P) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)

Variation

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

Public notification of draft action plan

s 23B renum as s 41

Preparation of action plan

s 23C renum as s 42

Public notification of action plan

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

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

Procedure at meetings

s 24 orig s 24 om 1981 No 74 (Cwlth)
prev s 24 renum as s 43
(prev s 15Q) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)

Quorum

s 25 orig s 25 renum as s 44
(prev s 15R) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)

Nature conservation and declarations

pt 3 hdg (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 26 hdg orig s 26 hdg sub 2001 No 11 amdt 1.10
s 26 orig s 26 renum as s 45
(prev s 15S) ins 1994 No 56
am 2001 No 11 amdt 3.142; 2001 No 44 amdt 1.2910
renum R15 LA (see A2004-23 s 13)

Drum net

s 26A ins 1994 No 110
am 1998 No 54
om 2000 No 38 s 121 sch

Public notification of draft nature conservation strategy

s 27 orig s 27 renum as s 46
(prev s 15U) ins 1994 No 56
sub 2001 No 44 amdt 1.2912
renum R15 LA (see A2004-23 s 13)

Endnotes

4 Amendment history

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

s 28 orig s 28 renum as s 47
(prev s 15V) ins 1994 No 56
sub 2001 No 44 amdt 1.2912
renum R15 LA (see A2004-23 s 13)

Submission or resubmission of draft nature conservation strategy to Minister

s 29 orig s 29 renum as s 48
(prev s 15W) ins 1994 No 56
sub 2001 No 44 amdt 1.2912
renum R15 LA (see A2004-23 s 13)

Minister's powers in relation to draft nature conservation strategy

s 30 hdg (prev s 15X hdg) sub 2001 No 44 amdt 1.2913 (see 2001 No 70 amdt 1.14)
s 30 orig s 30 am 1989 No 4; 1994 No 81; 1994 No 110
om 2000 No 38 s 121 sch
(prev 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
renum R15 LA (see A2004-23 s 13)

Notice of rejection of draft nature conservation strategy

s 31 orig s 31 om 1989 No 4
(prev s 15Y) ins 1994 No 56
sub 2001 No 44 amdt 1.2917
renum R15 LA (see A2004-23 s 13)

Commencement of nature conservation strategy etc

s 32 orig s 32 om 1989 No 4
(prev s 15Z) ins 1994 No 56
am 2001 No 11 amdt 3.143
sub 2001 No 44 amdt 1.2918
renum R15 LA (see A2004-23 s 13)

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 33 orig s 33 om 1989 No 4
(prev s 16) ins 1989 No 4
am 1994 No 56; 1994 No 110; 2001 No 44 amdts 1.2919-
1.2921
renum R15 LA (see A2004-23 s 13)

Declaration of protected and exempt flora and fauna

s 34 orig s 34 om 1989 No 4
(prev s 17) ins 1989 No 4
am 1994 No 110; 2001 No 44 amdt 1.2922, amdt 1.2923
renum R15 LA (see A2004-23 s 13)

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 35 orig s 35 om 1989 No 4
(prev s 18) ins 1989 No 4
sub 1994 No 56
am 2001 No 44 amdt 1.2924, amdt 1.2925
renum R15 LA (see A2004-23 s 13)

Guidelines for dealing with applications for declarations

s 36 orig s 36 am 1989 No 4; 1994 No 81
om 1994 No 110
(prev s 19) ins 1994 No 56
sub 2001 No 44 amdt 1.2926
renum R15 LA (see A2004-23 s 13)

Public consultation on preparation of relevant criteria and guidelines

s 37 orig s 37 am 1989 No 4; 1994 No 81
om 1994 No 110
(prev s 20) ins 1994 No 56
renum R15 LA (see A2004-23 s 13)

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 38 orig s 38 am 1989 No 4
om 1994 No 110
(prev s 21) ins 1994 No 56
am 2001 No 44 amdt 1.2927
renum R15 LA (see A2004-23 s 13)

Endnotes

4 Amendment history

Request to committee to recommend making of declaration

s 39 orig s 39 renum as s 49
(prev s 22) ins 1994 No 56
am 2001 No 44 amdt 1.2928
renum R15 LA (see A2004-23 s 13)

