



Australian Capital Territory

# Planning and Environment Legislation Amendment Act 2019

A2019-20

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Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

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Australian Capital Territory

# Planning and Environment Legislation Amendment Act 2019

**A2019-20**

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An Act to amend legislation about planning and the environment, and for other purposes

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Planning and Environment Legislation Amendment Act 2019*.

### 2 Commencement

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

### 3 Legislation amended

This Act amends the following legislation:

- [Commissioner for Sustainability and the Environment Act 1993](#)
- [Environment Protection Act 1997](#)
- [Environment Protection Regulation 2005](#)
- [Nature Conservation Act 2014](#)
- [Planning and Development Act 2007](#)
- [Stock Act 2005](#).

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## Part 2 Commissioner for Sustainability and the Environment Act 1993

### 4 Special reports Section 21 (2)

*substitute*

- (2) For a special report required by the Minister under subsection (1) (a), the Minister must—
- (a) for a report about a matter for which the Minister is responsible—within 6 months after the day of receiving the report, present to the Legislative Assembly a statement that sets out the response of the government to the report; or
  - (b) for a report about a matter for which another Minister is responsible—within 10 working days after the day of receiving the report, give the report to the Minister responsible for the matter; or
  - (c) for a report about a matter for which the Minister and another Minister are responsible—within 6 months after the day of receiving the report, in consultation with the other Minister, present to the Legislative Assembly a statement that sets out the response of the government to the report.
- (3) For a special report given to a Minister responsible for the matter under subsection (2) (b), the Minister responsible for the matter must, within 6 months after the day of receiving the report, present to the Legislative Assembly a statement that sets out the response of the government to the report.

(4) In this section:

*administrative arrangements* means a determination made under the *Public Sector Management Act 1994*, section 14 (1).

*matter*, for which a Minister is responsible, means a matter mentioned in the administrative arrangements, for which responsibility is allocated to a Minister.



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## Part 3 Environment Protection Act 1997

### 5 Conduct of audits New section 74 (2)

*insert*

- (2) An environmental audit must consider—
- (a) the provisions of this Act; and
  - (b) the permitted and approved uses of the land to which the audit relates; and
  - (c) any relevant environmental protection policies; and
  - (d) any relevant national environment protection measures.

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

### 6 Definitions for div 9.5 New section 91A (2) (b) (iia)

*insert*

- (iia) if the land is suitable for a specified use or range of uses, having regard to any contamination or remaining contamination of the land;

### 7 Order to assess whether land contaminated Section 91C (5)

*omit*

conduct the assessment

*substitute*

conduct the audit of the assessment

**8 Order to remediate land  
Section 91D (5)**

*omit*

remediation

*substitute*

audit of the remediation

**9 Section 91D (5) (b)**

*omit*

assessment

*substitute*

remediation

## Part 4 Environment Protection Regulation 2005

### 10 Section 66C

*substitute*

#### 66C Development sites less than 0.3ha

- (1) A person who is in charge of development on a development site commits an offence if—
  - (a) the site is less than 0.3ha; and
  - (b) the person does not install and maintain on site erosion and sediment control measures—
    - (i) if it is a condition of a development approval that measures be installed and maintained—in accordance with the condition; or
    - (ii) otherwise as approved by a certifier for building work.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

*certifier*, for building work—see the *Building Act 2004*, dictionary.

