NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENT PROTECTION ACT 2019

As in force at 7 November 2026

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ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 7 November 2026

ENVIRONMENT PROTECTION ACT 2019

An Act to provide for the protection of the environment and for related purposes

Part 1 Introduction

Division 1 Preliminary matters

1 Short title

This Act may be cited as the *Environment Protection Act 2019*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Objects

The objects of this Act are:

(a) to protect the environment of the Territory; and

(b) to promote ecologically sustainable development so that the wellbeing of the people of the Territory is maintained or improved without adverse impact on the environment of the Territory; and

(c) to recognise the role of environmental impact assessment and environmental approval in promoting the protection and management of the environment of the Territory; and

(ca) to recognise the role of environmental licensing of mining activities in promoting the protection and management of the environment of the Territory; and

(d) to provide for broad community involvement during the process of environmental impact assessment, environmental approval and environmental (mining) licensing; and

(e) to recognise the role that Aboriginal people have as stewards of their country as conferred under their traditions and recognised in law, and the importance of participation by Aboriginal people and communities in environmental decision-making processes.

4 Definitions

In this Act:

Aboriginal and Torres Strait Islander corporation means a corporation registered under the CATSI Act.

Aboriginal land, see section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

access authority, see section 8 of the Mineral Titles Act.

acting in an official capacity, in relation to a person, means the person is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

action, see section 5.

action closure certificate means an action closure certificate issued under section 213.

activity site means:

(a) a site on which an action is carried out; or

(b) a mining site on which a regulated mining activity is carried out.

administered Aboriginal and Torres Strait Islander corporation means an Aboriginal and Torres Strait Islander corporation:

(a) for which a special administrator has been appointed under Part 11-2 of the CATSI Act; or

(b) for which a receiver or another controller of its property has been appointed under Part 5.2 of the *Corporations Act 2001* (Cth) as applied by Part 11-3 of the CATSI Act; or

(c) for which an administrator has been appointed under Part 5.3A of the *Corporations Act 2001* (Cth) as applied by Part 11-4 of the CATSI Act; or

(d) that is being wound up under Chapter 5 of the *Corporations Act 2001* (Cth) as applied by Part 11-5 of the CATSI Act.

administrative amendment means an amendment:

(a) correcting a clerical error; or

(b) correcting an error arising from an omission, a material mistake in a calculation or in the description of any person, thing or matter; or

(c) removing duplicate or conflicting material; or

(d) clarifying any matter.

analyst, see section 292A.

approval holder means:

(a) the person to whom an environmental approval has been issued or transferred; or

(b) for an action to which an approval notice applies – the person who is taken to be the approval holder of the environmental approval for the action; or

(c) a liquidator or administrator appointed for a person mentioned in paragraph (a) or (b).

approval notice means an approval notice issued under section 102.

approved form means a form approved under section 292.

assessment report means an assessment report referred to in section 64 or 299.

associated activity, see section 13A(2).

associated entity:

(a) in relation to a body corporate (other than an Aboriginal and Torres Strait Islander corporation) – see section 50AAA of the *Corporations Act 2001* (Cth); and

(b) in relation to an Aboriginal and Torres Strait Islander corporation – see section 50AAA of the *Corporations Act 2001* (Cth) as if that section applied to the corporation.

Atomic Energy Act means the *Atomic Energy Act 1953* (Cth).

call-in notice, see section 53(1), (2) or (3).

care and maintenance period means a period when any of the following mining activities permitted by an environmental (mining) licence for a mining site are not being carried out on that site:

(a) exploration for minerals or extractive minerals;

(b) mining of minerals or extractive minerals;

(c) extraction of extractive minerals;

(d) processing of minerals, extractive minerals, tailings, spoil heaps or waste dumps;

(e) operations and works in connection with exploration or mining generally;

(f) the construction, maintenance and use of infrastructure authorised by an access authority.

CATSI Act means the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

CEO means the Chief Executive Officer.

Chapter 5 body corporate, see section 9 of the *Corporations Act 2001* (Cth).

Chief Health Officer means the Chief Health Officer appointed under section 67 of the *Public and Environmental Health Act 2011*.

civil order means an order under section 248.

civil penalty order means an order under section 248(1)(a).

closure certificate means an action closure certificate or a mining closure certificate.

commercial fossicking, see section 8 of the Mineral Titles Act.

Commonwealth Minister means the Commonwealth Minister for the time being administering the Atomic Energy Act.

compliance notice means:

(a) an environment protection notice issued under section 176(1) or (2); or

(b) a prescribed direction.

contaminant, see section 4(1) of the *Waste Management and Pollution Control Act 1998.*

contractor:

(a) for Part 9, Division 2, Subdivision 2 – see section 192B(1)(b); or

(b) otherwise – means, in relation to an activity site, a person who, under a contract, performs work or supplies a service on that site.

cooperative agreement means an agreement mentioned in section 45.

court means the Supreme Court.

decision-maker means:

(a) the Minister; or

(b) the CEO; or

(c) the NT EPA.

ecologically sustainable development means development that improves the total quality of human life, both now and in the future, in a way that:

(a) maintains the ecological processes on which all life depends; and

(b) recognises the need for development to be equitable between current and future generations.

ecosystem-based management means management that recognises all interactions in an ecosystem, including ecological and human interactions.

enforceable undertaking means an enforceable undertaking under section 215.

enforcement order means an enforcement order under section 216.

engineered feature means a feature of land that is engineered for a purpose related to a mining activity.

*Examples for definition **engineered feature** include the following:*

1 waste rock dumps;

2 dam walls;

3 pits;

4 portals;

5 shafts;

6 tailings storage facilities.

environment, see section 6.

environment protection bond means an environment protection bond mentioned in Part 7, Division 1.

environment protection fund means an environment protection fund established under section 136.

environment protection levy means an environment protection levy established under section 133.

environment protection management system means an environment protection management system established, implemented and maintained under section 124ZZZI.

environment protection notice means:

(a) an environment protection notice issued under section 176(1) or (2); or

(b) an emergency environment protection notice issued under section 182 or 183.

environmental approval means:

(a) an environmental approval granted under Part 5; or

(b) for an action to which an approval notice applies – the environmental approval granted under Part 5 that identifies the action.

environmental audit, see section 141.

environmental decision-making hierarchy means the hierarchy mentioned in section 26.

environmental harm, see section 7.

environmental impact assessment means a standard assessment or strategic assessment carried out in accordance with the regulations but does not include the process for:

(a) receiving or considering a referral of a proposed action or strategic proposal; or

(b) receiving or considering a notification or referral of a significant variation.

environmental impact assessment process means a process under Part 4 including a process for any of the following:

(a) referral, and consideration of a referral, of a proposed action or strategic proposal;

(b) notification or referral, and consideration of a notice or referral, of a significant variation;

(c) environmental impact assessment of a proposed action, strategic proposal or significant variation.

environmental (mining) licence means a licence granted under Part 5A, Division 4, Subdivision 3 or Subdivision 7 or section 313 to carry out a mining activity and if that licence is amended under this Act, that licence as amended.

environmental (mining) licence process means a process for the granting of an environmental (mining) licence under Part 5A, Division 4, Subdivision 3 that requires public notice to be given of the application for the licence.

environmental objective means an environmental objective declared under section 28.

environmental officer means:

(a) a person who is appointed or authorised as an environmental officer under section 159(1); or

(b) a police officer; or

(c) for Part 9, Division 2A – in relation to a prescribed Act, an inspector or other person appointed or authorised to enforce the prescribed Act.

environmental offset means a measure designed to compensate for the residual impact of an action on the environment.

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in the management of the body corporate.

exploration means an activity that is carried out under any of the following under the Mineral Titles Act:

(a) a mineral exploration licence;

(b) a mineral exploration licence in retention;

(c) an extractive mineral exploration licence;

(ca) a mineral lease for small scale mining to the extent to which it authorises exploration for minerals or extractive minerals;

(cb) a general lease to the extent to which it authorises exploration for minerals or extractive minerals;

(d) a mineral authority to the extent that it authorises exploration for minerals or extractive minerals;

(e) a non-compliant existing interest to the extent that it authorises exploration for minerals or extractive minerals.

extractive mineral, see section 10 of the Mineral Titles Act.

extractive operation means an activity that is carried out under any of the following under the Mineral Titles Act:

(a) an extractive mineral lease;

(b) an extractive mineral permit;

(c) a mineral authority to the extent that it authorises the extraction of minerals or extractive minerals;

(ca) a mineral lease for small scale mining to the extent to which it authorises the extraction of minerals or extractive minerals;

(cb) a general lease to the extent to which it authorises the extraction of minerals or extractive minerals;

(d) a non-compliant existing interest to the extent that it authorises the extraction of extractive minerals.

fossicking means an activity carried out under any of the following under the Mineral Titles Act:

(a) a mineral lease for tourist fossicking;

(b) a mineral lease for fossicking;

(c) a mineral lease to the extent that it authorises tourist fossicking;

(d) a mineral lease to the extent that it authorises commercial fossicking;

(e) an extractive mineral lease to the extent that it authorises tourist fossicking;

(f) a non-compliant existing interest to the extent that it authorises tourist fossicking or commercial fossicking.

government authority means an Agency or a statutory authority.

greenhouse gas means any of the following, whether as a gas or a liquid or as a mixture of both:

(a) carbon dioxide;

(b) methane;

(c) nitrous oxide;

(d) sulphur hexafluoride;

(e) hydrofluorocarbons;

(f) perfluorocarbons;

(g) a substance prescribed by regulation to be a greenhouse gas.

high risk entity means a person, body or entity who or which is, or was, the holder of a prescribed approval or a prescribed environmental duty and who or which:

(a) is a Chapter 5 body corporate; or

(b) is an administered Aboriginal and Torres Strait Islander corporation; or

(c) is an associated entity of a body mentioned in paragraph (a) or (b); or

(d) is bankrupt, has applied to take the benefit of a law for the relief of bankrupt or insolvent debtors or has compounded with creditors or made an assignment of remuneration for their benefit; or

(e) has failed to comply with the requirements of a compliance notice; or

(f) has failed to comply with the requirements of the prescribed approval or the prescribed environmental duty.

holding entity, for Part 9, Division 2A, see section 192L.

impact, see section 10.

infrastructure includes buildings, workshops, workers camps, processing facilities, storage tanks, fences, roads, pipelines, conveyors and wharfs.

land includes:

(a) the airspace above land; and

(b) land that is, or is at any time, covered by waters; and

(c) waters.

land register means the register kept by the Registrar-General under the *Land Title Act 2000*.

legacy mine feature, see section 5 of the Legacy Mines Remediation Act.

legacy mine site, see section 4 of the Legacy Mines Remediation Act.

Legacy Mines Remediation Act means the *Legacy Mines Remediation Act 2023*.

material environmental harm, see section 8.

mineral, see section 9 of the Mineral Titles Act.

mineral interest means one of the following:

(a) a mineral title;

(b) a non-compliant existing interest;

(c) a Part III authority;

(d) the special mineral lease granted under the *Mining (Gove Peninsula Nabalco Agreement) Act 1968*;

(e) a mineral lease or exploration licence validated or granted under the *McArthur River Project Agreement Ratification Act 1992.*

mineral title, see section 11(1) of the Mineral Titles Act.

mineral title holder means a title holder as defined in section 8 of the Mineral Titles Act.

Mineral Titles Act means the *Mineral Titles Act 2010*.

mining activity, see section 13A.

mining closure certificate means a mining closure certificate issued under section 214D.

mining levy means the mining remediation levy mentioned in section 12 of the Legacy Mines Remediation Act.