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 40 orig s 40 renum as s 50
(prev s 23) ins 1994 No 56
am 2001 No 11 amdt 3.145
renum R15 LA (see A2004-23 s 13)

Public notification of draft action plan

s 41 orig s 41 am 1982 No 22
om 1989 No 4
(prev s 23B) ins 1994 No 56
sub 2001 No 44 amdt 1.2930
renum R15 LA (see A2004-23 s 13)

Preparation of action plan

s 42 orig s 42 renum as s 51
(prev s 23C) ins 1994 No 56
sub 2001 No 44 amdt 1.2931
renum R15 LA (see A2004-23 s 13)

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)

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 43 orig s 43 renum as s 52
(prev s 24) ins 1989 No 4
am 1994 No 81; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Killing native animals

s 44 hdg (prev s 25 hdg) sub 2001 No 11 amdt 1.9
s 44 orig s 44 renum as s 53
(prev s 25) am 1989 No 4; 1994 No 81; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Taking native animals

s 45 hdg (prev s 26 hdg) sub 2001 No 11 amdt 1.10
s 45 orig s 45 renum as s 54
(prev s 26) am 1989 No 4; 1994 No 81; 1994 No 110; 2001
No 11 amdt 3.147
renum R15 LA (see A2004-23 s 13)

Declarations

s 45AA renum as s 55

Possession of prohibited organisms

s 45AB renum as s 56

Controlled organisms

s 45AC renum as s 57

Meaning of *native animal* in pt 7

s 45A renum as 58

Keeping animals

s 46 orig s 46 renum as s 59
(prev s 27) am 1982 No 22; 1989 No 4; 1994 No 81; 1994 No
110; 2001 No 11 amdt 3.148
renum R15 LA (see A2004-23 s 13)

Selling animals

s 47 orig s 47 renum as s 60
(prev s 28) am 1989 No 4; 1994 No 81; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Import and export of animals

s 48 orig s 48 am 1982 No 22; 1989 No 4; 1994 No 81
om 1994 No 110
(prev s 29) am 1989 No 4; 1994 No 81; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Release of animals from captivity

s 49 hdg (prev s 39 hdg) am 2000 No 38 s 121 sch
s 49 orig s 49 renum as s 61
(prev 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
renum R15 LA (see A2004-23 s 13)

Escape of native animals

s 50 hdg (prev s 40 hdg) sub 2001 No 11 amdt 1.11
s 50 orig s 50 renum as s 62
(prev s 40) am 1994 No 110
renum R15 LA (see A2004-23 s 13)

Endnotes

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Protection of plants

pt 5 hdg orig pt 5 hdg renum as pt 7 hdg
prev pt 4 hdg) renum R6 LRA (see 2001 No 11 amdt 3.188)

Taking plants

s 51 orig s 51 am 1987 No 1; 1989 No 38
om 1991 No 118
(prev s 42) am 1989 No 38; 1989 No 4; 1994 No 81; 1994
No 110; 2001 No 11 amdt 3.153; ss renum R15 LA (see
A2004-23 s 13)
renum R15 LA (see A2004-23 s 13)

Preservation of native timber

s 52 orig s 52 am 1982 No 22; 1987 No 1; 1989 No 38
om 1991 No 118
(prev 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
renum R15 LA (see A2004-23 s 13)

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

Dealing in protected native plants

s 53 orig s 53 renum as s 63
(prev s 44) am 1989 No 4; 1994 No 81; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Entry to reserved areas

s 53A renum as s 64

Plant tags

s 54 orig s 54 renum as s 65
(prev s 45) am 1989 No 4; 1994 No 81; 1994 No 110; 2001
No 11 amdt 3.156
renum R15 LA (see A2004-23 s 13)

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 55 orig s 55 renum as s 66
(prev s 45AA) ins 1994 No 110
am 2001 No 11 amdt 3.157; 2001 No 44 amdt 1.2934,
amdt 1.2935
renum R15 LA (see A2004-23 s 13)

Endnotes

4 Amendment history

Possession of prohibited organisms

s 56 orig s 56 renum as s 67
(prev s 45AB) ins 1994 No 110
am 1998 No 54
renum R15 LA (see A2004-23 s 13)

Controlled organisms

s 57 orig s 57 renum as s 68
(prev s 45AC) ins 1994 No 110
am 1998 No 54
renum R15 LA (see A2004-23 s 13)