## Part 5 Nature Conservation Act 2014

### 11 Chapter 6 exceptions New section 153 (2) (b) (iii)

*insert*

- (iii) a licence under the *Planning and Development Act 2007*, section 303 (Decision on licence applications for unleased land); or

### 12 Chapter 9 exceptions New section 252 (2) (b) (v)

*insert*

- (v) a licence under the *Planning and Development Act 2007*, section 303 (Decision on licence applications for unleased land); or

### 13 Part 10.2 exceptions Section 261 (2) (a) (ii)

*substitute*

- (ii) a licence under the *Planning and Development Act 2007*, section 303 (Decision on licence applications for unleased land); or

### 14 New section 262A

*insert*

#### 262A Who is an *influential person* for a corporation?—ch 11

- (1) In this chapter:

*influential person*, for a corporation, means any of the following:

- (a) an executive officer of the corporation;

- (b) a person who may exercise a relevant power in relation to the corporation;
  - (c) a related corporation;
  - (d) an executive officer of a related corporation.
- (2) In this section:

***related corporation*** means a related body corporate under the [Corporations Act](#).

***relevant power***, for a corporation, means a power—

- (a) to take part in a directorial, managerial or executive decision for the corporation; or
- (b) to elect or appoint a person as an executive officer in the corporation; or
- (c) to exercise a significant influence in relation to the conduct of the corporation.

## 15 **Receipt for things seized** **Section 350 (3) (d) (ii)**

*omit*

an animal

*substitute*

a living animal

## 16 **Dictionary, new definition of *influential person***

*insert*

***influential person***, for a corporation, for chapter 11 (Nature conservation licences)—see section 262A.

## Part 6 Planning and Development Act 2007

### 17 Effect of draft plan variations given to Minister Section 72 (3), definition of *defined period*, paragraph (b) (iv)

*omit*

1 year after

*substitute*

18 months after the

### 18 Minister's powers in relation to draft plan variations Section 76 (1) (a)

*substitute*

- (a) the Minister is given a draft plan variation under section 69 and—
- (i) section 73A applies; or
  - (ii) section 74 (2) (b) applies; or
  - (iii) section 75 applies and the Minister decides to take action in accordance with this section; or

### 19 End of development approvals for lease variations New section 185 (2) (b) (iia)

*insert*

- (iia) if, in relation to a decision under section 263 about the payout amount for a concessional lease, an application for review to the ACAT is made—the period of 2 years starting on the day the application is decided, withdrawn, dismissed or struck out; or

**20 Decision on rent payout lease variation application  
New section 272B (3A)**

*insert*

- (3A) If the amount mentioned in subsection (2) (d) has not been paid within 12 months from the day the notice under subsection (3) is given, the authority's decision to vary the lease is revoked.

**21 New chapter 25**

*insert*

## **Chapter 25 Transitional—Planning and Environment Legislation Amendment Act 2019**

**500 Meaning of *commencement day*—ch 25**

In this chapter:

*commencement day* means the day the *Planning and Environment Legislation Amendment Act 2019*, section 3 commences.

**501 Defined period for draft plan variation to which section 72 applies**

- (1) This section applies to a draft plan variation to which section 72 (Effect of draft plan variations given to Minister) applies if the defined period for the draft plan variation—
- (a) started before the commencement day; and
  - (b) did not end before the commencement day.
- (2) The defined period, as in force on the commencement day, applies to the draft plan variation.

**502 Decision on rent payout lease variation made before commencement day**

- (1) This section applies to a lessee if—
  - (a) before the commencement day, the authority decided under section 272B (Decision on rent payout lease variation application) to vary the lessee’s lease; and
  - (b) immediately before the commencement day, the amount mentioned in section 272B (2) (d) has not been paid.
- (2) If the amount mentioned in section 272B (2) (d) has not been paid within 12 months from the commencement day, the authority’s decision to vary the lease is revoked.
- (3) The planning and land authority must give a lessee to whom this section applies written notice of the operation of subsection (2) within 14 days after the commencement day.

**503 Expiry—ch 25**

This chapter expires 12 months after the commencement day.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).



## Part 7                      Stock Act 2005

### 22            Disposing of impounded stock Section 39 (2)

*omit*

must

*substitute*

may

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 16 May 2019.

**2 Notification**

Notified under the [Legislation Act](#) on 8 August 2019.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Planning and Environment Legislation Amendment Bill 2019, which was passed by the Legislative Assembly on 30 July 2019.

Clerk of the Legislative Assembly

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