Mining Minister means the Minister administering the Mineral Titles Act.

mining operation means an activity that is carried out under any of the following:

(a) a mineral authority under the Mineral Titles Act to the extent that it authorises the mining of minerals;

(b) a mineral lease under the Mineral Titles Act;

(ba) a mineral lease for small scale mining to the extent to which it authorises the mining of minerals;

(bb) a general lease to the extent to which it authorises the mining of minerals;

(c) a non-compliant existing interest to the extent that it authorises the mining of minerals;

(d) a Part III authority.

mining operator, for a mining site, means:

(a) a mining operator for the mining site appointed by the title holder under section 124D; or

(b) if the title holder is a mining operator for the mining site under section 124D – the title holder.

mining security means mining security mentioned in Part 7, Division 1A.

mining site means an area of land:

(a) in respect of which a person holds a mineral interest and on which a mining activity mentioned in section 13A(1) has been, is being or will be carried out; or

(b) in respect of which a person holds an access authority; or

(c) on which an associated activity is being or will be carried out; or

(d) that is declared by the Minister, by *Gazette* notice, to be a mining site for this Act.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

modified condition licence means a modified condition licence granted under section 124ZG(1)(a)(ii) or 124ZZU(2) or 313(2) and if that licence is amended under this Act, that licence as amended.

monitor:

(a) for Part 5C – means a person engaged by an approval holder or mining operator under section 124ZZZO(2) to monitor the carrying out of works; or

(b) for Part 9, Division 2, Subdivision 2 – see section 192B(2)(a).

monitoring and management notice means a monitoring and management notice issued under Part 9, Division 4.

NT EPA, see section 3 of the *Northern Territory Environment Protection Authority Act 2012*.

non-compliant existing interest, see section 204(1) of the Mineral Titles Act.

notifiable incident, for Part 9, Division 8 see section 224.

obstruct includes hinder and resist.

occupier, in relation to land, means:

(a) a person occupying the land (under any title or permission, or without title or permission); or

(b) a person entitled to occupy the land whether or not the person is actually occupying the land.

operator:

(a) for Part 9, Division 2 – see section 224; or

(b) otherwise – means, in relation to an activity site:

(i) the approval holder for a regulated action that is carried out on that site; or

(ii) for a mining site – the mining operator.

Part III authority, see section 5(1) of the Atomic Energy Act.

performance improvement program means a performance improvement program under Part 5A, Division 4, Subdivision 4.

petroleum activity means an activity for which any of the following is required:

(a) an exploration permit under the *Petroleum Act 1984*;

(b) a retention licence under the *Petroleum Act 1984*;

(c) a production licence under the *Petroleum Act 1984*;

(d) a permit or lease mentioned in section 119(1) of the *Petroleum Act 1984*.

plant includes machinery, pressure vessels, equipment, appliances, implements, scaffolding and tools, any component of the plant and anything fitted or connected to the plant.

pollution, see section 4(1) of the *Waste Management and Pollution Control Act 1998*.

premises includes:

(a) equipment, plant and structures, whether stationary or portable, and the land on which the premises are situated; and

(b) a vehicle or other conveyance.

prescribed Act, for Part 9, Division 2A, see section 192L.

prescribed approval, for Part 9, Division 2A, see section 192L.

prescribed direction, for Part 9, Division 2A, see section 192L.

prescribed environmental duty, for Part 9, Division 2A, see section 192L.

prescribed substance, see section 5(1) of the Atomic Energy Act.

principles of ecologically sustainable development, see Part 2, Division 1.

prohibited action means an action declared under section 38 to be a prohibited action.

proponent means a person proposing to carry out, or carrying out, an action.

protected environmental area means an area declared under section 35 or 36 to be a protected environmental area.

public register, see section 284.

publish means make publicly available in the Territory.

qualified person means:

(a) a registered environmental auditor; or

(b) a registered environmental practitioner; or

(c) a person or class of persons, who have the qualifications and experience determined by the CEO for the purpose of this definition.

Ranger Project Area, see section 5(1) of the Atomic Energy Act.

recordable incident, for Part 9, Division 8, see section 224.

referral trigger means:

(a) an activity-based referral trigger referred to in section 29(2) and declared under section 30(1)(a); or

(b) a location-based referral trigger referred to in section 29(3) and declared under section 30(1)(b).

registered environmental auditor means a person registered under Part 8, Division 3.

registered environmental practitioner means a person registered under Part 8, Division 4.

regulated action means an action, including an action under a strategic proposal, that requires environmental approval.

regulated mining activity means a mining activity that requires an environmental (mining) licence.

related person, of a high risk entity, see section 192M.

relevant commencement, for Part 9, Division 2A, see section 192L.

relevant decision-maker, for Part 9, Division 2A, see section 192L.

reserved legacy mine site means a reserved legacy mine site declared under section 14 of the Legacy Mines Remediation Act.

residential premises, in relation to premises that are used for both residential and non-residential purposes, means that part of the building or structure that is used only for residential purposes and does not include any land surrounding the building or structure.

sacred site, see section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

significant environmental harm, see section 9.

significant impact, see section 11.

significant variation, see section 12.

specified environmental offence means an offence against this Act for which the penalty is expressed as:

(a) environmental offence level 1; or

(b) environmental offence level 2; or

(c) environmental offence level 3; or

(d) environmental offence level 4.

specified person, for Part 9, Division 6, see section 214F.

standard assessment, see section 48.

standard condition licence means a standard condition licence granted under section 124ZG(1)(a)(i) or 313(1).

statement of unacceptable impact, see section 66.

statutory authorisation, in relation to an action, means an approval, consent, authority, permit or other authorisation relating to that action that is provided for under an Act.

statutory authority means a body established under an Act for a public purpose.

statutory decision-maker, in relation to an action, means a person or a government authority authorised under an Act to make a decision in relation to that action.

stop work notice means a stop work notice issued under section 194.

strategic assessment, see section 49.

strategic proposal, see section 13.

tailored condition licence means a tailored condition licence granted under section 124ZG(1)(a)(iii), 124ZZU(2) or 313(3) and if that licence is amended under this Act, that licence as amended.

title holder:

(a) in relation to a mining site mentioned in the definition, ***mining site***, paragraph (a):

(i) for a mineral title or non-compliant existing interest – see section 8 of the Mineral Titles Act; or

(ii) for a mineral interest that is a Part III authority – means a person on whom the authority is conferred or to whom an interest in the authority is assigned under the Atomic Energy Act; or

(iii) for the special mineral lease granted under the *Mining (Gove Peninsula Nabalco Agreement) Act 1968* – means the Company, as defined in that Act; or

(iv) for a mineral lease or exploration licence validated or granted under the *McArthur River Project Agreement Ratification Act 1992* – means the Company, as defined in that Act; or

(b) for any other mining site – means the owner of the site.

tourist fossicking, see section 8 of the Mineral Titles Act.

vehicle or other conveyance means any of the following:

(a) a motor vehicle;

(b) a trailer or caravan;

(c) an aircraft;

(d) a boat or other vessel;

(e) a train or rolling stock on or for use on a railway.

waste, see section 4(1) of the *Waste Management and Pollution Control Act 1998*.

waste management hierarchy means the hierarchy mentioned in section 27.

waters includes:

(a) surface water, groundwater and tidal waters; and

(b) coastal waters of the Territory, within the meaning of the *Coastal Waters (Northern Territory Powers) Act 1980* (Cth); and

(c) water containing an impurity.

worker means an individual on an activity site who, under a contract or agreement of any kind (whether express or implied, oral or in writing, or under a law of the Territory or not), performs work or supplies a service on the site and includes:

(a) an employee of an operator for the site; and

(b) a contractor or employee of a contractor.

Note for section 4

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

Division 2 Important concepts

5 Meaning of *action*

(1) ***Action*** includes any of the following:

(a) a project;

(b) a development;

(c) an undertaking;

(d) an activity or series of activities;

(e) works;

(f) a material alteration of any of the things mentioned in paragraphs (a) to (e).

(2) A decision by a government authority authorising another person to take an action is not an action.

(3) A grant of funding by a government authority for an action is not an action.

6 Meaning of *environment*

Environment means all aspects of the surroundings of humans including physical, biological, economic, cultural and social aspects.

7 Meaning of *environmental harm*

(1) ***Environmental harm*** means direct or indirect alteration of the environment to its detriment or degradation, of any degree or duration, whether temporary or permanent.

(2) The regulations may specify alterations to which the definition of ***environmental harm*** applies.

(3) Without limiting subsection (1) or (2), environmental harm may be caused by pollution whether the harm:

(a) is a direct or indirect result of the pollution; or

(b) results from the pollution alone or from the combined effects of the pollution and other factors.

8 Meaning of *material environmental harm*

Material environmental harm means environmental harm that:

(a) is not trivial or negligible in nature; and

(b) is less serious than significant environmental harm.

9 Meaning of s*ignificant environmental harm*

Significant environmental harm means environmental harm that:

(a) is of major consequence having regard to:

(i) the context and intensity of the harm; and

(ii) the sensitivity, value and quality of the environment harmed and the duration, magnitude and geographic extent of the harm; or

(b) would, or is likely to, cost more to remediate than the monetary amount prescribed by regulation.

10 Meaning of *impact*

(1) An ***impact*** of an action is:

(a) an event or circumstance that is a direct consequence of the action; or

(b) an event or circumstance that is an indirect consequence of the action and the action is a substantial cause of that event or circumstance.

(2) An impact may be a cumulative impact and may occur over time.

11 Meaning of *significant impact*

A ***significant impact*** of an action is an impact of major consequence having regard to:

(a) the context and intensity of the impact; and

(b) the sensitivity, value and quality of the environment impacted on and the duration, magnitude and geographic extent of the impact.

12 Meaning of *significant variation*

A ***significant variation*** of an action or strategic proposal is a variation that:

(a) will alter the action, or the action or actions under the strategic proposal, to the extent that a referral trigger that did not previously apply to the action or actions now applies; or

(b) has the potential to have a significant impact on the environment; or

(c) will result in new or additional areas being subject to a potential significant impact on the environment.

13 Meaning of *strategic proposal*

Strategic proposal means any of the following:

(a) a policy;

(b) a program;

(c) a plan;

(d) a methodology.

13A Meaning of *mining activity*

(1) For this Act, each of the following is a ***mining activity***:

(aa) fossicking;

(a) exploration for minerals or extractive minerals;

(b) mining of minerals or extractive minerals;

(c) extraction of extractive minerals;

(d) processing of minerals, extractive minerals, tailings, spoil heaps or waste dumps;

(e) decommissioning, remediation and rehabilitation of a site on which an activity referred to in paragraphs (a) to (d) has been or is being carried out;

(f) operations and works in connection with the activities in paragraphs (a), (b), (c), (d) and (e), including:

(i) the removal, handling, transport and storage of minerals, extractive minerals, substances, contaminants and waste; and

(ii) the construction, operation, maintenance and removal of plant, infrastructure and engineered features;

(g) the construction, maintenance and use of infrastructure authorised by an access authority;

(h) operations and works in connection with exploration or mining generally;

(i) operations for the monitoring, management and maintenance during a care and maintenance period of a site on which an activity in paragraphs (a) to (h) has been or is being carried out.

(2) In addition to the activities mentioned in subsection (1), an activity (an ***associated activity***) is a ***mining activity*** for this Act if:

(a) the activity is related to a mining activity mentioned in subsection (1); and

(b) is carried out on an area of land other than an area mentioned in the definition of ***mining site***, paragraph (a) or (d).

(3) Despite subsections (1) and (2), aerial surveying is not a mining activity.

Division 3 Application provisions

14 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

15 Civil remedies and common law not affected

(1) Except where expressly provided for, this Act is taken not to affect a civil right or remedy available to a person in relation to conduct, or a failure or refusal to engage in conduct, to which this Act applies.

(2) Compliance with this Act is not of itself evidence that a common law duty of care has been satisfied.

16 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Notes for section 16

1 Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

2 Sections 43CA and 43CB of the Criminal Code provide for extraterritoriality in relation to offences.

Part 2 Principles of environment protection and management

Division 1 Principles of ecologically sustainable development

17 Principles of ecologically sustainable development

(1) This Division sets out the principles of ecologically sustainable development.

(2) A decision-maker must consider and apply these principles in making a decision under this Act.

(3) In making a decision under this Act and stating the reasons for that decision, a decision-maker is not required to specify how the decision-maker has considered or applied these principles.