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 58 hdg (prev s 45A) hdg sub 2001 No 11 amdt 3.158
s 58 orig s 58 renum as s 69
(prev s 45A) ins 1989 No 4
am 1994 No 110
renum R15 LA (see A2004-23 s 13)

Entry onto land for purpose of carrying out examination

s 59 orig s 59 renum as s 70
(prev s 46) am 1989 No 38; 1989 No 4; 1994 No 56; 1994
No 110
renum R15 LA (see A2004-23 s 13)

Conservation directions

s 60 orig s 60 renum as s 71
(prev s 47) am 1989 No 4
sub 1994 No 110
am 1998 No 54
renum R15 LA (see A2004-23 s 13)

Restoration of excavation sites by permit holders

s 60A renum as s 72

Definitions for div 8.2

s 60B renum as s 73

Meaning of *clearing native vegetation*

s 60C renum as s 74

Meaning of clearing causing *serious harm* to reserved area

s 60D renum as s 75

Meaning of clearing causing *material harm* to reserved area

s 60E renum as s 76

Clearing causing serious harm	
s 60F	renum as s 77
Clearing causing material harm	
s 60G	renum as s 78
Clearing generally	
s 60H	renum as s 79
Lawful clearing	
s 60I	renum as s 80
Alternative verdicts for offences against s 60F and s 60G	
s 60J	renum as s 81
Order for restoration etc—clearing offences	
s 60K	renum as s 82
Definitions for div 8.3	
s 60L	renum as s 83
Meaning of damage causing <i>serious harm</i> to reserved area	
s 60M	renum as s 84
Meaning of damage causing <i>material harm</i> to a reserved area	
s 60N	renum as s 85
Damage causing serious harm	
s 60O	renum as s 86
Damage causing material harm	
s 60P	renum as s 87
Damage causing harm	
s 60Q	renum as s 88
Lawful damage	
s 60R	renum as s 89
Alternative verdicts for offences against s 60O and s 60P	
s 60S	renum as s 90
Order for rehabilitation etc—damage offences	
s 60T	renum as s 91
Application for order	
s 60U	renum as s 92
Making of order	
s 60V	renum as s 93
Interim order	
s 60W	renum as s 94

Endnotes

4 Amendment history

Costs—public interest

s 60X renum as s 95

Security for costs etc

s 60Y renum as s 96

Compensation in relation to injunctive proceedings

s 60Z renum as s 97

Definitions for pt 9

s 60AA renum as s 98

Management agreements

s 60AB renum as s 99

Formulation of agreements

s 60AC renum as s 100

Refusal to enter into management agreement

s 60AD renum as s 101

Activities inconsistent with management agreement

s 60AE renum as s 102

Diseased native animals and plants

s 61 orig s 61 renum as s 103
(prev s 49) am 1982 No 22; 1989 No 4; 1994 No 110; 2001
No 11 amdts 3.159, 3.160
renum R15 LA (see A2004-23 s 13)

Conservation criteria

s 62 orig s 62 renum as s 104
(prev 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
renum R15 LA (see A2004-23 s 13)

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

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 in reserved areas

div 8.1 hdg (prev pt 6 div 2 hdg) ins 1986 No 65
renum R6 LRA (see 2001 No 11 amdt 3.188)
sub A2004-23 s 5

Access to reserved areas

s 63 orig s 63 renum as s 105
(prev s 53) am 1982 No 22; 1989 No 4; 1994 No 81; 2002
No 49 amdt 1.3
renum R15 LA (see A2004-23 s 13)

Grant of permits and licences—wildlife having special protection status

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

Entry to reserved areas

s 64 orig s 64 renum as s 106
(prev s 53A) ins 1994 No 110
am 1998 No 54
sub 2001 No 44 amdt 1.2938
renum R15 LA (see A2004-23 s 13)

Signs in reserved areas

s 65 orig s 65 renum as s 107
(prev s 54) am 1989 No 4; 1994 No 81
renum R15 LA (see A2004-23 s 13)

Rubbish and fires in reserved areas

s 66 orig s 66 renum as s 108
(prev s 55) am 1989 No 4; 1994 No 81
renum R15 LA (see A2004-23 s 13)

Activities in reserved areas

s 67 orig s 67 renum as s 109
(prev 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
renum R15 LA (see A2004-23 s 13)

