



AUSTRALIAN CAPITAL TERRITORY

# **Land (Planning and Environment) (Consequential Provisions) Act 1991**

**No. 118 of 1991**

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AUSTRALIAN CAPITAL TERRITORY

# **Land (Planning and Environment) (Consequential Provisions) Act 1991**

No. 118 of 1991

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**An Act to amend or repeal certain laws of the Territory and to make certain transitional provisions consequent on the making of the *Land (Planning and Environment) Act 1991* and for related purposes**

*[Notified in ACT Gazette S3: 15 January 1992]*

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

## **PART I—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Land (Planning and Environment) (Consequential Provisions) Act 1991*.

### **Commencement**

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

### **Interpretation**

3. (1) In this Act, unless the contrary intention appears—

“commencement day” means the day on which the provision in which the expression occurs commences;

“repealed Act” means an Act specified in Schedule 2.

(2) A reference in this Act to a repealed Act shall be read as a reference to that Act as in force immediately before the commencement day.

## **PART II—AMENDMENTS**

### ***Division 1—Administrative Appeals Tribunal Act 1989***

#### **Principal Act**

4. In this Division, “Principal Act” means the *Administrative Appeals Tribunal Act 1989*.

#### **Tribunal may review certain decisions**

5. Section 24 of the Principal Act is amended by inserting in subsection (6) “28,” after “27,”.

#### **Persons who may apply to Tribunal**

6. Section 25 of the Principal Act is amended by inserting in subsection (4) the following definition:

“ ‘person’ includes an unincorporated association;”.

#### **Parties to proceeding before Tribunal**

7. Section 28 of the Principal Act is amended by adding at the end the following subsection:

“(4) In this section—

‘person’ includes an unincorporated association.”.

### **Opportunity to make submissions**

8. Section 39 of the Principal Act is amended by omitting “his or her case” and substituting “a case”.

### ***Division 2—Building Act 1972***

#### **Principal Act**

9. In this Division, “Principal Act” means the *Building Act 1972*.

#### **Grant of building permits**

10. Section 31 of the Principal Act is amended by omitting subsections (1A), (1B), (2) and (3) and substituting the following subsection:

“(2) The Building Controller shall not approve plans in respect of building work—

- (a) where the building work relates to the external design and siting of a building—unless the Territory Planning Authority has, on the basis of those plans, given an approval under section 6 of the *Buildings (Design and Siting) Act 1964*; or
- (b) where the building work is to be carried out on land that is a Designated Area—if the work is prohibited by section 12 of the *Australian Capital Territory (Planning and Land Management) Act 1988* of the Commonwealth.”.

#### **Repeal**

11. Section 31A of the Principal Act is repealed.

### ***Division 3—Buildings (Design and Siting) Act 1964***

#### **Principal Act**

12. In this Division, “Principal Act” means the *Buildings (Design and Siting) Act 1964*.

### **Interpretation**

**13.** Section 3 of the Principal Act is amended—

(a) by omitting the definition of “external design” and substituting the following definition:

“ ‘external design’, in relation to a building, means any matter affecting the appearance of the exterior of the building and includes—

- (a) any alteration (including by way of demolition of part of the building) to the exterior of the building;
- (b) demolition of the building;
- (c) any car park adjacent to the building;
- (d) any sign affixed to, or created on, the exterior of the building or erected adjacent to the building; and
- (e) any excavation (other than excavation for the purposes of constructing the building) or other modification to the landscape of the parcel of land on which the building is, or is proposed to be, built;

but does not include—

- (f) work or work included in a class of works prescribed for the purposes of paragraph (c) of the definition of “public works” in section 4 of the Land Act; or
- (g) prescribed works;” and

(b) by inserting the following definitions:

“ ‘applied Part’ means Part VI of the Land Act as applied by section 6;

‘Authority’ means the Australian Capital Territory Planning Authority;

‘Land Act’ means the *Land (Planning and Environment) Act 1991*;



‘landscape’ means the inherent character of the physical environment created by its topography, geology, hydrology, soil and vegetation, as modified by human intervention;

‘Plan’ has the same meaning as in the Land Act;

‘sign’ includes a thing carrying, used as or intended to carry or to be used as an advertisement;

‘Territory authority’ has the same meaning as in the Land Act;”.

### **Substitution**

**14.** Sections 4, 5 and 6 of the Principal Act are repealed and the following sections substituted:

#### **Act not to apply to Designated Areas**

“4. This Act does not apply in relation to a building on land that is a Designated Area.

#### **Crown**

“5. (1) This Act binds the Crown.