18 Decision-making principle

(1) Decision-making processes should effectively integrate both long-term and short-term environmental and equitable considerations.

(2) Decision-making processes should provide for community involvement in relation to decisions and actions that affect the community.

Note for section 18

*See section 6, definition **environment**.*

18A Principle of proportionality

Decision-making processes should ensure that decisions or actions directed at minimising harm or a risk of harm or impact to the environment are proportionate to the harm or risk of harm or impact that is being addressed.

19 Precautionary principle

(1) If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(2) Decision-making should be guided by:

(a) a careful evaluation to avoid serious or irreversible damage to the environment wherever practicable; and

(b) an assessment of the risk-weighted consequences of various options.

20 Principle of evidence-based decision-making

Decisions should be based on the best available evidence in the circumstances that is relevant and reliable.

21 Principle of intergenerational and intragenerational equity

The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of present and future generations.

22 Principle of sustainable use

Natural resources should be used in a manner that is sustainable, prudent, rational, wise and appropriate.

23 Principle of conservation of biological diversity and ecological integrity

Biological diversity and ecological integrity should be conserved and maintained.

24 Principle of improved valuation, pricing and incentive mechanisms

(1) Environmental factors should be included in the valuation of assets and services.

(2) Persons who generate pollution and waste should bear the cost of containment, avoidance and abatement.

(3) Users of goods and services should pay prices based on the full life cycle costs of providing the goods and services, including costs relating to the use of natural resources and the ultimate disposal of wastes.

(4) Established environmental goals should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms, which enable persons best placed to maximise benefits or minimise costs to develop solutions and responses to environmental problems.

Division 2 Management hierarchies

25 Hierarchies

This Division sets out hierarchies for environmental decision-making and waste management.

26 Environmental decision-making hierarchy

(1) In making decisions in relation to actions that affect the environment, decision-makers, proponents and approval holders must apply the following hierarchy of approaches in order of priority:

(a) ensure that actions are designed to avoid adverse impacts on the environment;

(b) identify management options to mitigate adverse impacts on the environment to the greatest extent practicable;

(c) if appropriate, provide for environmental offsets in accordance with this Act for residual adverse impacts on the environment that cannot be avoided or mitigated.

(2) In making decisions in relation to actions that affect the environment, decision-makers, proponents and approval holders must ensure that the potential for actions to enhance or restore environmental quality is identified and provided for to the extent practicable.

27 Waste management hierarchy

(1) In designing, implementing and managing an action, all reasonable and practicable measures should be taken to minimise the generation of waste and its discharge into the environment.

(2) For subsection (1), waste should be managed in accordance with the following hierarchy of approaches in order of priority:

(a) avoidance of the production of waste;

(b) minimisation of the production of waste;

(c) re-use of waste;

(d) recycling of waste;

(e) recovery of energy and other resources from waste;

(f) treatment of waste to reduce potentially adverse impacts;

(g) disposal of waste in an environmentally sound manner.

Part 3 Environment protection declarations

Division 1 Declaration of environmental objectives and referral triggers

28 Declaration of environmental objectives

(1) The Minister may, by *Gazette* notice, declare environmental objectives for this Act.

(2) In developing environmental objectives, the Minister must:

(a) identify environmental matters that have value to the Territory and that need to be protected; and

(b) determine for each matter the objective to be achieved in relation to the protection of the environment.

(3) A declaration must be prepared in accordance with the regulations.

(4) A declaration may be made on the Minister's own initiative or on the recommendation of the NT EPA under section 31.

(5) The Minister must publish a statement of the reasons for making a declaration as soon as practicable after the declaration is made.

29 Purpose and effect of referral triggers

(1) A referral trigger requires a proponent of an action to refer the action to the NT EPA for assessment in accordance with the regulations.

(2) An activity-based referral trigger identifies actions that the Minister considers are likely to have a significant impact on the environment.

(3) A location-based referral trigger identifies areas that the Minister considers are:

(a) of significance because of a feature of the natural or cultural environment; and

(b) likely to be subject to significant impact by actions.

30 Declaration of referral triggers

(1) The Minister may, by *Gazette* notice, declare either or both of the following:

(a) an activity-based referral trigger;

(b) a location-based referral trigger.

(2) In declaring a referral trigger, the Minister may specify circumstances in which, and the thresholds above which, actions are to be subject to the trigger.

(3) A declaration of a referral trigger must be prepared in accordance with the regulations.

(4) The Minister must publish a statement of the reasons for making a declaration as soon as practicable after the declaration is made.

31 NT EPA may recommend environmental objectives and referral triggers and amendments

(1) The NT EPA may recommend to the Minister a proposed environmental objective or a referral trigger or an amendment to an objective or trigger.

(2) A recommendation may be made at the request of the Minister or on the NT EPA's own initiative.

(3) The Minister must consider the NT EPA's recommendation and may:

(a) accept the recommendation; or

(b) refuse the recommendation.

(4) The Minister must publish a statement of reasons for making a decision under subsection (3) as soon as practicable after the decision is made.

32 Review of environmental objectives and referral triggers

(1) The Minister must review the environmental objectives and referral triggers at least every 10 years.

(2) The Minister may review the environmental objectives and referral triggers at any time.

(3) A review must be in accordance with the regulations.

33 Amendment or revocation of environmental objective or referral trigger

(1) The Minister may, by *Gazette* notice, amend or revoke an environmental objective or a referral trigger.

(2) An amendment or revocation of an environmental objective or referral trigger must be in accordance with the regulations.

(3) The Minister must publish a statement of the reasons for the amendment or revocation as soon as practicable after the amendment is made or the environmental objective or referral trigger is revoked.

34 Referral trigger – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and

(c) a referral trigger applies to the action; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and

(c) a referral trigger applies to the action; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) a referral trigger applies to the action; and

(d) the conduct is not authorised under this Act; and

(e) the conduct causes significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) a referral trigger applies to the action; and

(d) the conduct is not authorised under this Act; and

(e) the conduct causes material environmental harm.

Penalty: environmental offence level 3.

(5) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) a referral trigger applies to the action; and

(d) the conduct is not authorised under this Act.

Penalty: environmental offence level 4.

(6) Strict liability applies to subsections (1)(c) and (d) and (2)(c) and (d).

(7) An offence against subsection (3), (4) or (5) is an offence of strict liability.

(8) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

Division 2 Protected environmental areas and prohibited actions

35 Temporary declaration of protected environmental area

(1) The Minister may, by *Gazette* notice, declare an area of land to be a protected environmental area (a ***temporary declaration***) if the Minister believes on reasonable grounds that:

(a) the environment or an aspect of the environment of the area should be protected; and

(b) the declaration of the area is necessary to further the objects of this Act.

(2) A temporary declaration has effect for the period (not exceeding 12 months) specified in the *Gazette* notice.

(3) A temporary declaration must not be made in respect of an area within 3 months after the day on which a previous temporary declaration affecting that area expires, unless it relates to a different matter.

(4) The Minister must consult with the NT EPA before making a temporary declaration.

(5) The Minister must make reasonable efforts to advise any owner or occupier of land in the declared area of the making of a temporary declaration.

(6) The Minister must publish a statement of the reasons for making a temporary declaration as soon as practicable after the declaration is made.

36 Permanent declaration of protected environmental area

(1) The Minister may, by *Gazette* notice, declare an area of land to be a protected environmental area (a ***permanent declaration***) if the Minister is satisfied that:

(a) the environment or an aspect of the environment of the area should be protected; and

(b) the declaration of the area is necessary to further the objects of this Act.

(2) A permanent declaration must be prepared in accordance with the regulations.

(3) The Minister must publish a statement of the reasons for making the permanent declaration as soon as practicable after the declaration is made.

(4) The Minister must table a copy of the permanent declaration in the Legislative Assembly within 6 sitting days after the declaration is made.

(5) It is not necessary to make a temporary declaration of a protected environmental area before making a permanent declaration.

(6) On the commencement of a permanent declaration of a protected environmental area, any temporary declaration of the area dealing with the same matter is revoked.

37 Regulation of actions in declared areas

(1) A temporary declaration or permanent declaration of a protected environmental area may specify that:

(a) all actions or specified actions or classes of actions in the area are prohibited; or

(b) certain actions, or classes of actions, in the area are prohibited; or

(c) certain actions, or classes of actions, in the area are permitted.

(2) A declaration of a protected environmental area may specify thresholds:

(a) at or above which actions, or classes of actions, in the area are prohibited; or

(b) below which actions, or classes of actions, in the area are permitted.

(3) A declaration of a protected environmental area must include the following information:

(a) a description of the declared area;

(b) the day on which the declaration takes effect;

(c) for a temporary declaration – the period of the declaration;

(d) any actions prohibited in the area;

(e) any actions permitted in the area.

38 Declaration of prohibited actions

(1) The Minister may, by *Gazette* notice, declare an action or class of actions to be a prohibited action or prohibited actions if the Minister is satisfied that:

(a) the environment or an aspect of the environment should be protected; and

(b) the declaration is necessary to further the objects of this Act.

(2) The notice must include the following information:

(a) a description of the declared prohibited action or class of actions;

(b) the day on which the declaration takes effect;

(c) the reason for the declaration.

(3) A declaration must be prepared in accordance with the regulations.

(4) The Minister must publish a statement of the reasons for making the declaration as soon as practicable after the declaration is made.

(5) The Minister must table a copy of the declaration in the Legislative Assembly within 6 sitting days after the declaration is made.

39 Revocation of declaration

(1) The Minister may, by *Gazette* notice, revoke a temporary declaration in whole or in part if satisfied that:

(a) the declaration is no longer in the interests of the Territory; and

(b) the revocation is not inconsistent with the principles of ecologically sustainable development; and

(c) the revocation of the declaration will not significantly undermine the objects of this Act.

(2) The Minister may, by *Gazette* notice, revoke a permanent declaration in whole or in part if satisfied that:

(a) the declaration is no longer in the interests of the Territory; and

(b) the revocation is not inconsistent with the principles of ecologically sustainable development; and

(c) the revocation of the declaration will not significantly undermine the objects of this Act.

(3) The Minister may, by *Gazette* notice, revoke a declaration of a prohibited action in whole or in part if satisfied that:

(a) the declaration is no longer in the interests of the Territory; and

(b) the revocation is not inconsistent with the principles of ecologically sustainable development; and

(c) the revocation of the declaration will not significantly undermine the objects of this Act.

(4) A revocation of a declaration under this Division must be in accordance with the regulations.

(5) The Minister must publish a statement of the reasons for revoking a declaration under this Division as soon as practicable after the declaration is revoked.

(6) The Minister must table a copy of the revocation of a declaration under this Division in the Legislative Assembly within 6 sitting days after the declaration is revoked.

40 Protected environmental areas – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and

(c) the action is prohibited under the declaration of a protected environmental area; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in significant environmental harm inside or outside the protected environmental area and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and

(c) the action is prohibited under the declaration of a protected environmental area; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in material environmental harm inside or outside the protected environmental area and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) the action is prohibited under the declaration of a protected environmental area; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in significant environmental harm inside or outside the protected environmental area.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) the action is prohibited under the declaration of a protected environmental area; and

(d) the conduct is not authorised under this Act.

Penalty: environmental offence level 3.

(5) Strict liability applies to subsections (1)(c) and (d) and (2)(c) and (d).

(6) An offence against subsection (3) or (4) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

41 Prohibited actions – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and

(c) the action is a prohibited action; and

(d) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and

(c) the action is a prohibited action; and

(d) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) the action is a prohibited action; and

(d) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) the action is a prohibited action.

Penalty: environmental offence level 3.

(5) Strict liability applies to subsections (1)(c) and (2)(c).

(6) An offence against subsection (3) or (4) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

Division 3 General

41A Interpretation

This Part does not limit the operation of section 42 of the *Interpretation Act 1978*.