Taking animals and plants into reserved areas

s 68 orig s 68 om 1994 No 110
(prev s 57) am 1989 No 4; 1994 No 81; 1994 No 110; 1997
No 7
renum R15 LA (see A2004-23 s 13)

Powers of conservation officers in reserved areas

s 69 orig s 69 renum as s 110
(prev s 58) am 1989 No 4; 1994 No 81; 1994 No 97; 1994
No 110
renum R15 LA (see A2004-23 s 13)

Endnotes

4 Amendment history

Offences in wilderness areas

s 70 hdg (prev s 59 hdg) sub A2004-23 s 6
s 70 orig s 70 renum as s 111
(prev s 59) am 1989 No 4; 1990 No 43; 1991 No 118; 1994
No 81; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Compensation

s 71 orig s 71 am 1989 No 4; 1994 No 81; 1994 No 110
om 1994 No 110 sch 2
(prev s 60) am 1985 No 67; 1989 No 38; 1991 No 118
renum R15 LA (see A2004-23 s 13)

Restoration of excavation sites by permit holders

s 72 orig s 72 renum as s 112
(prev s 60A) ins 1990 No 43
am 1991 No 118; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Clearing native vegetation in reserved areas

div 8.2 hdg ins A2004-23 s 7

Interpretation for div 8.2

sdiv 8.2.1 hdg ins A2004-23 s 7

Definitions for div 8.2

s 73 orig s 73 renum as s 113
(prev s 60B) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)
def **cause** ins A2004-23 s 7
def **native vegetation** ins A2004-23 s 7
def **Ramsar wetland** ins A2004-23 s 7

Meaning of clearing native vegetation

s 74 orig s 74 renum as s 114
(prev s 60C) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Notification of decisions

s 74A renum as s 115

Definitions for pt 12

s 74AA renum as s 116

Infringement notices

s 74AB renum as s 117

Final infringement notices

s 74AC renum as s 118

Discharge of liability for schedule 1 offences

s 74AD renum as s 119

Application for withdrawal of infringement notices

s 74AE renum as s 120

Withdrawal of infringement notices

s 74AF renum as s 121

Extension of time to pay penalty

s 74AG renum as s 122

Prosecution of schedule 1 offences

s 74AH renum as s 123

Non-antecedent value of infringement notice offences

s 74AI renum as s 124

Service of notices

s 74AJ renum as s 125

Evidence

s 74AK renum as s 126

Meaning of clearing causing *serious harm* to reserved area

s 75 orig s 75 renum as s 127
(prev s 60D) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Meaning of clearing causing *material harm* to reserved area

s 76 orig s 76 renum as s 128
(prev s 60E) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Act not to apply to certain appointed people

s 76A renum as s 129

Offences of clearing native vegetation in reserved areas

sdiv 8.2.2 hdg ins A2004-23 s 7

Clearing causing serious harm

s 77 orig s 77 renum as s 130
(prev s 60F) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Clearing causing material harm

s 78 orig s 78 renum as s 131
(prev s 60G) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Seizure and release of bird wildlife

s 78A renum as s 132

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Clearing generally

s 79 orig s 79 renum as s 133
(prev s 60H) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Lawful clearing

s 80 orig s 80 renum as s 134
(prev s 60I) ins A2004-23 s 7
am A2004-28 amdt 3.47
renum R15 LA (see A2004-23 s 13)

Acts and omissions of representatives

s 80A renum as s 135

Criminal liability of executive officers

s 80AB renum as s 136

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s 80B renum as s 137

Alternative verdicts for offences against s 77 and s 78

s 81 orig s 81 renum as s 138
(prev s 60J) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Order for restoration etc—clearing offences

s 82 orig s 82 om 1994 No 110
(prev s 60K) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Damaging land in reserved areas

div 8.3 hdg ins A2004-23 s 7

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sdiv 8.3.1 hdg ins A2004-23 s 7

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s 83 orig s 83 am 1994 No 56
om 1995 No 25
(prev s 60L) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)
def **cause** ins A2004-23 s 7
def **damage** ins A2004-23 s 7