“(2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

#### **Application of Part VI of the Land Act**

“6. Part VI of the Land Act applies in relation to a proposal for the external design and siting of a building as if—

- (a) a reference to the external design and siting of a building within the meaning of this Act appeared as an item in Column 2 of Schedule 4 to that Act and corresponding references to the Minister and to the sum of \$20,000 appeared in Columns 3 and 4 (respectively) of that Schedule in relation to that item;
- (b) a reference to the external design and siting of a building within the meaning of this Act appeared as an item in Column 2 of Schedule 5 to that Act and a corresponding reference to the sum of \$20,000 appeared in Column 3 of that Schedule in relation to that item; and
- (c) all references to the Minister in that Part (except those in Division 4) were references to the Authority.

### **Erection of signs by Territory**

“6A. The Territory or a Territory authority is not required to obtain approval under the applied Part in order to erect a sign if—

- (a) the sign is being erected in accordance with a law of the Territory; and
- (b) the Authority is satisfied that the erection of the sign is consistent with the Plan.”.

### **Substitution**

**15.** Sections 8, 9, 10 and 11 are repealed and the following section is substituted:

### **Delegation**

“8. The Authority may, by instrument, delegate all or any of its powers under this Act to a public servant.”.

### **Regulations**

**16.** Section 14 of the Principal Act is amended by adding at the end the following subsection:

“(2) Without limiting the generality of subsection (1), the regulations may make provision in relation to—

- (a) the exemption of the Territory or a Territory authority from the requirements of all or any of the provisions of the applied Part;
- (b) circumstances (whether generally or in a particular case) in which an exemption under paragraph (a) applies; or
- (c) circumstances in which persons (other than applicants for approval under the applied Part) are not entitled to apply for the review of decisions under that Part.”.

#### ***Division 4—Cemeteries Act 1933***

##### **Trustees of cemeteries**

17. Section 6 of the *Cemeteries Act 1933* is amended by inserting after subsection (4) the following subsection:

“(4A) A body corporate constituted under this section shall manage a public cemetery or private burial ground in accordance with—

- (a) the management objectives for a cemetery or burial ground specified in Schedule 1 to the *Land (Planning and Environment) Act 1991*; and
- (b) any Plan of Management under that Act that applies to the cemetery or burial ground, as varied and in effect from time to time.”.

#### ***Division 5—Dividing Fences Act 1981***

##### **Principal Act**

18. In this Division, “Principal Act” means the *Dividing Fences Act 1981*.

##### **Long title**

19. The title of the Principal Act is amended by adding at the end “and party walls”.

##### **Substitution**

20. Section 1 of the Principal Act is repealed and the following section substituted:

##### **Short title**

“1. This Act may be cited as the *Common Boundaries Act 1981*.”.

##### **Insertion**

21. After section 22 of the Principal Act, the following Division and Part are inserted:

#### ***Division 2—Fences required by Minister***

##### **Boundary between leased and unleased land**

“23. Where there is a common boundary between a parcel of leased Territory Land and an area of unleased Territory Land the Minister may, by

notice in writing to the lessee of the parcel of leased land, require the lessee to erect a fence on that boundary or any part of it.

### **Boundary between 2 parcels of leased land**

“24. Where there is a common boundary between 2 parcels of leased Territory Land included in different leases, the Minister may, by notice in writing to each lessee, require them jointly to erect a fence on that boundary or any part of it.

### **Notice**

“25. A notice under section 23 or 24 shall specify the fence to be erected and the portion of the boundary on which it is to be erected.

### **Non-compliance**

“26. If a fence in compliance with a notice is not erected within 1 month after the date of the notice—

- (a) the Minister may, at the cost of the lessee, cause the fence to be erected; and
- (b) the lessee shall pay to the Minister, on demand, the amount fixed by the Minister as the cost of erecting the fence or as the proportion payable by the lessee of that cost.

## **“PART III—PARTY WALLS**

### **Interpretation**

“27. In this Part—

‘party wall’—

- (a) means a wall or structure designed for the common use of 2 or more buildings and erected, or to be erected, on a common boundary, or part of such a boundary, between 2 parcels of land, and extending laterally into each of those parcels of land; and
- (b) includes any wall that is wholly or partly used for the support of 2 or more buildings, being a wall that was erected in connection with a building in respect of which there is applicable a certificate—
  - (i) of the kind referred to in regulation 69A of the Canberra Building Regulations as in force at the

time of the issue of the certificate under the *Buildings and Services Act 1924* or under that Act as subsequently amended;

- (ii) of the kind referred to in regulation 69A of the Canberra Building Regulations as in force at the time of the issue of the certificate under the *Building Act 1972*; or
- (iii) issued under subsection 53 (2) or (3) of the *Building Act 1972*.