Part 4 Environmental impact assessment process

Division 1 Purpose of environmental impact assessment process

42 Purpose of environmental impact assessment process

The purpose of the environmental impact assessment process is to ensure that:

(a) actions do not have an unacceptable impact on the environment, now or in the future; and

(b) all actions that may have a significant impact on the environment are assessed, planned and carried out taking into account:

(i) the principles of ecologically sustainable development; and

(ii) the environmental decision-making hierarchy; and

(iii) the waste management hierarchy; and

(iv) ecosystem-based management; and

(v) the impacts of a changing climate; and

(c) the potential for less environmentally damaging alternative approaches, methodologies or technologies for actions is considered; and

(d) the community is provided with an opportunity to participate, and have its views considered, in decisions on proposed actions; and

(e) the potential for actions to enhance or restore environmental quality through restoration or rehabilitation is identified and provided for to the extent practicable.

43 General duty of proponents

A proponent of an action or strategic proposal has the following general duties under an environmental impact assessment process:

(a) to provide communities that may be affected by a proposed action or strategic proposal with information and opportunities for consultation to assist each community's understanding of the proposed action or strategic proposal and its potential impacts and benefits;

(b) to consult with affected communities, including Aboriginal communities, in a culturally appropriate manner;

(c) to seek and document community knowledge and understanding (including scientific and traditional knowledge and understanding) of the natural and cultural values of areas that may be impacted by the proposed action or strategic proposal;

(d) to address Aboriginal values and the rights and interests of Aboriginal communities in relation to areas that may be impacted by the proposed action or strategic proposal;

(e) to consider the principles of ecologically sustainable development in the design of the proposed action or strategic proposal;

(f) to apply the environmental decision-making hierarchy in the design of the proposed action or strategic proposal;

(g) to consider the waste management hierarchy in the design of the proposed action or strategic proposal.

44 Certain referrals prohibited

A person must not refer an action or strategic proposal to the NT EPA for assessment if the action or an action under the strategic proposal is:

(a) a prohibited action or strategic proposal; or

(b) an action or strategic proposal that is prohibited in a protected environmental area under Part 3, Division 2.

Division 2 Cooperative agreements

45 Cooperative agreements – assessment process

(1) This section applies if a proposed action or strategic proposal in the Territory also affects another jurisdiction.

(2) The Minister, on the advice of the NT EPA, may enter into an agreement with a Minister of the Commonwealth, a State or another Territory in relation to the process of environmental impact assessment of a proposed action or strategic proposal.

(3) The purpose of the agreement is to establish a single environmental impact assessment process for the action or strategic proposal.

(4) The agreement must identify the process to be used to assess the proposed action or strategic proposal.

(5) The process must:

(a) meet the objects of this Act; and

(b) provide for community participation in the environmental impact assessment process; and

(c) provide for a report of the environmental impact assessment to be prepared.

46 Proponent to have only one environmental impact assessment process

A proponent of an action or strategic proposal that has had an environmental impact assessment in accordance with a cooperative agreement is not required to have another environmental impact assessment of the same action or strategic proposal under this Act.

47 Significant variation of action or strategic proposal

(1) A significant variation of an action or strategic proposal that has had an environmental impact assessment in accordance with a cooperative agreement may be dealt with and assessed in accordance with the agreement.

(2) If the cooperative agreement is no longer in place, a significant variation of an action or strategic proposal mentioned in subsection (1) must be dealt with and assessed in accordance with Division 3.

Division 3 Referral and assessment

Subdivision 1 Referrals

48 Referral of proposed action

Subject to section 49, a proponent must refer to the NT EPA for assessment (a ***standard assessment***) a proposed action that:

(a) has the potential to have a significant impact on the environment; or

(b) meets a referral trigger.

49 Referral of strategic proposal

A proponent, instead of referring an action under section 48, may refer a strategic proposal to the NT EPA for assessment (a ***strategic assessment***) of a proposed action or group of proposed actions under the strategic proposal that individually or in combination with each other:

(a) will have the potential to have a significant impact on the environment; or

(b) will meet a referral trigger.

50 Referral if application made to statutory decision-maker

(1) This section applies if a proponent applies to a statutory decision-maker for authorisation of a proposed action and the statutory decision-maker considers that the action should be referred to the NT EPA under this Division.

(2) The statutory decision-maker:

(a) may refuse to consider the application until the action is referred to the NT EPA under this Division and a decision is made on the referral; and

(b) must take all reasonable steps to encourage the proponent to refer the action to the NT EPA; and

(c) may refer the action to the NT EPA.

(3) Subsection (2) applies despite anything to the contrary in the Act under which the application to the statutory decision-maker is made.

Subdivision 2 Significant variations

51 Proponent to notify NT EPA of significant variation of proposed action or strategic proposal

(1) The proponent of a proposed action must give notice to the NT EPA of any proposed significant variation to that action.

(2) The proponent of a strategic proposal must give notice to the NT EPA of any proposed significant variation to that strategic proposal.

(3) A proponent is not required to give a notice of a proposed significant variation if the proponent refers the amended action or strategic proposal to the NT EPA for assessment under this Division.

(4) If an amended action or strategic proposal is referred to the NT EPA under this Division, the original referral is taken to be withdrawn to the extent that it is modified by the significant variation.

51A Certain notifications taken to be referrals

(1) This section applies if a significant variation of a proposed action or strategic proposal is notified to the NT EPA under section 51(1) or (2) and either:

(a) the proposed action or strategic proposal was not referred to the NT EPA under section 48 or 49; or

(b) the proposed action was not referred, notified or submitted (however described) for assessment under the *Environmental Assessment Act 1982*.

(2) This Division applies to the notification of the significant variation as if the notification of the significant variation were a referral of a proposed action under section 48 or of a strategic proposal under section 49, as the case requires.

52 Approval holder to refer proposed significant variation for assessment

(1) An approval holder must refer a proposed significant variation of an action or strategic proposal to which the environmental approval applies to the NT EPA for assessment under this Division.

(2) If a significant variation of an action or strategic proposal is referred to the NT EPA under subsection (1), this Division applies as if the referral of the significant variation were a referral of a proposed action or strategic proposal, as the case requires.

Subdivision 3 Call-in notices

53 Call-in notice

(1) If the NT EPA believes on reasonable grounds that a proponent is taking an action that should be referred to the NT EPA for assessment under this Division, it may, by written notice (a ***call-in notice***), request the proponent to refer the action within the time specified in the notice.

(2) If the NT EPA believes on reasonable grounds that a proponent of a proposed action or strategic proposal has made or is proposing a significant variation to the proposed action or strategic proposal, the NT EPA may, by written notice (a ***call-in notice***), request the proponent to give it notice of the significant variation under section 51 within the time specified in the notice.

(3) If the NT EPA believes on reasonable grounds that an approval holder has made or is proposing a significant variation to the action or strategic proposal, it may, by written notice (a ***call-in notice***), request the proponent to refer the variation to the NT EPA under section 52 within the time specified in the notice.

(4) Subsections (1), (2) and (3) apply whether or not a statutory decision-maker has granted a statutory authorisation for the action or an action under the strategic proposal.

(5) The NT EPA must, before giving a call-in notice:

(a) make reasonable efforts to obtain the views of any statutory decision-maker who the NT EPA considers may hold views in relation to the matter; and

(b) consider any written comments received from the statutory decision-maker within the time specified in writing by the NT EPA.

54 Offence to contravene call-in notice

(1) A person commits an offence if:

(a) the person is given a call-in notice; and

(b) the person contravenes the notice.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Subdivision 4 Consideration by NT EPA

55 Process for considering referred actions and strategic proposals

(1) The NT EPA must consider and deal with any referral of an action or strategic proposal under this Division in accordance with the regulations.

(2) The NT EPA must determine whether the referred action or strategic proposal has the potential to have a significant impact on the environment.

(3) In determining whether a referred action or strategic proposal has the potential to have a significant impact on the environment, the NT EPA must consider any applicable environmental objectives.

(4) In determining whether a referred action or strategic proposal has the potential to have a significant impact on the environment, the NT EPA may consider other statutory decision-making processes that may mitigate the potential environmental impact of the referred action or strategic proposal.

(5) Without limiting subsection (1), if the NT EPA determines that the referred action or strategic proposal has the potential to have a significant impact on the environment, the NT EPA must:

(a) determine that an environmental impact assessment is required for the referred action or strategic proposal; or

(b) if the NT EPA considers that the referred action or strategic proposal is unacceptable because it is likely to have significant impacts that cannot be appropriately avoided, mitigated or managed – recommend to the Minister that the Minister refuse to grant an environmental approval for the referred action or strategic proposal.

(6) The regulations may provide for processes for:

(a) considering referrals of actions and strategic proposals; and

(b) determining whether:

(i) an environmental impact assessment of a referred action or strategic proposal is required; or

(ii) an environmental approval for a referred action or strategic proposal should be refused, with or without an environmental impact assessment.

56 Process for considering notified significant variations

(1) The NT EPA must consider and deal with any significant variation of an action or strategic proposal notified to the NT EPA under this Division in accordance with the regulations.

(2) If a significant variation is notified to the NT EPA under this Division after an assessment report is prepared and before an environmental approval is given:

(a) the approval process under Part 5 ceases until the assessment of the variation is completed; and

(b) on completion of the assessment of the variation – the NT EPA may prepare and provide to the Minister:

(i) a revised assessment report; or

(ii) an addendum to the assessment report; or

(iii) a new assessment report; and

(c) if a revised or new assessment report is provided to the Minister – the NT EPA must prepare and provide to the Minister:

(i) a revised draft environmental approval; or

(ii) a statement of unacceptable impact.

(3) The Minister must consider:

(a) any document provided to the Minister under subsection (2)(b)(i) and (iii) and (c) in place of the relevant documents originally provided under Part 5; or

(b) any addendum provided to the Minister under subsection (2)(b)(ii) in addition to the assessment report originally provided under Part 5.

(4) Section 55(2) to (6) applies (with any necessary changes) to an assessment of a significant variation notified to the NT EPA under this Division.

Subdivision 5 Environmental impact assessment by NT EPA

57 NT EPA to carry out environmental impact assessments of referred actions or strategic proposals

(1) If the NT EPA determines that an environmental impact assessment of a referred action or strategic proposal is required under this Act, the NT EPA must carry out the assessment in accordance with the regulations.

(2) The regulations may provide for the processes and methods for the environmental impact assessment of referred actions or strategic proposals.

Subdivision 6 Statutory authorisations

58 Statutory authorisations and environmental impact assessments

(1) A statutory decision-maker may consider an application for a statutory authorisation for a referred action or an action under a referred strategic proposal while an environmental impact assessment of the referred action or strategic proposal is being carried out under this Act.

(2) A statutory decision-maker must not grant a statutory authorisation for a referred action or an action under a referred strategic proposal until the later of:

(a) the determination by the NT EPA as to whether the referred action or strategic proposal requires an environmental impact assessment under this Act; and

(b) if an environmental impact assessment is required for the referred action or strategic proposal – the completion of the environmental impact assessment and the environmental approval process for the action or strategic proposal.

(3) Nothing in this section prevents a statutory decision-maker from granting a statutory authorisation to carry out any activity required to inform the environmental impact assessment process.

59 Statutory authorisation granted before referral of action

(1) A statutory authorisation that is granted for an action before the referral of the action or the strategic proposal to which the action relates ceases to have effect:

(a) for the period:

(i) commencing on a determination by the NT EPA that the action or strategic proposal requires an environmental impact assessment under this Act; and

(ii) ending on the completion of the environmental impact assessment and the environmental approval process for the action or strategic proposal; and

(b) if a stop work notice is issued for the action – while the stop work notice is in force.

(2) Subsection (1) does not apply to a statutory authorisation mentioned in section 58(3).

(3) Subsection (1) applies despite anything to the contrary in the enactment authorising the statutory authorisation.

59A Regulations for sections 58 and 59

The regulations may provide that section 58 or 59:

(a) applies to a specified statutory authorisation; or

(b) does not apply to a specified statutory authorisation.