Determination of fees

s 83A renum as s 139

Meaning of damage causing *serious harm* to reserved area

s 84 orig s 84 renum as s 140
(prev s 60M) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Meaning of damage causing *material harm* to a reserved area

s 85 orig s 85 om 1989 No 4
(prev s 60N) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Offences of damaging land in reserved areas

sdiv 8.3.2 hdg ins A2004-23 s 7

Damage causing serious harm

s 86 (prev s 60Q) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Damage causing material harm

s 87 (prev s 60P) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Damage causing harm

s 88 (prev s 60Q) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Lawful damage

s 89 (prev s 60R) ins A2004-23 s 7
am A2004-28 amdt 3.48
renum R15 LA (see A2004-23 s 13)

Alternative verdicts for offences against s 86 and s 87

s 90 (prev s 60S) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Order for rehabilitation etc—damage offences

s 91 (prev s 60T) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Injunctive orders

pt 8A hdg renum as pt 9 hdg

Injunctive orders

pt 9 hdg prev pt 9 hdg renum as pt 10 hdg
(prev pt 8A hdg) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Application for order

s 92 (prev s 60U) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

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s 93 (prev s 60V) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

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s 94 (prev s 60W) ins A2004-23 s 7
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Costs—public interest

s 95 (prev s 60X) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Security for costs etc

s 96 (prev s 60Y) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Compensation in relation to injunctive proceedings

s 97 (prev s 60Z) ins A2004-23 s 7
renum R15 LA (see A2004-23 s 13)

Management agreements

pt 10 hdg orig pt 10 hdg om 1989 No 4
prev pt 10 hdg renum as pt 11 hdg
(prev pt 6A hdg) ins 1994 No 110
renum as pt 9 hdg R6 LRA (see 2001 No 11 amdt 3.188)
renum as pt 10 hdg R15 LA (see A2004-23 s 13)

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s 98 hdg (prev s 60AA hdg) sub 2001 No 11 amdt 3.165
s 98 (prev s 60AA) ins 1994 No 110
am 2001 No 11 amdt 3.166
renum R15 LA (see A2004-23 s 13)

Management agreements

s 99 (prev s 60AB) ins 1994 No 110
am 2001 No 11 amdt 3.167
renum R15 LA (see A2004-23 s 13)

Formulation of agreements

s 100 (prev s 60AC) ins 1994 No 110
renum R15 LA (see A2004-23 s 13)

Refusal to enter into management agreement

s 101 (prev s 60AD) ins 1994 No 110
renum R15 LA (see A2004-23 s 13)

Activities inconsistent with management agreement

s 102 (prev s 60AE) ins 1994 No 110
renum R15 LA (see A2004-23 s 13)

Licences

pt 11 hdg prev pt 11 hdg renum as pt 12 hdg
(prev pt 7 hdg) am 1994 No 110
renum as pt 10 hdg R6 LRA (see 2001 No 11 amdt 3.188)
renum as pt 11 hdg R15 LA (see A2004-23 s 13)

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s 103	(prev 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; A2003-34 amdt 1.22 renum R15 LA (see A2004-23 s 13)
Grant of licence	
s 104	(prev s 62) am 1990 No 43; 1991 No 118; 1994 No 56 sub 1994 No 110 renum R15 LA (see A2004-23 s 13)
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s 105	(prev s 63) am 1983 No 43; 1989 No 38; 1991 No 118; 1994 No 56 sub 1994 No 110 am A2004-23 s 8; ss renum R15 LA (see A2004-23 s 13) renum R15 LA (see A2004-23 s 13)
Licensing criteria	
s 106	(prev s 64) sub 1994 No 110 am 2001 No 11 amdt 3.169; 2001 No 44 amdt 1.2940, amdt 1.2941 renum R15 LA (see A2004-23 s 13)
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s 107	(prev s 65) am 1989 No 4; 1990 No 43; 1991 No 118 sub 1994 No 110 renum R15 LA (see A2004-23 s 13)
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s 108	(prev s 66) am 1989 No 4 sub 1994 No 110 renum R15 LA (see A2004-23 s 13)
Nature of rights conferred by licences	
s 109	(prev s 67) am 1989 No 38; 1994 No 110 renum R15 LA (see A2004-23 s 13)
Cancellation	
s 110	(prev s 69) am 1994 No 110 renum R15 LA (see A2004-23 s 13)
Production of licences	
s 111	(prev s 70) am 1989 No 4; 1994 No 81; 1994 No 110 renum R15 LA (see A2004-23 s 13)
Records to be kept by licence holders	
s 112	(prev s 72) am 1989 No 4; 1994 No 81; 1994 No 110 renum R15 LA (see A2004-23 s 13)