### **Erection of party walls**

“28. Where in any building plan or design prepared or approved by the proper authority, or in plans and specifications approved by the Building Controller, for buildings to be erected on land that is leased Territory Land a party wall is shown or provided for on the common boundary, or part of that boundary, between 2 parcels of land that are leased Territory Land—

- (a) the lessee of each parcel of land may, during the continuance of his or her lease—
  - (i) erect, maintain and use a party wall in the position shown on the building plan or design; and
  - (ii) use for the support of the building or buildings provided for in, or shown on, the building plan or design and erected on the parcel of land of which he or she is lessee any party wall so erected;
- (b) the lessees of the 2 parcels of land may agree as to the lessee by whom the party wall shall be erected and in what proportions the cost of erection shall be borne by them;
- (c) where the lessee of 1 parcel of land has at his or her own expense erected a party wall—the lessee of the other parcel of land shall forthwith after commencing the erection of a building on the other parcel of land pay to the first-mentioned lessee a proportion of the cost of the erection of the party wall;
- (d) in default of agreement between the lessees as to the apportionment of the cost of erecting a party wall—the Minister may, at the request of either lessee, determine the cost of erecting

the party wall and the proportion of the cost to be borne by each lessee;

- (e) where any period has elapsed between the date of the completion of a party wall by the lessee of 1 parcel of land and the date of the commencement of the erection of a building on the other parcel of land—a reasonable allowance shall be made for depreciation of the party wall in determining the proportion payable by the other lessee of the cost of erection of the party wall; and
- (f) the amount agreed on, or determined by the Minister, as payable by 1 lessee to another lessee under this section shall be a debt due and recoverable by the other lessee in any court of competent jurisdiction.”.

#### ***Division 6—Real Property Act 1925***

##### **Substitution**

**22.** Section 72A of the *Real Property Act 1925* is repealed and the following sections are substituted:

##### **Registration of variations**

“72A. (1) Where a variation of a Crown lease has been executed by the Executive in accordance with the Land Act, the Executive shall lodge a copy of the variation with the Registrar.

“(2) On receipt of a copy of a variation under subsection (1), the Registrar shall endorse on the folium of the Register Book constituted by the relevant certificate of title a memorial in accordance with this Act.

##### **Registration of orders etc.**

“72AB. Where—

- (a) the Registrar receives—
  - (i) notice of the making of an order under section 257 of the Land Act; or
  - (ii) a copy of an order, or a revocation of an order, under section 260 of the Land Act; and
- (b) the order or revocation purports to affect a Crown lease;

the Registrar shall endorse on the folium of the Register Book constituted by the relevant certificate of title a memorial in accordance with this Act.”.

***Division 7—Other amendments***

**Amendments of Acts**

**23.** The Acts specified in Schedule 1 are amended as set out in that Schedule.

**PART III—REPEALS**

**Acts repealed**

**24.** The Acts specified in Schedule 2 are repealed.

**PART IV—SAVINGS AND TRANSITIONALS**

***Division 1—General provisions***

**Leases and licences**

**25. (1)** Subject to subsection (2) and Division 3, a lease or licence granted or continued, or purported to have been granted or continued, under a repealed Act and in force immediately before the commencement day, on and after that day, is to be taken to have been granted under the Land Act.

**(2)** Subsection (1) does not apply in relation to a lease or licence granted or continued, or purported to have been granted or continued, under the following:

- (a) the *Australian National University (Leases) Act 1967*;
- (b) the *Canberra College of Advanced Education (Leases) Act 1977*;
- (c) the *Church Lands Leases Act 1924*.

**Applications**

**26.** Notwithstanding section 24, a repealed Act shall continue to apply in relation to—

- (a) an application made but not determined under that Act before the commencement day; and
- (b) the review by a court or other tribunal of a decision in relation to such an application.

**Determined fees**

**27. (1)** A determination in respect of a fee payable under a continuing provision, being a determination in force immediately before the

commencement day, continues in force on and after that day for the purposes of that provision.

(2) In subsection (1)—

“continuing provision” means a provision of a repealed Act that continues to apply on and after the commencement day by virtue of the operation of Division 3.

### ***Division 2—Buildings (Design and Siting) Act 1964***

#### **Interpretation**

28. In this Division—

“amended Act” means the *Buildings (Design and Siting) Act 1964* as amended by this Act;

“public works” has the same meaning as in the Land Act;

“special dwelling” has the same meaning as in the Plan;

“Tribunal” means the Administrative Appeals Tribunal.

#### **Heritage places**

29. (1) During the period of 12 months after the commencement day, the Authority may make an order under Division 3 of the applied Part directing a person to stop, or not to commence, work in relation to the external design or siting of a building within the meaning of the amended Act if the building is built, or is intended to be built, on a place—

- (a) that the Heritage Council proposes to include in an interim Heritage Places Register under the Land Act; or
- (b) that, in the opinion of the Heritage Council based on reasonable grounds, may be included in such a Register.