Part 5 Environmental approvals

Division 1 Preliminary matters

60 Purpose of Part

The purpose of this Part is to provide for:

(a) the granting and amendment of environmental approvals; and

(b) the transfer, suspension and revocation of environmental approvals.

61 Purpose of environmental approval

The purpose of an environmental approval is to manage the potentially significant environmental impacts of an action or any action under a strategic proposal including any of the following:

(a) the planning and design of the action and any preliminary activities relating to the action;

(b) the construction or carrying out of works for the action;

(c) the operation of the action;

(d) the rehabilitation and remediation requirements resulting from the action;

(e) the closure of the action.

62 Fit and proper person to hold environmental approval or approval notice

(1) In determining under this Part whether a person is or is not a fit and proper person to hold an environmental approval or an approval notice, the Minister:

(a) may have regard to whether there are reasonable grounds to believe that the person:

(i) has contravened a law of the Territory or another jurisdiction that relates to the physical or biological environment, including matters relating to pollution, biodiversity, natural resources, planning, development or waste; or

(ii) has contravened a law of the Territory or another jurisdiction that relates to heritage, health or cultural matters, including matters relating to sacred sites; or

(iii) has contravened a law of the Territory or another jurisdiction that relates to work health and safety; or

(iiia) has contravened a law of the Territory under which a tax or royalty is payable to the Territory; or

(iv) has committed an offence against any law of the Territory or another jurisdiction that involves an element of fraud or dishonesty; or

(v) has behaved or is likely to behave in a way that is inconsistent with the person's duties as an approval holder or an approval notice holder; and

(b) may have regard to the matters prescribed by regulation; and

(c) may have regard to any other matters the Minister considers relevant.

(2) Nothing in this Part requires the Minister to conduct an investigation in considering whether a person is a fit and proper person.

62A More than one environmental approval may be granted

To avoid doubt, the Minister may grant more than one environmental approval for a proposed action or strategic proposal following an environmental impact assessment of the proposed action or strategic proposal.

Division 2 NT EPA to provide assessment report and other documents to Minister

63 Application of Division

This Division sets out the obligations of the NT EPA on completion of an environmental impact assessment of a referred action or strategic proposal.

64 Assessment report

On completion of an environmental impact assessment of a referred action or strategic proposal under Part 4, the NT EPA must provide an assessment report to the Minister.

65 Draft environmental approval

(1) The NT EPA must provide the following to the Minister with the assessment report:

(a) a draft environmental approval prepared in accordance with the regulations;

(b) any submissions received by the NT EPA on the draft environmental approval under the regulations;

(c) any written comments of the NT EPA on those submissions.

(2) Subsection (1) does not apply if the NT EPA provides the Minister with a statement of unacceptable impact under section 66.

(3) The draft environmental approval may set out the conditions recommended to apply to that approval.

66 Statement of unacceptable impact

(1) The NT EPA may provide the Minister with a statement of unacceptable impact with the assessment report if it considers that:

(a) the referred action or strategic proposal will have an unacceptable environmental impact; and

(b) the impact cannot be appropriately avoided, mitigated or managed and an environmental offset is not appropriate.

(2) The NT EPA must provide the following to the Minister with the statement of unacceptable impact:

(a) any submissions received by the NT EPA on the draft statement of unacceptable impact under the regulations;

(b) any written comments of the NT EPA on those submissions.

67 Notice of assessment report and other documents

(1) The NT EPA must publish a notice stating where the following documents provided to the Minister may be obtained or inspected:

(a) an assessment report on a referred action or strategic proposal;

(b) a draft environmental approval;

(c) a statement of unacceptable impact.

(2) The notice must be published as soon as practicable after the documents are provided to the Minister.

Division 3 Decision of Minister on environmental approval

68 Application of Division

This Division applies to a draft environmental approval provided to the Minister by the NT EPA under Division 2.

69 Decision of Minister in relation to draft environmental approval

(1) The Minister may:

(a) accept the draft environmental approval and grant the approval; or

(b) grant an amended environmental approval; or

(c) refuse to grant the environmental approval.

(2) If the Minister refuses under subsection (1)(c) to grant the environmental approval, the Minister must as soon as practicable after the decision is made:

(a) prepare and publish a statement of reasons for refusing to grant the approval; and

(b) give a copy of the decision and the statement of reasons for the decision to:

(i) the NT EPA; and

(ii) the proponent; and

(iii) any statutory decision-maker consulted under this Division in relation to the proposal to refuse to grant the environmental approval.

70 Consultation on proposal to grant an amended approval

(1) If the Minister proposes to grant an amended environmental approval, the Minister must:

(a) consult with:

(i) the NT EPA; and

(ii) the proponent; and

(b) make reasonable efforts to obtain the views of:

(i) any statutory decision-maker who the Minister considers may hold views in relation to the matter; and

(ii) if the amendment relates to a potential health impact of an action – the Chief Health Officer; and

(iii) if the amendment relates to a potential impact of an action on a social or cultural matter that is within the responsibility of a Minister – that Minister; and

(c) consider any written comments received within the time specified in writing by the Minister from a person or entity referred to in paragraph (a) or (b).

(2) The required time under section 74 for the Minister to make a decision ceases to run during any period that the Minister carries out a consultation under subsection (1).

71 Consultation on proposal to refuse to grant environmental approval

(1) If the Minister proposes to refuse to grant an environmental approval, the Minister must:

(a) make reasonable efforts to obtain the views of any statutory decision-maker who the Minister considers may hold views in relation to the matter; and

(b) consider any written comments received from the statutory decision-maker within the time specified in writing by the Minister.

(2) The required time under section 74 for the Minister to make a decision ceases to run during any period that the Minister carries out a consultation under subsection (1).

72 Show cause process

(1) The Minister must not refuse to grant an environmental approval unless the Minister has first complied with this section.

(2) The Minister must give written notice (a ***show cause notice***) to the proponent:

(a) stating the Minister's intention to refuse to grant the environmental approval; and

(b) asking the proponent to show cause why the environmental approval should be granted.

(3) The show cause notice must specify the date by which the proponent may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The Minister must consider any response given by the proponent to the show cause notice in making a decision under section 69.

73 Matters to be considered by Minister in deciding on environmental approval

(1) In addition to the matters set out in Part 2, the Minister must consider the following in deciding whether to grant or refuse an environmental approval for an action or strategic proposal:

(a) the objects of this Act;

(b) the assessment report on the action or strategic proposal;

(c) whether the proponent is a fit and proper person to hold an environmental approval;

(d) any other matters the Minister considers relevant.

(2) Before granting an environmental approval for an action or strategic proposal, the Minister must be satisfied that:

(a) the community has been consulted on the potential environmental impacts and environmental benefits of the proposed action or strategic proposal; and

(b) the significant impacts of the action or strategic proposal have been appropriately avoided or mitigated or can be appropriately managed; and

(c) if appropriate, environmental offsets can be provided in accordance with this Act for significant residual adverse impacts on the environment that cannot be avoided or mitigated.

74 Time for decision on environmental approval

(1) The Minister must make a decision to grant or refuse an environmental approval within the required time.

(2) If the Minister does not make a decision within the required time to grant or refuse an environmental approval:

(a) the Minister is taken to have accepted the NT EPA recommendations for the action or strategic proposal; and

(b) if the NT EPA has recommended the granting of the environmental approval – the draft environmental approval prepared by the NT EPA is taken to be an environmental approval granted by the Minister on the day after the end of the required time.

(3) In this section:

required time means 30 business days after the Minister receives the assessment report and draft environmental approval.

Division 4 Decision of Minister on statement of unacceptable impact

75 Application of Division

This Division applies if the NT EPA provides the Minister with a statement of unacceptable impact under Division 2.

76 Minister's decision in relation to statement

(1) If the NT EPA provides the Minister with a statement of unacceptable impact, the Minister:

(a) must consider the assessment report and the statement; and

(b) may decide:

(i) to accept the statement and refuse to grant an environmental approval; or

(ii) not to accept the statement and grant an environmental approval to the proponent.

(2) In addition to the matters set out in Part 2, the Minister must consider the following in making a decision under this section:

(a) the objects of this Act;

(c) any other matters the Minister considers relevant.

(3) If the Minister intends to accept the statement of unacceptable impact, the Minister must:

(a) make reasonable efforts to obtain the views of any statutory decision-maker who the Minister considers may hold views in relation to the matter; and

(b) consider any written comments received from the statutory decision-maker within the time specified in writing by the Minister.

(4) The required time under section 77 for the Minister to make a decision ceases to run during any period that the Minister carries out a consultation under subsection (3).

(5) Before deciding not to accept a statement of unacceptable impact, the Minister must be satisfied that:

(a) the community has been consulted on the potential environmental impacts and environmental benefits of the proposed action or strategic proposal; and

(b) the significant impacts of the action or strategic proposal have been appropriately avoided or mitigated or can be appropriately managed; and

(c) if appropriate, environmental offsets can be provided in accordance with this Act for significant residual adverse impacts on the environment that cannot be avoided or mitigated; and

(d) the proponent is a fit and proper person to hold an environmental approval.

77 Time for decision on statement of unacceptable impact

(1) The Minister must make a decision to accept or not accept a statement of unacceptable impact within the required time.

(2) If the Minister does not make a decision within the required time to accept or not accept a statement of unacceptable impact, the Minister is taken to have:

(a) accepted the statement of unacceptable impact; and

(b) refused to grant the environmental approval.

(3) In this section:

required time means 30 business days after the Minister receives the assessment report and statement of unacceptable impact.

78 Show cause process

(1) The Minister must not accept a statement of unacceptable impact unless the Minister has first complied with this section.

(2) The Minister must give written notice (a ***show cause notice***) to the proponent:

(a) stating the Minister's intention to accept the statement of unacceptable impact; and

(b) asking the proponent to show cause why the statement should not be accepted.

(3) The show cause notice must specify the date by which the proponent may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The Minister must consider any response given by the proponent to the show cause notice in making a decision under section 76.

79 Refusal of approval if Minister accepts statement

(1) If the Minister accepts the statement of unacceptable impact, the Minister must refuse to grant the environmental approval.

(2) If the Minister accepts the statement of unacceptable impact, the Minister must:

(a) publish a statement of reasons for refusing the approval; and

(b) give a copy of the decision and the statement of reasons for the decision to:

(i) the NT EPA; and

(ii) the proponent; and

(iii) any statutory decision-maker consulted in relation to the statement of unacceptable impact.

(3) The statement of reasons may refer to or adopt the statement of unacceptable impact.

80 Environmental approval granted if Minister rejects statement

(1) If the Minister does not accept the statement of unacceptable impact, the Minister must grant an environmental approval within the required time.

(2) If the Minister proposes to grant an environmental approval under subsection (1), the Minister must:

(a) consult with:

(i) the NT EPA; and

(ii) the proponent; and

(b) make reasonable efforts to obtain the views of:

(i) any statutory decision-maker who the Minister considers may hold views in relation to the matter; and

(ii) if the approval is to include a condition that relates to a potential health impact of an action – the Chief Health Officer; and

(iii) if the approval is to include a condition that relates to a potential impact of an action on a social or cultural matter that is within the responsibility of a Minister – that Minister; and

(c) consider any written comments received within the time specified by the Minister from a person or entity referred to in paragraph (a) or (b).

(3) The required time under this section ceases to run during any period that the Minister carries out a consultation under subsection (2).

(4) In this section:

required time means 60 business days after the Minister makes the decision not to accept the statement of unacceptable impact.

Division 5 Publication of environmental approval

81 Application of Division

This Division sets out the requirements for the publication of an environmental approval granted under this Part.

82 Publication of environmental approval

(1) Subject to subsection (2), the Minister must publish an environmental approval granted under Division 3 or 4 as soon as practicable after it is granted.

(2) If a draft environmental approval is taken to be an environmental approval under section 74(2), the CEO must, as soon as practicable after the approval takes effect, publish:

(a) the environmental approval; and

(b) a statement that the approval has been granted under section 74(2).

(3) If the environmental approval is granted under section 69 or 80(1), the Minister must publish a statement of reasons for the approval.