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Production of records

s 113 (prev s 73) am 1989 No 4; 1994 No 81; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Review by the administrative appeals tribunal

pt 12 hdg prev pt 12 hdg renum as pt 13 hdg
(prev pt 8 hdg) renum as pt 11 R6 LRA (see 2001 No 11
amdt 3.188)
renum as pt 12 hdg R15 LA (see A2004-23 s 13)

Review of conservator's decisions

s 114 (prev s 74) am 1982 No 22; 1994 No 56; 1994 No 60
sub 1994 No 110
am 1995 No 30
renum R15 LA (see A2004-23 s 13)

Notification of decisions

s 115 (prev s 74A) ins 1989 No 4
am 1994 No 60; 1994 No 110
renum R15 LA (see A2004-23 s 13)

On-the-spot fines

pt 13 hdg prev pt 13 hdg renum as pt 14 hdg
(prev pt 8A hdg) ins 1994 No 110
renum as pt 12 hdg R6 LRA (see 2001 No 11 amdt 3.188)
renum as pt 13 hdg R15 LA (see A2004-23 s 13)
om A2005-20 amdt 3.318

Definitions for pt 13

s 116 hdg (prev s 74AA hdg) sub 2001 No 11 amdt 3.170
s 116 (prev s 74AA) ins 1994 No 110
renum R15 LA (see A2004-23 s 13)
om A2005-20 amdt 3.318
def **on-the-spot fine** am 2001 No 11 amdt 3.171
om A2005-20 amdt 3.318
def **relevant amount** am 2001 No 11 amdt 3.171; 2001 No 44
amdt 1.2942
om A2005-20 amdt 3.318
def **schedule 1 offence** ins 2001 No 11 amdt 3.172
om A2005-20 amdt 3.318
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om A2005-20 amdt 3.318

Infringement notices

s 117 (prev 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
renum R15 LA (see A2004-23 s 13)
om A2005-20 amdt 3.318

Final infringement notices

s 118 (prev s 74AC) ins 1994 No 110
am 2001 No 11 amdt 3.174; 2001 No 44 amdt 1.2945,
amdt 1.2946; pars renum R15 LA (see A2004-23 s 13)
renum R15 LA (see A2004-23 s 13)
om A2005-20 amdt 3.318

Discharge of liability for schedule 1 offences

s 119 (prev s 74AD) ins 1994 No 110
am 2001 No 11 amdt 3.175
renum R15 LA (see A2004-23 s 13)
om A2005-20 amdt 3.318

Application for withdrawal of infringement notices

s 120 (prev s 74AE) ins 1994 No 110
am 2001 No 11 amdt 3.175
renum R15 LA (see A2004-23 s 13)
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Withdrawal of infringement notices

s 121 (prev s 74AF) ins 1994 No 110
renum R15 LA (see A2004-23 s 13)
om A2005-20 amdt 3.318

Extension of time to pay penalty

s 122 hdg (prev s 74AG hdg) sub A2004-2 amdt 1.33
s 122 (prev s 74AG) ins 1994 No 110
am 2001 No 11 amdt 3.175; A2004-2 amdt 1.34, amdt 1.35
renum R15 LA (see A2004-23 s 13)
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Prosecution of schedule 1 offences

s 123 (prev s 74AH) ins 1994 No 110
am 2001 No 11 amdt 3.175
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Non-antecedent value of infringement notice offences

s 124 (prev s 74AI) ins 1994 No 110
renum R15 LA (see A2004-23 s 13)
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Service of notices

s 125 (prev s 74AJ) ins 1994 No 110
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s 126 (prev s 74AK) ins 1994 No 110
am 2001 No 11 amdt 3.175
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pt 14 hdg (prev pt 9 hdg) renum as pt 13 hdg R6 LRA (see 2001 No 11
amdt 3.188)
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Royalty

s 127 (prev s 75) am 1989 No 38; 1994 No 56; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Provisions not to apply to conservation officers

s 128 (prev s 76) am 1989 No 4; 1994 No 110
sub A2004-23 s 9
renum R15 LA (see A2004-23 s 13)