(2) The Authority shall not make an order under subsection (1) unless agreement with the order proposed has been obtained in writing from the Heritage Council.

(3) A person who, without reasonable excuse, contravenes an order made under subsection (1) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—\$20,000; or
- (b) if the offender is a body corporate—\$100,000.



### **Certain provisions of applied Part not to apply**

**30.** Until the day on which regulations under the amended Act specifying circumstances referred to in paragraph 14 (2) (c) of that Act commence—

- (a) sections 229 and 276 of the applied Part do not apply in relation to a proposal for the external design and siting of—
  - (i) a building built, or intended to be built, on a parcel of land in respect of which a lease has been granted for residential purposes or purposes that include residential purposes if the proposal complies with the relevant quantitative standards set out in the Plan;
  - (ii) a building or other structure built, or intended to be built, on a parcel of land in respect of which a lease has been granted for industrial or commercial purposes or purposes that include industrial or commercial purposes if the proposal complies with the development conditions for that land;
  - (iii) public works that comply with the relevant controls and standards that the Authority proposes to set out in the Plan; or
  - (iv) a sign, the erection of which is consistent with the Plan; and
- (b) paragraph 229 (1) (b) of the applied Part does not apply in relation to a proposal for the external design and siting of a building intended for use as a special dwelling that does not comply with the relevant quantitative standards set out in the Plan.

### **Amended Act not to apply to certain works**

**31.** The amended Act does not apply in relation to—

- (a) capital works listed in the 1991-1992 Budget Paper No. 6 entitled “Capital Works 1991-1992”; or
- (b) public works for which the Territory entered into a contract before the commencement day.

### **Approval of certain building work**

**32. (1)** The Authority shall, by instrument, grant approval of the external design and siting of unapproved work if—

- (a) an application for approval is lodged in writing with the Authority within 12 months after the commencement day; and
  - (b) the Authority is satisfied that the external design and siting of the work complies with the external design and siting criteria set out in the Plan.
- (2) An approval granted under subsection (1) shall be deemed to have been granted under section 6 of the former Act.
- (3) In this section—
- “former Act” means the *Buildings (Design and Siting) Act 1964* as in force immediately before the commencement day;
- “unapproved work” means building work completed before the commencement day, the external design and siting of which had not been approved under the former Act.

### **Review of decisions**

**33. (1)** A person whose interests are affected by a decision of the Authority—

- (a) to make an order under subsection 29 (1); or
- (b) refusing to grant an approval under subsection 32 (1);

may apply to the Tribunal for a review of that decision.

(2) Where the Authority makes a decision of a kind referred to in subsection (1), the Authority shall cause notice of the decision to be given to—

- (a) the person to whom the order is directed or the applicant for the approval; and
- (b) any other person whose interests are, in the opinion of the Authority, adversely affected by the decision.

(3) A notice under subsection (2) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected

by the decision may request a statement pursuant to section 26 of that Act.

(4) The validity of a decision to which this section applies is not to be taken to be affected by a failure to comply with subsection (3).

### ***Division 3—Other specific provisions***

#### ***Australian National University (Leases) Act 1967***

34. Notwithstanding the repeal of the *Australian National University (Leases) Act 1967*, that Act continues to apply in relation to a lease granted under, or continued in force, by that Act and in force immediately before the commencement day.

#### ***Canberra College of Advanced Education (Leases) Act 1977***

35. (1) Notwithstanding the repeal of the *Canberra College of Advanced Education (Leases) Act 1977* and subject to subsection (2), that Act continues to apply in relation to a lease granted under that Act and in force immediately before the commencement day.

(2) For the purposes of subsection (1), section 5 of the *Canberra College of Advanced Education (Leases) Act 1977* is to be taken to apply as if that section had been amended by omitting “in perpetuity”.

#### ***Cemeteries Act 1933***

36. (1) A Proclamation under section 4 of the *Cemeteries Act 1933* in force immediately before the commencement day (in this section called a “current Proclamation”) continues in force on and after that day until the day on which a provision of the Plan that reserves cemeteries and burial grounds commences (in this section called the “reservation date”).

(2) Notwithstanding the repeal of section 4 of the *Cemeteries Act 1933*, subsection 4 (2) of that Act continues to apply in relation to land the subject of a current Proclamation until the reservation date.

#### ***Church Lands Leases Act 1924***

37. Notwithstanding the repeal of the *Church Lands Leases Act 1924*, sections 5, 6, 8 and 10 of that Act continue to apply in relation to a lease granted under that Act and in force immediately before the commencement day.