(4) The statement of reasons must include the following:

(a) for an approval granted under section 69(1)(a) – a statement that the proposed conditions of the NT EPA have been adopted;

(b) for an approval granted under section 69(1)(b) – a statement of the amendments made and the reasons for those amendments;

(c) for an approval granted under section 80 – a statement of the reasons for not accepting the statement of unacceptable impact and for granting the approval.

(5) The Minister must give a copy of the environmental approval and any statement of reasons published under subsection (3) to:

(a) the NT EPA; and

(b) the proponent; and

(c) any statutory decision-maker consulted in accordance with section 70 or 80.

Division 6 Conditions of environmental approval

83 Application of Division

This Division sets out matters relating to the conditions of an environmental approval.

84 Conditions of environmental approval

(1) An environmental approval may be granted subject to any conditions that the Minister considers necessary in relation to the potential environmental impacts of any action to which the approval applies and imposes on the approval in accordance with this Act.

(2) It is a condition of each environmental approval that any action to which the approval applies complies with the requirements of this Act and the approval.

(3) An approval holder must comply with the conditions of the environmental approval.

85 Condition may apply after action completed

(1) A condition may be expressed to continue to apply in relation to an action to which the environmental approval applies after the completion of the action.

(2) Without limiting subsection (1), the conditions of an environmental approval may include requirements for:

(a) rehabilitation of the site after the action is completed or the site of the action is closed; and

(b) ongoing monitoring, management and reporting after the action is completed or the site of the action is closed.

(3) Without limiting subsection (1), the conditions of an environmental approval may require that the availability of an environment protection bond extend beyond the period to which the environmental approval relates to include any period for which post-closure monitoring, management and reporting are required.

86 Conditions imposing financial requirements

(1) A condition may provide that the approval holder must provide to the Minister an environment protection bond in the amounts or values and at the times required by the Minister by written notice to the approval holder.

(2) A condition may require the approval holder to pay an environment protection levy in accordance with Part 7, Division 2.

87 Conditions requiring reporting of compliance with approval

(1) A condition may require the approval holder to report to the CEO on the approval holder's compliance with the environmental approval and with any other requirements imposed by this Act in relation to the approval.

(2) A report must be provided in the manner and at the times specified in the approval.

(3) The CEO may direct the approval holder to publish the report in the manner the CEO directs.

88 Conditions relating to management of health, social and cultural impacts

(1) Without limiting section 84, the Minister may impose conditions on an environmental approval to manage the potential health, social and cultural impacts of any action identified in the assessment report.

(2) The Minister must not impose a condition mentioned in subsection (1) in relation to an action if a similar condition could be imposed on a licence, permit or other authority issued or granted under another enactment.

89 Conditions of environmental approval – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the person is the approval holder for an environmental approval; and

(c) the conduct contravenes a condition of the environmental approval and the person is reckless in relation to that result; and

(d) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the person is the approval holder for an environmental approval; and

(c) the conduct contravenes a condition of the environmental approval and the person is reckless in relation to that result; and

(d) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the person is the approval holder for an environmental approval; and

(c) the conduct contravenes a condition of the environmental approval; and

(d) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the person is the approval holder for an environmental approval; and

(c) the conduct contravenes a condition of the environmental approval.

Penalty: environmental offence level 3.

(5) Strict liability applies to subsections (1)(b) and (2)(b).

(6) An offence against subsection (3) or (4) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

Division 7 Effect of environmental approval

90 Application of Division

This Division sets out the effect of an environmental approval.

91 Effect of environmental approval

(1) An environmental approval authorises the approval holder to take the action approved by the approval in accordance with:

(a) the approval; and

(b) the conditions of the approval; and

(c) the requirements of this Act.

(2) An environmental approval remains in force until it is revoked or expires.

(3) An environmental approval is taken not to be in force during any period that it is suspended.

92 Environmental approval to prevail over other statutory authorisations

(1) An environmental approval has effect despite anything to the contrary in any other statutory authorisation.

(2) Despite anything to the contrary in any other Act, a statutory decision-maker must not make a decision in relation to a statutory authorisation (including an amendment to an authorisation) that is inconsistent with an environmental approval.

(3) A statutory authorisation granted before or after an environmental approval is of no effect to the extent that it is inconsistent with an environmental approval.

(4) Nothing in this section prevents a statutory decision-maker from refusing to grant a statutory authorisation on the basis of a potential economic, social, health or cultural impact.

(5) For this section, a statutory authorisation is not inconsistent with an environmental approval on the basis that the statutory authorisation includes conditions that:

(a) are more stringent than the environmental approval; or

(b) address matters that are not included in the environmental approval.

93 Environmental approval not personal property

For section 8(1)(k) of the *Personal Property Securities Act 2009* (Cth), an environmental approval is not personal property for that Act.

Note for section 93

A law of the Commonwealth, a State or a Territory may declare a right, licence or authority granted by or under that law not to be personal property for the Personal Property Securities Act 2009 (Cth)

94 Expiry of environmental approval

(1) An environmental approval relating to an action expires if the approval holder does not take a required step or the required steps specified in the approval in relation to the action within:

(a) the time specified in the approval; or

(b) that time as extended by the Minister on an application under this section.

(2) In determining a time under subsection (1), the Minister may consider any matters the Minister considers relevant including the following:

(a) the complexity of the action and the environment affected;

(b) the likelihood of significant change to the environment;

(c) the extent to which the approval holder is required to take the action;

(d) whether the environmental approval is granted on the basis of a strategic assessment.

(3) An approval holder may apply to the Minister to extend the time specified for taking a step in relation to an action.

(4) The Minister may grant an extension of time before, or within 12 weeks after, the time specified in the approval for taking the step.

(5) If a time is extended under subsection (4):

(a) the extension is taken to have effect from the end of the time specified for taking the step or that time as previously extended; and

(b) the environmental approval is taken not to have expired.

95 Environmental approval revoked if amended approval granted

An environmental approval for an action is revoked if an amended approval for the action is granted.

Division 7A Consolidation or separation of environmental approvals

95A Consolidation of environmental approvals

(1) If there is more than one environmental approval applying to a particular site, the Minister may, at the request of the proponent or approval holder, consolidate the environmental approvals and grant one environmental approval in their place.

(2) The Minister may make any amendments to the conditions of an environmental approval to be consolidated that the Minister considers necessary for the purposes of the consolidation.

(3) Section 107 applies in relation to an amendment to the conditions of an environmental approval under subsection (2) other than an administrative amendment.

(4) The Minister must publish the following as soon as practicable after the environmental approval is granted under subsection (1):

(a) the environmental approval granted under subsection (1);

(b) a statement of reasons for:

(i) the consolidation of the environmental approvals; and

(ii) any amendment made under subsection (2) to the conditions of an environmental approval.

(5) If the Minister grants an environmental approval under subsection (1), the replaced environmental approvals are revoked.

95B Separation of environmental approvals

(1) The Minister may, at the request of the proponent or approval holder, separate an environmental approval applying to a particular site and grant 2 or more environmental approvals in its place.

(2) The Minister may make any amendments to the conditions applying to each environmental approval that the Minister considers necessary for the purposes of the separation.

(3) Section 107 applies in relation to an amendment to the conditions of an environmental approval under subsection (2) other than an administrative amendment.

(4) The Minister must publish the following as soon as practicable after the environmental approvals are granted under subsection (1):

(a) the environmental approvals granted under subsection (1);

(b) a statement of reasons for:

(i) the separation of the environmental approval; and

(ii) any amendment made under subsection (2) to the conditions of each environmental approval.

(5) If the Minister grants 2 or more environmental approvals under subsection (1), the replaced environmental approval is revoked.

Division 8 Approval notice for actions under environmental approval for strategic proposal

96 Application of Division

This Division provides for an approval notice for a proposed action if an environmental approval has been granted following a strategic assessment.

97 Purpose of approval notice

The purpose of an approval notice is to provide approval for a proposed action that was considered as part of a strategic proposal for which an environmental approval has been granted.

97A Requirement for approval notice

A person (including the approval holder) must not take any action under an environmental approval granted following a strategic assessment unless an approval notice has been issued for that action.

98 Application for approval notice

A person may apply to the Minister for an approval notice for a proposed action if:

(a) the proposed action has been assessed under a strategic assessment; and

(b) an environmental approval was granted as a result of the strategic assessment; and

(c) the proposed action is within the scope of the proposed actions considered as part of the strategic assessment.

99 Minister may request further information

(1) On receipt of an application under section 98, the Minister may request the applicant to give the Minister any further information necessary to enable the Minister to decide whether to accept the application.

(2) A request must:

(a) be in writing; and

(b) be made within 20 business days after the Minister receives the application; and

(c) specify a time for providing the information.

(3) The applicant must give the information to the Minister within the time specified in the request.

(4) If the Minister requests information under this section, the required time under section 101(2) for the Minister to make a decision ceases to run until the information is provided.

100 Consultation on application

(1) Before making a decision on an application under section 101, the Minister must:

(a) consult with the NT EPA; and

(b) make reasonable efforts to obtain the views of any statutory decision-maker who the Minister considers may hold views in relation to the matter; and

(c) consider any written comments received within the time specified by the Minister from a person or entity referred to in paragraph (a) or (b).

(2) The required time under section 101(2) for the Minister to make a decision ceases to run during any period that the Minister carries out a consultation under subsection (1).

101 Decision of Minister in relation to approval notice

(1) The Minister may:

(a) approve an application under section 98; or

(b) refuse to approve an application under section 98.

(2) The Minister must make a decision on the application within the required time.

(2A) Before making a decision to approve an application, the Minister must consider whether or not the applicant is a fit and proper person to hold an approval notice.

(3) Before making a decision to approve an application, the Minister must be satisfied that:

(a) the proposed action has been assessed under a strategic assessment; and

(c) it is appropriate in the circumstances to issue the approval notice.

(4) The Minister must not issue an approval notice for a proposed action if the environmental approval relevant to that application has expired or been revoked.

(5) In this section:

required time means 60 business days after the Minister receives the application for the approval notice.

102 Issue of approval notice

(1) If the Minister approves an application under section 101, the Minister must issue an approval notice to the applicant.

(2) If the Minister approves an application under section 101, the Minister must give a copy of the approval notice to:

(a) the NT EPA; and

(b) any statutory decision-maker consulted under section 100; and

(c) the approval holder of the environmental approval for the strategic proposal.

102A Conditions of approval notice

(1) An approval notice may be issued subject to any conditions that the Minister considers necessary to manage the potential environmental impacts of the action and imposes on the approval notice in accordance with this section.

(2) The conditions of an approval notice must not authorise activities that, together with the activities authorised under any other approval notice relating to the environmental approval, would exceed any threshold for those activities specified in the environmental approval.

(3) The conditions of an approval notice must be conditions that could be imposed on an environmental approval.

(4) The conditions of an approval notice must not be inconsistent with the conditions of the environmental approval.

(5) For this section, a condition of an approval notice is not inconsistent with the conditions of the environmental approval if the condition is more stringent than the conditions of the environmental approval.

(6) At the Minister's discretion, an approval notice may contain only conditions that are applicable to managing the significant impacts of the action to which the approval notice relates.

(7) The person issued with an approval notice must comply with the conditions of the approval notice.

103 Effect of approval notice

If an approval notice is issued in relation to a proposed action, the holder of the approval notice is taken to be an approval holder of the environmental approval for that action.

104 Notice of refusal

If the Minister refuses an application under section 101, the Minister must give the applicant:

(a) notice of the Minister's decision; and

(b) a statement of reasons for the decision.

105 Publication of notice and reasons

(1) The Minister must publish an approval notice issued under this Division and a statement of the reasons for the decision to approve the application as soon as practicable after the approval notice is issued.

(2) The Minister must publish a statement of reasons for a decision under section 101 to refuse an application as soon as practicable after the decision is made.