Act not to apply to certain appointed people

s 129 (prev s 76A) ins 1982 No 62
am 1988 No 31; 1994 No 56
sub 2000 No 66 sch 1 pt 10
renum R15 LA (see A2004-23 s 13)

Power of entry and search

s 130 (prev s 77) am 1982 No 22; 1989 No 4; 1994 No 81; 1994
No 97; 1994 No 110; 2001 No 11 amdt 3.176
renum R15 LA (see A2004-23 s 13)

Further powers of conservation officers

s 131 (prev s 78) am 1989 No 4; 1994 No 81
renum R15 LA (see A2004-23 s 13)

Seizure and release of bird wildlife

s 132 (prev s 78A) ins 1989 No 4
am 1994 No 97; 1994 No 110
renum R15 LA (see A2004-23 s 13)

Seizure and forfeiture of animals and plants

s 133 (prev s 79) am 1982 No 22; 1989 No 38; 1989 No 4; 1994
No 110
renum R15 LA (see A2004-23 s 13)

Release of animals—court orders

s 134 (prev s 80) am 1985 No 67; 1989 No 38; 1994 No 110; 2001
No 11 amdt 3.177, amdt 3.178
renum R15 LA (see A2004-23 s 13)

Acts and omissions of representatives

s 135 (prev s 80A) ins 1989 No 4
am 2001 No 44 amdt 1.2947, amdt 1.2948
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renum R15 LA (see A2004-23 s 13)

Criminal liability of executive officers

s 136 (prev s 80AB) ins A2004-23 s 10
renum R15 LA (see A2004-23 s 13)

Approved forms

s 137 hdg (prev s 80B hdg) sub 2001 No 44 amdt 1.2949
s 137 (prev s 80B) ins 1989 No 4
sub 2001 No 11 amdt 3.179
am 2001 No 44 amdt 1.2950
renum R15 LA (see A2004-23 s 13)
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Evidence

s 138 (prev s 81) am 1994 No 110
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Determination of fees

s 139 (prev s 83A) ins 1983 No 43
sub 2001 No 11 amdt 3.180
am 2001 No 44 amdts 1.2951-1.2953
renum R15 LA (see A2004-23 s 13)

Regulation-making power

s 140 hdg (prev s 84 hdg) sub 2001 No 11 amdt 3.181
s 140 (prev s 84) am 1989 No 38; 1989 No 4; 1994 No 81; 1995
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amdt 1.2954, amdt 1.2955
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On-the-spot fines

sch 1 orig sch 1 om 2001 No 11 amdt 3.184
(prev sch 2) am 1982 No 22
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am 2001 No 11 amdt 3.185
renum 2001 No 11 amdt 3.186
items renum R15 LA (see A2004-23 s 13)
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Restricted plant wildlife

sch 3 om 1989 No 4

Protected fish and invertebrates

sch 4 om 1989 No 4

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sch 5 sub 1982 No 22
om 1989 No 4

Exempt animals, being animals that are not wildlife

sch 6 sub 1982 No 22
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dict ins 2001 No 11 amdt 3.187
am A2004-28 amdt 3.49
def **built-up area** sub A2004-28 amdt 3.50
def **cause** ins A2004-23 s 11
def **clearing** ins A2004-23 s 11
def **consultation period** ins 2001 No 44 amdt 1.2956
def **damage** ins A2004-23 s 11
def **determined fee** om 2001 No 44 amdt 1.2957
def **endangered** am A2004-23 s 12
def **final infringement notice** om A2005-20 amdt 3.320
def **infringement notice** om A2005-20 amdt 3.320
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5 Earlier republications

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

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

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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
7	Act 2001 No 56	12 September 2001
8	Act 2001 No 70	2 November 2001
9	Act 2002 No 49	21 December 2002
9 (RI)	A2002-49 ‡	12 February 2003
10	A2003-34	1 September 2003
11	<u>A2004-9</u>	22 March 2004
12	A2004-15	9 April 2004
13	A2004-15	13 April 2004
14	A2004-28	1 July 2004
15	A2004-28	19 July 2004

‡ includes retrospective amendments by A2002-49

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6 Renumbered provisions

as made by *Environment Legislation Amendment Act 2004* A2004-23 s 13 and under the *Legislation Act 2001*

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