### ***City Area Leases Act 1936***

**38. (1)** In a continuing lease, a reference to improvements shall be read as a reference to improvements other than improvements by way of clearing, draining, grading, filling, excavating or levelling made by the Territory or the Commonwealth or the cost of which the Territory or the Commonwealth has paid.

**(2)** Notwithstanding the repeal of the *City Area Leases Act 1936*, the following sections of that Act continue to apply:

- (a) in so far as the section relates to a continuing lease in which provision is made for the land comprised in the lease to be used for a purpose specified in subsection 8A (1) of that Act—section 8A;
- (b) until the day on which provisions of the Plan setting out principles and policies relating to the use of residential land for carrying on a profession, trade, occupation or calling on that land commence and in so far as the section relates to a continuing lease specified in subsection 10 (1) of that Act—section 10;
- (c) in so far as the section relates to a variation of a continuing lease in respect of which notice under section 18A of that Act was given before the commencement day—section 18B;
- (d) in so far as the section relates to a continuing lease in respect of which notice under the section was given before the commencement day—section 22;
- (e) in so far as the section relates to a continuing lease specified in subsection 28A (1) of that Act—section 28A;
- (f) in so far as the section relates to a continuing lease specified in subsection 28DA (1) of that Act—section 28DA;
- (g) in so far as the section relates to a sub-lease specified in subsection 30A (2) of that Act and in force immediately before the commencement day—section 30A.

**(3)** In this section—

“continuing lease” means a lease granted or continued, or purported to have been granted or continued, under the *City Area Leases Act 1936* and to which section 25 applies.

**Environmental impact assessments etc.**

**39. (1)** An environmental impact assessment or similar report authorised by the Minister and prepared before the commencement day, on and after that day is to be taken to be—

- (a) if the assessment or report satisfies the requirements of Division 2 of Part IV of the Land Act—a preliminary assessment prepared under section 113 of that Act; or
- (b) if the assessment or report satisfies the requirements of Division 3 of Part IV—an Assessment made under section 121 of the Land Act.

**(2)** An environmental impact assessment or similar report authorised by the Minister and being prepared but not completed before the commencement day, on and after that day is to be taken to be—

- (a) if the assessment or report, when prepared, would satisfy the requirements of Division 2 of Part IV of the Land Act—a preliminary assessment being prepared under section 113 of that Act; or
- (b) if the assessment or report, when prepared, would satisfy the requirements of Division 3 of Part IV of the Land Act—an Assessment being made under section 121 of that Act.

***Interim Planning Act 1990***

**40. (1)** An act or thing done by, on behalf of or in relation to, or taken to have been done by, on behalf of or in relation to, the old Authority is, on and after the commencement day, to be taken to have been done by, on behalf of or in relation to the new Authority.

**(2)** Anything done in relation to the variation of the Plan by the old Authority in accordance with a provision of Part III of the *Interim Planning Act 1990* before the commencement day, on and after that day, is to be taken to have been done in relation to the variation of the Plan by the new Authority in accordance with the corresponding provision of Division 3 of Part II of the Land Act.

**(3)** Without limiting the generality of subsection (2), anything done by the old Authority under section 25 of the *Interim Planning Act 1990*, on and after the commencement day, is to be taken to have been done by the new Authority under section 32 of the Land Act.

**(4)** A direction—

- (a) given by the Executive under paragraph 19 (1) (b) of the *Interim Planning Act 1990* in relation to a draft variation of the Plan, other than a draft variation re-submitted under section 20 of that Act; and
- (b) in force immediately before the commencement day;

on and after that day, is to be taken to be a direction given by the Executive under paragraph 26 (1) (b) of the Land Act.

(5) The rights, privileges, obligations and liabilities of the old Authority existing immediately before the commencement day are, on and after that day, the rights, privileges, obligations and liabilities of the new Authority.

(6) A contract or agreement entered into, or taken to have been entered into, by the old Authority and in force immediately before the commencement day continues in force on and after that day as if—

- (a) the new Authority were substituted for the old Authority as a party to the contract or agreement; and
- (b) any reference in the contract to, or taken to be a reference to, the old Authority were (except in relation to matters that occurred before that day) a reference to the new Authority.

(7) Where, before the commencement day, a cause of action had arisen, or was taken to have arisen, against the old Authority but proceedings in respect of that cause of action had not been instituted before that day, proceedings in respect of that cause of action may be instituted by or against the new Authority.

(8) Where, before the commencement day, proceedings had been, or were taken to have been, instituted by or against the old Authority in a court, tribunal, commission or other body but those proceedings had not been completed before that day, those proceedings may be continued by or against the new Authority.