105A Amendment of approval notice

(1) The Minister may at any time on the Minister's own initiative or at the request of the person to whom an approval notice is issued:

(a) amend the approval notice to ensure consistency with any amendment of the environmental approval relevant to the approval notice; or

(b) amend the approval notice to ensure consistency with an environmental approval granted under section 95A or 95B in place of the environmental approval to which the approval notice relates; or

(c) make an administrative amendment to the approval notice.

(2) If an approval notice is amended, the Minister must issue an amended approval notice to the person to whom the approval notice was issued.

(3) The Minister must publish the amended approval notice and a statement of reasons for the amendment as soon as practicable after the approval notice is amended.

(4) An approval notice for an action is revoked if an amended approval notice for the action is issued.

Division 9 Amendment of environmental approval

106 Amendment of environmental approval

(1) The Minister may amend an environmental approval:

(a) at the request of the approval holder; or

(b) on the recommendation of the NT EPA as a result of an environmental impact assessment of a significant variation of an action or strategic proposal; or

(c) if the Minister becomes aware of information that was not available to the Minister at the time of granting the environmental approval and the Minister would have imposed different conditions on the environmental approval if the information had been available; or

(ca) if the environmental approval is for an action to which an environmental approval for a strategic proposal applies and the environmental approval for the action was granted after the referral of the strategic proposal was accepted – to ensure that the environmental approval for the action is consistent with the environmental approval for the strategic proposal; or

(d) if, as a result of the monitoring of compliance with or enforcement of this Act or the environmental approval, the Minister considers that the environmental impact of an action under the environmental approval:

(i) is not being appropriately avoided, mitigated or managed; or

(ia) is not being managed in a manner that is consistent with meeting the objects of this Act; or

(ii) is not being appropriately offset by an environmental offset.

(2) The Minister must make a decision on a request from an approval holder within the required time.

(3) The Minister must, in making a decision on a request from an approval holder:

(a) consider the following:

(i) the matters set out in Part 2;

(ii) the objects of this Act;

(iii) the assessment report on the action; and

(b) be satisfied that the amendment will not prevent:

(i) the significant impacts of the action from being appropriately avoided or mitigated or from being appropriately managed; and

(ii) any appropriate environmental offsets from being provided for significant residual adverse impacts on the environment that cannot be avoided or mitigated.

(3A) The Minister may, at any time on the Minister's own initiative or at the request of the approval holder, make an administrative amendment to an environmental approval.

(3B) Subsections (1), (2) and (3) do not apply to an administrative amendment.

(4) In this section:

required time means 60 business days after the Minister receives a request for an amendment from the approval holder.

107 Consultation on proposed amendment

(1) Before amending an environmental approval at the request of the approval holder, the Minister must:

(a) consult with the NT EPA; and

(b) make reasonable efforts to obtain the views of:

(i) any statutory decision-maker who the Minister considers may hold views in relation to the matter; and

(ii) if the amendment is to include a condition that relates to a potential health impact of an action – the Chief Health Officer; and

(iii) if the amendment is to include a condition that relates to a potential impact of an action on a social or cultural matter that is within the responsibility of a Minister – that Minister; and

(c) consider any written comments received within the time specified by the Minister from a person or entity referred to in paragraph (a) or (b).

(2) Before amending an environmental approval on the Minister's own initiative, the Minister must:

(a) consult with:

(i) the NT EPA; and

(ii) the approval holder; and

(b) make reasonable efforts to obtain the views of:

(i) any statutory decision-maker who the Minister considers may hold views in relation to the matter; and

(ii) if the amendment is to include a condition that relates to a potential health impact of an action – the Chief Health Officer; and

(iii) if the amendment is to include a condition that relates to a potential impact of an action on a social or cultural matter that is within the responsibility of a Minister – that Minister; and

(c) consider any written comments received within the time specified by the Minister from a person or entity referred to in paragraph (a) or (b).

(3) The required time under section 106(2) for the Minister to make a decision under section 106(1)(a) ceases to run during any period that the Minister carries out a consultation under subsection (1).

(4) Subsections (1), (2) and (3) do not apply to an administrative amendment.

108 Publication of amended environmental approval

The Minister must publish the amended environmental approval and a statement of reasons for the amendment as soon as practicable after the environmental approval is amended.

Division 10 Revocation or suspension of environmental approval

109 Revocation of environmental approval

The Minister may revoke an environmental approval:

(a) if the Minister becomes aware of information that was not available to the Minister at the time of granting the approval and the Minister is satisfied that the approval would not have been granted if the information had been available; or

(b) if the Minister, as a result of the monitoring of compliance with or enforcement of this Act or the approval or otherwise, is of the opinion that the approval holder is not a fit and proper person to hold the approval; or

(c) if the Minister, as a result of the monitoring of compliance with or enforcement of this Act or the approval or otherwise, believes on reasonable grounds that:

(i) the environmental impacts of an action cannot be appropriately avoided, mitigated or managed; and

(ii) an environmental offset is not appropriate; or

(d) at the request of the approval holder.

110 Suspension of approval

(1) The Minister may, by written notice to the approval holder, suspend an environmental approval instead of revoking the approval.

(2) The suspension is to be for a period specified in the notice.

111 Show cause process

(1) The Minister must not revoke or suspend an environmental approval under section 109 or 110 unless the Minister has first complied with this section.

(2) The Minister must give written notice (a ***show cause notice***) to the approval holder:

(a) stating the Minister's intention to revoke or suspend the environmental approval; and

(b) asking the approval holder to show cause why the environmental approval should not be revoked or suspended.

(3) The show cause notice must specify the date by which the approval holder may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The Minister must consider any response given by the approval holder to the show cause notice in making a decision under section 109 or 110.

(6) This section does not apply to a revocation at the request of the approval holder.

112 Notice to statutory decision-makers

The Minister must give written notice to any statutory decision-maker consulted in relation to an environmental approval of:

(a) the Minister's intention to revoke or suspend an environmental approval; and

(b) a decision by the Minister under this Division:

(i) to revoke an environmental approval; or

(ii) to suspend an environmental approval; or

(iii) not to revoke or suspend an environmental approval after a show cause notice is given under section 111.

113 Obligations under approval to continue

(1) This section applies if an environmental approval is revoked or suspended.

(2) The person who was the approval holder of the environmental approval must continue to:

(a) comply with any obligations under the environmental approval to manage the site to which the approval applies to minimise or remediate the environmental impact of any action to which the approval applies; and

(b) comply with any obligations under the environmental approval that relate to rehabilitation of the environment; and

(c) comply with any necessary environmental monitoring, management and reporting obligations at the site to which the environmental approval applies.

(3) The person required to comply with subsection (2) may apply to the Minister to waive the requirement to comply with that subsection.

(4) The Minister may waive compliance with any of the requirements of subsection (2) if the Minister considers it appropriate to do so.

114 Revocation at request of approval holder

(1) This section applies if an approval holder requests the Minister to revoke an environmental approval on the basis that all remediation, rehabilitation and closure requirements of the approval have been met.

(2) The Minister may revoke the environmental approval if the Minister is satisfied that the approval is no longer required because all remediation, rehabilitation and closure requirements of the approval have been met to the satisfaction of the Minister.

(3) The revocation of an environmental approval under this section does not prevent the issue of a closure notice in relation to any activities under the approval or for the closure of the site.

(4) The Minister must make a decision on the request within the required time.

(5) If the Minister proposes to revoke an environmental approval under this section, the Minister must:

(a) consult with the NT EPA; and

(b) make reasonable efforts to obtain the views of:

(i) any statutory decision-maker who the Minister considers may hold views in relation to the matter; and

(ii) if the approval includes a condition that relates to a potential health impact of an action – the Chief Health Officer; and

(iii) if the approval includes a condition that relates to a potential impact of an action on a social or cultural matter that is within the responsibility of a Minister – that Minister; and

(c) consider any written comments received within the time specified by the Minister from a person or entity referred to in paragraph (a) or (b).

(6) The required time under subsection (4) for the Minister to make a decision ceases to run during any period that the Minister carries out a consultation under subsection (5).

(7) In this section:

required time means 60 business days after the Minister receives the request.

115 Strategic assessment – revocation of approval

(1) This section applies if an environmental approval was granted as a result of a strategic assessment.

(2) The Minister must not revoke the environmental approval at the request of an approval holder unless all approval holders under the approval agree to the revocation.

116 Strategic assessment – revocation or suspension of approval

(1) This section applies if:

(a) an environmental approval was granted as a result of a strategic assessment; and

(b) a person is:

(i) the approval holder to whom the environmental approval was granted; or

(ii) an approval holder to whom an approval notice has been issued in relation to the environmental approval.

(2) The Minister may revoke or suspend the entitlement of a person to be an approval holder under that environmental approval.

(3) Sections 109 to 111 apply to a decision under subsection (2) as if it were a decision to revoke or suspend the environmental approval.

(4) An action by the Minister under subsection (2) does not affect the entitlement of any other person to be an approval holder under the environmental approval.

117 Contravention of continuing obligations – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct contravenes the person's obligations under section 113; and

(c) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct contravenes the person's obligations under section 113; and

(c) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct contravenes the person's obligations under section 113; and

(c) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct contravenes the person's obligations under section 113.

Penalty: environmental offence level 3.

(5) Strict liability applies to subsections (1)(b) and (2)(b).

(6) An offence against subsection (3) or (4) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

Division 11 Transfer of environmental approval

118 Transfer of environmental approval

An environmental approval may be transferred with the approval of the Minister.

119 Application for approval to transfer

(1) The proposed transferee must apply to the Minister to approve the transfer.

(2) The application must:

(a) be in the approved form; and

(b) be accompanied by any information required by the Minister to assess the application; and

(c) be accompanied by the fee prescribed by regulation.

(3) In the application the transferee must agree to perform any obligation imposed on the approval holder under this Act or the environmental approval.

(4) An application cannot be made unless the approval holder consents to the transfer.

120 Minister may request information

(1) The Minister may ask the following persons for information to assist the Minister in assessing the application:

(a) the approval holder;

(b) the proposed transferee;

(c) any other person who the Minister considers may have relevant information.

(2) If the Minister asks for information under this section, the required time under section 123(2) for the Minister to make a decision ceases to run until the information is provided.

121 Minister must consider certain matters

In addition to the matters set out in Part 2, the Minister must consider the following in deciding whether to approve a transfer of an environmental approval:

(a) the objects of this Act;

(b) whether the proposed transferee is a fit and proper person to hold an environmental approval;

(c) any other matters the Minister considers relevant.

122 Consultation on transfer

(1) Before making a decision on whether to approve or refuse to approve the transfer of an environmental approval or to amend the environmental approval under section 123, the Minister must:

(a) consult the NT EPA; and

(b) make reasonable efforts to obtain the views of:

(i) any statutory decision-maker who the Minister considers may hold views in relation to the matter; and

(ii) if the Minister proposes to amend a condition of the environmental approval that relates to a potential health impact of an action – the Chief Health Officer; and

(iii) if the Minister proposes to amend a condition that relates to a potential impact of an action on a social or cultural matter that is within the responsibility of a Minister – that Minister; and

(c) consider any written comments received within the time specified by the Minister from a person or entity referred to in paragraph (a) or (b).

(2) The Minister must consult with the proposed transferee if the Minister proposes to:

(a) amend the environmental approval; or

(b) refuse to approve the transfer.

(3) The required time under section 123(2) for the Minister to make a decision ceases to run during any period that the Minister carries out a consultation under subsection (1) or (2).

123 Decision on transfer

(1) The Minister may:

(a) approve the transfer of an environmental approval; or

(b) refuse to approve the transfer of the environmental approval.

(2) The Minister must make a decision on the application within the required time after the Minister receives the application for approval of the transfer.

(3) If the Minister approves the transfer of the environmental approval, the Minister may amend the environmental approval and grant an amended environmental approval in its place.

(4) The Minister's approval may be subject to a condition that the transfer does not take effect until the transfer of assets or other matters related to the action have occurred.

(5) Until a transfer of the environmental approval takes effect the approval holder is responsible for performing all obligations in relation to the approval.

(6) In this section:

required time means 30 business days after the Minister receives the application for approval of the transfer.

