

2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment and Heritage)

Planning and Environment Legislation Amendment Bill 2019

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Planning and Environment Legislation Amendment Bill 2019

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

6 This Act commences on the day after its notification day.

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

9 **3 Legislation amended**

10 This Act amends the following legislation:

- 11 • [Commissioner for Sustainability and the Environment Act 1993](#)
- 12 • [Environment Protection Act 1997](#)
- 13 • [Environment Protection Regulation 2005](#)
- 14 • [Nature Conservation Act 2014](#)
- 15 • [Planning and Development Act 2007](#)
- 16 • [Stock Act 2005](#).

1 **Part 2** **Commissioner for Sustainability**
2 **and the Environment Act 1993**

3 **4 Special reports**
4 **Section 21 (2)**

5 *substitute*

- 6 (2) For a special report required by the Minister under subsection (1) (a),
7 the Minister must—
- 8 (a) for a report about a matter for which the Minister is
9 responsible—within 6 months after the day of receiving the
10 report, present to the Legislative Assembly a statement that sets
11 out the response of the government to the report; or
- 12 (b) for a report about a matter for which another Minister is
13 responsible—within 10 working days after the day of receiving
14 the report, give the report to the Minister responsible for the
15 matter; or
- 16 (c) for a report about a matter for which the Minister and another
17 Minister are responsible—within 6 months after the day of
18 receiving the report, in consultation with the other Minister,
19 present to the Legislative Assembly a statement that sets out the
20 response of the government to the report.
- 21 (3) For a special report given to a Minister responsible for the matter
22 under subsection (2) (b), the Minister responsible for the matter must,
23 within 6 months after the day of receiving the report, present to the
24 Legislative Assembly a statement that sets out the response of the
25 government to the report.

- 1 (4) In this section:
- 2 *administrative arrangements* means a determination made under the
- 3 *Public Sector Management Act 1994*, section 14 (1).
- 4 *matter*, for which a Minister is responsible, means a matter mentioned
- 5 in the administrative arrangements, for which responsibility is
- 6 allocated to a Minister.

1 Part 3 Environment Protection Act 1997

2 **5 Conduct of audits** 3 **New section 74 (2)**

4 *insert*

5 (2) An environmental audit must consider—

- 6 (a) the provisions of this Act; and
7 (b) the permitted and approved uses of the land to which the audit
8 relates; and
9 (c) any relevant environmental protection policies; and
10 (d) any relevant national environment protection measures.

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

14 **6 Definitions for div 9.5** 15 **New section 91A (2) (b) (iia)**

16 *insert*

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

20 **7 Order to assess whether land contaminated** 21 **Section 91C (5)**

22 *omit*

23 conduct the assessment

24 *substitute*

25 conduct the audit of the assessment

1 **8 Order to remediate land**
2 **Section 91D (5)**

3 *omit*
4 remediation
5 *substitute*
6 audit of the remediation

7 **9 Section 91D (5) (b)**

8 *omit*
9 assessment
10 *substitute*
11 remediation

1 **Part 4** **Environment Protection**
2 **Regulation 2005**

3 **10 Section 66C**

4 *substitute*

5 **66C Development sites less than 0.3ha**

6 (1) A person who is in charge of development on a development site
7 commits an offence if—

8 (a) the site is less than 0.3ha; and

9 (b) the person does not install and maintain on site erosion and
10 sediment control measures—

11 (i) if it is a condition of a development approval that measures
12 be installed and maintained—in accordance with the
13 condition; or

14 (ii) otherwise as approved by a certifier for building work.

15 Maximum penalty: 10 penalty units.

16 (2) An offence against this section is a strict liability offence.

17 (3) In this section:

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

1 **Part 5 Nature Conservation Act 2014**

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

4 *insert*

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

8 **12 Chapter 9 exceptions**
9 **New section 252 (2) (b) (v)**

10 *insert*

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

14 **13 Part 10.2 exceptions**
15 **Section 261 (2) (a) (ii)**

16 *substitute*

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

20 **14 New section 262A**

21 *insert*

22 **262A Who is an *influential person* for a corporation?—ch 11**

23 (1) In this chapter:

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

25 (a) an executive officer of the corporation;

- 1 (b) a person who may exercise a relevant power in relation to the
2 corporation;
- 3 (c) a related corporation;
- 4 (d) an executive officer of a related corporation.
- 5 (2) In this section:
- 6 *related corporation* means a related body corporate under the
7 [Corporations Act](#).
- 8 *relevant power*, for a corporation, means a power—
- 9 (a) to take part in a directorial, managerial or executive decision for
10 the corporation; or
- 11 (b) to elect or appoint a person as an executive officer in the
12 corporation; or
- 13 (c) to exercise a significant influence in relation to the conduct of
14 the corporation.

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

- 17 *omit*
- 18 an animal
- 19 *substitute*
- 20 a living animal

21 **16 Dictionary, new definition of *influential person***

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

1 **Part 6** **Planning and Development**
2 **Act 2007**

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

6 *omit*

7 1 year after

8 *substitute*

9 18 months after the

10 **18** **Minister's powers in relation to draft plan variations**
11 **Section 76 (1) (a)**

12 *substitute*

13 (a) the Minister is given a draft plan variation under section 69
14 and—

15 (i) section 73A applies; or

16 (ii) section 74 (2) (b) applies; or

17 (iii) section 75 applies and the Minister decides to take action
18 in accordance with this section; or

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

21 *insert*

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

1 **20 Decision on rent payout lease variation application**
2 **New section 272B (3A)**

3 *insert*

- 4 (3A) If the amount mentioned in subsection (2) (d) has not been paid within
5 12 months from the day the notice under subsection (3) is given, the
6 authority's decision to vary the lease is revoked.

7 **21 New chapter 25**

8 *insert*

9 **Chapter 25 Transitional—Planning and**
10 **Environment Legislation**
11 **Amendment Act 2019**

12 **500 Meaning of *commencement day*—ch 25**

13 In this chapter:

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

16 **501 Defined period for draft plan variation to which section 72**
17 **applies**

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

- 1 **502 Decision on rent payout lease variation made before**
2 **commencement day**
- 3 (1) This section applies to a lessee if—
- 4 (a) before the commencement day, the authority decided under
5 section 272B (Decision on rent payout lease variation
6 application) to vary the lessee’s lease; and
- 7 (b) immediately before the commencement day, the amount
8 mentioned in section 272B (2) (d) has not been paid.
- 9 (2) If the amount mentioned in section 272B (2) (d) has not been paid
10 within 12 months from the commencement day, the authority’s
11 decision to vary the lease is revoked.
- 12 (3) The planning and land authority must give a lessee to whom this
13 section applies written notice of the operation of subsection (2) within
14 14 days after the commencement day.
- 15 **503 Expiry—ch 25**
- 16 This chapter expires 12 months after the commencement day.
- 17 *Note* Transitional provisions are kept in the Act for a limited time.
18 A transitional provision is repealed on its expiry but continues to have
19 effect after its repeal (see [Legislation Act](#), s 88).

1 **Part 7** **Stock Act 2005**

2 **22** **Disposing of impounded stock**
3 **Section 39 (2)**

4 *omit*

5 *must*

6 *substitute*

7 *may*

Endnotes

1 Presentation speech

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

2 Notification

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

3 Republications of amended laws

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

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