(9) In proceedings instituted or continued pursuant to this section, each party to the proceedings has the same rights, and is subject to the same obligations, as if the new Authority were the old Authority and the proceedings had been continued by or against the old Authority.

(10) Where, before the plan provided for by Part III of the *Interim Planning Act 1990* came into effect, it would have been lawful to use any land in a particular way in the exercise of a right derived from an estate in

the land, the establishment of the plan, or the making of any variation to the plan under that Act, does not prevent the use of the land in that way during the term of the estate.

(11) In this section—

“new Authority” means the Australian Capital Territory Planning Authority established under the Land Act;

“old Authority” means the Australian Capital Territory Planning Authority established under the *Interim Planning Act 1990*.

#### ***Leases (Special Purposes) Act 1925***

**41. (1)** Notwithstanding the repeal of the *Leases (Special Purposes) Act 1925*, sections 5AC, 5AD, 5A and 5B of that Act continue to apply in relation to a lease of Territory Land—

- (a) granted under subsection 3 (2) of that Act as in force immediately before 11 May 1989; and
- (b) in force immediately before the commencement day.

(2) Notwithstanding the repeal of the *Leases (Special Purposes) Act 1925*, subsection 5BA (6) of that Act continues to apply in relation to a lease granted under that Act and in force immediately before the commencement day.

#### ***Nature Conservation Act 1980***

**42. (1)** A declaration under section 51 or 52 of the former Act in force immediately before the commencement day continues in force on and after that day until the day on which a provision of the Plan that reserves wilderness areas, national parks and nature reserves commences.

(2) Where immediately before the commencement day the Conservator had prepared a plan of management under section 52B of the former Act in respect of a reserved area but had not published a notice under section 52D of that Act in respect of that plan, on and after the commencement day, the plan of management is to be taken to be a draft Plan of Management prepared under section 197 of the Land Act in respect of that area.

(3) Where immediately before the commencement day the Conservator had prepared a plan of management under section 52B of the former Act in respect of a reserved area and had published a notice under section 52D of that Act in respect of that plan, on and after the

commencement day, the plan of management is to be taken to be a draft Plan of Management prepared under section 197 of the Land Act in respect of that area and the Conservator is to be taken to have complied with section 200 of the Land Act in respect of that draft Plan.

(4) Where immediately before the commencement day the Conservator had prepared a document that, if it had been prepared in respect of a reserved area, would have been a plan of management under section 52B of the former Act in respect of that area, on and after the commencement day—

- (a) the document is to be taken to be a draft Plan of Management prepared under section 197 of the Land Act in respect of that area as if the area were public land; and
- (b) if before the commencement day the Conservator had invited persons to make representations in connection with the document—the Conservator is to be taken to have complied with section 200 of the Land Act in respect of that draft Plan.

(5) A plan of management accepted or adopted under section 52D of the former Act and in effect immediately before the commencement day, on and after that day, is to be taken to be a Plan of Management in effect under Division 5 of Part V of the Land Act.

(6) In this section—

“amended Act” means the *Nature Conservation Act 1980* as amended by this Act;

“former Act” means the *Nature Conservation Act 1980* as in force immediately before the commencement day.

### ***Public Parks Act 1928***

43. A declaration under section 4 of the *Public Parks Act 1928* in force immediately before the commencement day continues in force on and after that day until the day on which a provision of the Plan that reserves urban open spaces commences.

### ***Real Property Act 1925***

44. (1) Section 72A of the former Act continues to apply in relation to a certificate of variation issued under that section before the commencement day and lodged for registration in accordance with that section within 3 months after that day.



(2) In subsection (1)—

“former Act” means the *Real Property Act 1925* as in force immediately before the commencement day.

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**SCHEDULE 1**

Section 23

**AMENDMENTS OF ACTS**

**Part 1**

*Animal Nuisance Control Act 1975*

**Paragraphs 3 (1) (a) and (2) (a)—**

Omit “premises situated within the City Area”, substitute “specified premises”.

**Part 2**

*Buildings (Design and Siting) Act 1964*

**Section 3 (definitions of “Territory Planning Authority” and “the City Area”)—**

Omit the definitions.

**Section 7—**

Omit “Territory Planning Authority”, substitute “Authority”.

**Part 3**

*Casino Control Act 1988*

**Subsection 127A (1)—**

Omit “*Interim Planning Act 1990*”, substitute “Land Act”.

**Subsection 127A (2)—**

Omit “Territory”.

**Section 127A—**

Add the following subsection:

(3) In this section—

‘Land Act’ means the *Land (Planning and Environment) Act 1991*;

‘Plan’ has the same meaning as in the Land Act.

**SCHEDULE 1**—continued**Part 4*****Cemeteries Act 1933*****Subsection 2 (1)**—

- (a) Omit the definition of “private burial ground”, substitute the following definition:

“ ‘private burial ground’ means an area of public land reserved under the Plan as a burial ground;”.

- (b) Insert the following definition:

“ ‘Plan’ has the same meaning as in the *Land (Planning and Environment) Act 1991*;”.

**Section 4**—

Repeal the section.

**Part 5*****Dividing Fences Act 1981*****Insertion**—

Before section 1, insert the following heading:

**“PART I—PRELIMINARY”.**

**Insertion**—

Before section 2, insert the following headings:

**“PART II—DIVIDING FENCES**

***“Division 1—Fences requested by occupiers”.***

**Subsection 2 (1)**—

Insert the following definition:

“ ‘City Area’ means the area that was the City Area for the purposes of the *City Area Leases Act 1936* immediately before that Act was repealed;”.

**SCHEDULE 1—continued**

**Further amendments—**

The following provisions are amended by omitting “this Act” and substituting “this Division”:

Subsections 2 (1), (2), (3), (4), (5) and (6), 4 (7) and 9 (1), paragraphs 9 (2) (a), 10 (1) (a) and 11 (1) (a) and (b), subsection 11 (1) (last occurring), paragraphs 11 (2) (a) and (b), subsections 11 (2) (last occurring) and 13 (1) and (2), section 14, subsection 15 (1), sections 16 and 17, subsections 18 (1) and (3), section 21 and subsection 22 (1).

**Part 6**

***Electricity and Water Act 1988***

**Section 7—**

Repeal the section.

**Part 7**

***Nature Conservation Act 1980***

**Section 5—**

- (a) Omit the definition of “reserved area”, substitute the following definition:

“ ‘reserved area’ means an area of public land reserved under the Plan as a wilderness area, national park or nature reserve;”.

- (b) Omit the definition of “wilderness zone”.

- (c) Insert the following definitions:

“ ‘Plan’ has the same meaning as in the *Land (Planning and Environment) Act 1991*;

‘wilderness area’ means an area of public land reserved under the Plan as a wilderness area;”.

**Subsections 15 (1), (2) and (3)—**

Omit “Nature Conservation Service”, substitute “Australian Capital Territory Parks and Conservation Service”.

**Heading to Part VI—**

Omit “AND WILDERNESS ZONES”.

**SCHEDULE 1**—continued

**Division 1 of Part VI—**

Repeal the Division.

**Subsection 60 (1)—**

Omit “or wilderness zone”.

**Further amendments—**

The following provisions are amended by omitting “wilderness zone” and substituting “wilderness area”:

Subsection 56 (4), section 59 (first occurring), subparagraph 59 (c) (ii), subsection 60A (1), paragraph 61 (1) (kc), subsections 62 (5), 62A (1), (2) and (3) and 63 (3) and paragraph 65 (1) (p).

**Part 8**

***Public Parks Act 1928***

**Section 3—**

- (a) Omit the definition of “Public Park”, substitute the following definition:

“ ‘Public Park’ means an area of public land reserved under the Plan as an urban open space;”.

- (b) Insert the following definition:

“ ‘Plan’ has the same meaning as in the *Land (Planning and Environment) Act 1991*;”.

**Sections 4, 6, 7, 8 and 11A—**

Repeal the sections.

**Part 9**

***Real Property Act 1925***

**Paragraph 6 (1) (a)—**

- (a) Omit the definition of “City Area”.

- (b) Insert the following definition:

“ ‘Land Act’ means the *Land (Planning and Environment) Act 1991*;”.

**SCHEDULE 1—continued**

**Subsections 72C (1) and (2)—**

Omit “section twenty-eight of the *City Area Leases Act 1936-1959*”, substitute “section 179 of the Land Act”.

**Heading to Division 5 of Part X—**

Omit “*Land Rent and Rates (Deferment) Act 1970*”, substitute “*Rates and Land Rent (Relief) Act 1970*”.

**Part 10**

***Unit Titles Act 1970***

**Section 5—**

(a) Omit the definition of “the City Area Leases Act”.

(b) Insert the following definition:

“ ‘Land Act’ means the *Land (Planning and Environment) Act 1991*;”.

**Paragraph 18A (4) (c)—**

Omit “sub-section 28 (3) of the *City Area Leases Act 1936-1975*”, substitute “subsection 180 (2) of the Land Act”.

**Section 28—**

Omit “in pursuance of an order of the Court under section 11A of the City Area Leases Act”, substitute “pursuant to an approval under Part VI of the Land Act”.

**Subsection 36 (2)—**

Omit “a certificate in pursuance of sub-section 28 (2A) of the *City Area Leases Act 1936-1975*”, substitute “a certificate issued under section 179 of the Land Act”.

**Subsection 98 (4)—**

Omit “under section 11A of the City Area Leases Act”, substitute “in accordance with the Land Act”.

**Further amendments—**

The following provisions are amended by omitting “City Area Leases Act” and substituting “Land Act”:

**SCHEDULE 1**—continued

Section 5 (paragraph (c) of the definition of “lease”), subsections 11 (1) and 16 (3), paragraphs 21 (b), 25 (1) (b) and (c) and 98 (1) (d) and subsections 110 (1) and (2).

**SCHEDULE 2**

Section 24

**ACTS REPEALED**

*Australian National University (Leases) Act 1967*  
*Australian National University (Leases) (Amendment) Act 1980*  
*Canberra College of Advanced Education (Leases) Act 1977*  
*Canberra College of Advanced Education (Leases) (Amendment) Act 1979*  
*Church Lands Leases Act 1924*  
*Church Lands Leases Act 1927*  
*Church Lands Leases Act 1930*  
*Church Lands Leases Act 1932*  
*Church Lands Leases (Amendment) Act 1986*  
*City Area Leases Act 1936*  
*City Area Leases Act (No. 2) 1936*  
*City Area Leases Act (No. 3) 1936*  
*City Area Leases Act 1938*  
*City Area Leases Act 1947*  
*City Area Leases Act 1950*  
*City Area Leases Act 1951*  
*City Area Leases Act 1957*  
*City Area Leases Act 1961*  
*City Area Leases Act 1963*  
*City Area Leases Act 1964*  
*City Area Leases Act 1967*  
*City Area Leases Act 1968*  
*City Area Leases Act (No. 2) 1968*  
*City Area Leases Act 1969*  
*City Area Leases Act 1970*  
*City Area Leases Act 1971*

**SCHEDULE 2**—continued

*City Area Leases Act 1973*  
*City Area Leases Act (No. 2) 1973*  
*City Area Leases Act 1974*  
*City Area Leases Act (No. 2) 1974*  
*City Area Leases Act (No. 3) 1974*  
*City Area Leases Act (No. 4) 1974*  
*City Area Leases Act (No. 5) 1974*  
*City Area Leases Act 1975*  
*City Area Leases Act 1976*  
*City Area Leases Act (No. 2) 1976*  
*City Area Leases (Amendment) Act 1977*  
*City Area Leases (Amendment) Act 1978*  
*City Area Leases (Amendment) Act 1979*  
*City Area Leases (Amendment) Act 1982*  
*City Area Leases (Amendment) Act 1983*  
*City Area Leases (Amendment) Act (No. 2) 1983*  
*City Area Leases (Amendment) Act 1984*  
*City Area Leases (Amendment) Act 1986*  
*City Area Leases (Amendment) Act (No. 2) 1986*  
*City Area Leases (Amendment) Act 1987*  
*City Area Leases (Amendment) Act 1991*  
*Interim Planning Act 1990*  
*Interim Territory Planning Act 1988*  
*Land Valuation Act 1936*  
*Land Valuation Act (No. 2) 1936*  
*Land Valuation Act 1967*  
*Land Valuation Act 1970*  
*Land Valuation Act (No. 2) 1970*  
*Land Valuation (Amendment) Act 1978*  
*Land Valuation (Amendment) Act 1982*  
*Leases Act 1918*  
*Leases Act 1919*  
*Leases Act 1925*

**SCHEDULE 2**—continued*Leases Act 1926**Leases Act 1927**Leases Act 1933**Leases Act (No. 2) 1933**Leases Act 1936**Leases Act 1955**Leases Act 1958**Leases Act 1972**Leases (Amendment) Act 1982**Leases (Special Purposes) Act 1925**Leases (Special Purposes) Act 1927**Leases (Special Purposes) Act 1929**Leases (Special Purposes) Act 1930**Leases (Special Purposes) Act 1932**Leases (Special Purposes) Act 1936**Leases (Special Purposes) Act 1943**Leases (Special Purposes) Act 1970**Leases (Special Purposes) (Amendment) Act 1981**Leases (Special Purposes) (Amendment) Act 1986***NOTE ABOUT SECTION HEADINGS**

On the day on which the Acts referred to below are amended by this Act, headings to sections of those Acts are altered as set out in the following table:

Section

Alteration

7

***Buildings (Design and Siting) Act 1964***Omit from the heading “**Commission**”, substitute “**Authority**”.

15

***Nature Conservation Act 1980***

Omit the heading, substitute the following heading:

**Australian Capital Territory Parks and Conservation Service**



**SCHEDULE 2**—continued

62A

Omit from the heading “**zones**”, substitute “**areas**”.

*[Presentation speech made in Assembly on  
12 December 1991]*

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