124 Publication of approval of transfer and reasons

(1) The Minister must publish a decision to approve a transfer of an environmental approval under this Division as soon as practicable after the decision is made.

(2) The Minister must publish a statement of reasons for a decision to approve or refuse to approve a transfer of an environmental approval under this Division.

(3) In addition to subsections (1) and (2), if the Minister amends the environmental approval under section 123(3), the Minister must publish the following as soon as practicable after the decision to approve the transfer of the environmental approval is made:

(a) the amended environmental approval;

(b) a statement of reasons for the amendment.

Part 5A Mining activities

Division 1 Preliminary matters

124A Purpose of Part

The purpose of this Part is to provide for:

(a) the duties and obligations of title holders in relation to mining sites; and

(b) the duties and obligations of mining operators in relation to mining activities and mining sites; and

(c) the granting and amendment of environmental (mining) licences; and

(d) the transfer, suspension, cancellation and revocation of environmental (mining) licences.

124B Application

(1) This Part applies in relation to mining sites and mining activities whether or not a mining activity requires an environmental impact assessment.

(2) This Part does not apply in relation to the extraction of material from temporary borrow pits required for the construction or maintenance of a road, railway or other infrastructure unless the extraction is carried out on a mining site in respect of which a person holds a mineral interest.

(3) This Part does not apply to an area of land on which the port operator, as defined in section 3 of the *Ports Management Act 2015*, of the Port of Darwin, as defined in that section, carries out, or has carried out, operations and works mentioned in section 13A(1)(f).

(4) This Part does not apply to any activity carried out by or on behalf of the Minister administering the Legacy Mines Remediation Act in relation to a legacy mine site, reserved legacy mine site or legacy mine feature.

124C Mining activities in relation to prescribed substances

(1) Before a power is exercised or a function is performed under this Part in relation to the licensing of a mining activity or class of mining activities in respect of a prescribed substance:

(a) the Minister must consult with the Commonwealth Minister about matters agreed in writing between the Commonwealth and the Territory relating to the mining of prescribed substances; and

(b) the Minister must act in accordance with any advice provided by the Commonwealth Minister.

(2) In granting or varying an environmental (mining) licence that relates to the Ranger Project Area, the Minister must ensure that the environmental (mining) licence incorporates or adopts by reference (with the necessary modifications) any environmental requirements and rehabilitation requirements applying under the Atomic Energy Act to a Part III authority that applies to the site affected by the environmental (mining) licence.

Division 2 Management of mining sites

124D Title holder may be mining operator or may appoint one or more mining operators

(1) The title holder of a mining site may be a mining operator for the site.

(2) If the title holder of a mining site is not to be the sole mining operator for the site, the title holder must, in writing, appoint one or more mining operators for the site.

(3) Subject to subsection (4), a title holder of a mining site must not appoint more than one mining operator in relation to the same kind of mineral or extractive mineral at a mining site.

(4) A title holder of a mining site may appoint more than one mining operator in relation to the same kind of mineral or extractive mineral at a mining site if each mining operator is carrying out a different kind of mining activity in relation to that mineral or extractive mineral.

(5) If the title holder appoints a mining operator for a mining site, the title holder must, not later than 10 business days after making the appointment, give the CEO notice in the approved form of the appointment and the date on which it took effect.

(6) If a mining operator resigns or the appointment is terminated, the title holder must, not later than 10 business days after the date on which the resignation or termination takes effect, give the CEO notice in the approved form of the resignation or termination and the date on which it took effect.

(7) On the termination of the appointment of a mining operator, the title holder becomes the mining operator responsible for complying with the mining operator's obligations under this Act in relation to the mining site.

(8) If there is more than one mining operator for a mining site at a particular time, a reference in this Act to the mining operator for the mining site is a reference to each concurrent mining operator for the mining site.

124E Offence to contravene notice requirement

(1) A person commits an offence if:

(a) the person is required under section 124D(5) or (6) to give a notice to the CEO; and

(b) the person contravenes that requirement.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Division 3 Environmental obligations in relation to mining sites and mining activities

124F Obligations of title holder who has appointed mining operator

(1) The title holder of a mining site who has appointed a mining operator for the site under section 124D must provide the mining operator with all relevant information available to the title holder that may assist the mining operator to establish and implement an appropriate environment protection management system for the site.

(2) The title holder of a mining site who has appointed a mining operator for the site under section 124D must ensure that the mining operator:

(a) is competent; and

(b) provides adequate resources to establish and implement the environment protection management system for the site.

124G General obligations of mining operator

(1) A mining operator of a mining site must:

(a) prevent or minimise environmental impacts in the establishment, operation, care and maintenance and closure of the mining site; and

(b) design, maintain, operate, decommission, remediate and rehabilitate structures and facilities on the mining site in a manner that minimises environmental impacts; and

(c) maintain and operate structures and equipment erected or installed at the mining site to a standard that enables their proper and efficient use so as to minimise environmental impacts; and

(d) during any care and maintenance period for the mining site, maintain structures, facilities and equipment and implement an appropriate program of maintenance to ensure that structures, facilities and equipment do not cause environmental impacts.

(2) Without limiting subsection (1)(a), environmental impacts may include the generation of wastes and pollution and impacts from the clearing of native vegetation.

(3) Subsection (1) does not limit the power of the Minister to place conditions on an environmental (mining) licence in relation to the matters in that subsection.

(4) This section does not apply in relation to a legacy mine or a legacy mine feature.

124H Obligations of mining operators – legacy mine feature

(1) This section applies in relation to a legacy mine feature on a mining site.

(2) The mining operator of the mining site must:

(a) monitor the environmental impacts associated with or resulting from the legacy mine feature including any impacts occurring outside the mining site; and

(b) manage the environmental impacts associated with or resulting from the legacy mine feature including any impacts occurring outside the mining site; and

(c) remediate and rehabilitate the environmental impacts associated with or resulting from the legacy mine feature at the mining site, if:

(i) the mining operator has conducted mining activities on the legacy mine feature or any part of the legacy mine feature; or

(ii) any action of the mining operator has had an adverse impact on the legacy mine feature; and

(d) undertake post-closure monitoring, management and reporting activities required for the legacy mine feature if the mining operator is responsible, under paragraph (c), for the remediation and rehabilitation of the environmental impacts associated with or resulting from the legacy mine feature.

124J Environmental obligations – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is engaged in on a mining site; and

(c) the conduct contravenes an obligation under this Division and the person is reckless in relation to that result; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is engaged in on a mining site; and

(c) the conduct contravenes an obligation under this Division and the person is reckless in relation to that result; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is engaged in on a mining site; and

(c) the conduct contravenes an obligation under this Division; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is engaged in on a mining site; and

(c) the conduct contravenes an obligation under this Division; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in material environmental harm.

Penalty: environmental offence level 3.

(5) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is engaged in on a mining site; and

(c) the conduct contravenes an obligation under this Division; and

(d) the conduct is not authorised under this Act.

Penalty: environmental offence level 4.

(6) Strict liability applies to subsections (1)(b) and (d) and (2)(b) and (d).

(7) An offence against subsection (3), (4) or (5) is an offence of strict liability.

(8) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

Division 4 Environmental (mining) licensing

Subdivision 1 Preliminary matters

124K Purpose of environmental (mining) licence

The purpose of an environmental (mining) licence is to prevent, minimise and monitor the environmental impacts of a mining activity including in relation to any of the following:

(a) the planning and design of the mining activity and any preliminary activities relating to the mining activity;

(b) the construction or carrying out of works for the mining activity;

(c) the operation of the mining activity;

(d) the remediation and rehabilitation requirements resulting from the mining activity;

(e) the completion of the mining activity and the closure of the mining site.

124L Requirement for environmental (mining) licence

(1) The mining operator for a mining site may carry out a mining activity on a mining site only if:

(a) the mining operator holds an environmental (mining) licence that authorises that activity; or

(b) the mining activity is exempt under section 124Q or the regulations.

(2) Subsection (1) does not apply in relation to the following activities unless they involve substantial disturbance of the mining site:

(a) fossicking;

(b) carrying out of exploration for minerals or extractive minerals.

(3) Without limiting subsection (2), the regulations may specify activities that do or do not constitute substantial disturbance of a mining site for that subsection.

(4) The mining operator for a mining site is not entitled to hold an environmental (mining) licence for a mining activity for which an environmental approval is required under this Act unless the mining operator is the approval holder.

(5) A person is not entitled to hold an environmental (mining) licence for a mining activity at a mining site unless the person is the mining operator for the mining site.

(6) Nothing in this Act prevents the granting of more than one environmental (mining) licence for a mining site.

124LA Environmental (mining) licence for fossicking

An environmental (mining) licence for fossicking applies to any phase of operating the relevant mineral title associated with fossicking, including:

(a) fossicking activities; and

(b) remediation and rehabilitation of land as a result of fossicking activities; and

(c) care and maintenance periods; and

(d) closure of those parts of a mining site that are not required for fossicking; and

(e) post-closure monitoring, management and reporting.

124M Environmental (mining) licence for exploration activities

An environmental (mining) licence granted for mining activities relating to exploration applies to any phase of mining activity associated with exploration, including:

(a) exploration activities; and

(b) remediation and rehabilitation of land as a result of exploration activities; and

(c) closure of those parts of a mining site that are not required for mining operations; and

(d) post-closure monitoring, management and reporting of the parts of the mining site that have been rehabilitated and closed.

124N Environmental (mining) licence for mining operations

An environmental (mining) licence granted for mining activities relating to mining operations applies to any phase of mining activity associated with the mining or processing of minerals, including:

(a) mining operations; and

(b) remediation and rehabilitation of the mining site; and

(c) care and maintenance periods; and

(d) closure of the mining site; and

(e) post-closure monitoring, management and reporting.

124P Environmental (mining) licence for extractive operations

An environmental (mining) licence granted for mining activities relating to extractive operations applies to any phase of mining activity associated with the extraction of extractive minerals, including:

(a) extractive operations; and

(b) remediation and rehabilitation of the mining site; and

(c) care and maintenance periods; and

(d) closure of the mining site*;* and

(e) post-closure monitoring, management and reporting.

124Q Exemption from licensing requirements

(1) The Minister may, by *Gazette* notice, grant an exemption from a requirement under this Part to hold an environmental (mining) licence in relation to a class of mining activities.

(2) The Minister, on the application of the mining operator, may grant an exemption from a requirement under this Part to hold an environmental (mining) licence for a mining activity.

(3) Without limiting subsections (1) and (2), an exemption may be granted under this section from the requirement to hold an environmental (mining) licence in relation to the obligations in section 124H.

(4) In determining whether to grant an exemption under this section, the Minister may consider any of the following:

(a) whether the environmental risks associated with the proposed mining activity are insignificant;

(b) whether the environmental risks associated with the proposed mining activity can be appropriately managed through compliance with the duties and obligations under Division 3 and Part 5B;

(c) whether failure to license the proposed mining activity will undermine the objects of this Act;

(d) any other matter the Minister considers appropriate in the circumstances.

(5) The Minister must consult with the Commonwealth Minister before an exemption is granted, or provided for under the regulations, for a mining activity or class of mining activities in respect of a prescribed substance.

(6) Despite subsections (1) and (2), the Minister must not exempt a mining activity mentioned in subsection (5) otherwise than in accordance with the advice of the Commonwealth Minister.

124R Fit and proper person to hold environmental (mining) licence

(1) In considering under this Part whether a person is or is not a fit and proper person to hold an environmental (mining) licence, the Minister:

(a) may consider whether there are reasonable grounds to believe that the person:

(i) has contravened a law of the Territory or another jurisdiction that relates to the physical or biological environment, including matters relating to pollution, biodiversity, natural resources, planning, development or waste; or

(ii) has contravened a law of the Territory or another jurisdiction that relates to heritage, health or cultural matters, including matters relating to sacred sites; or

(iii) has contravened a law of the Territory or another jurisdiction that relates to work health and safety; or

(iv) has contravened a law of the Territory under which a tax or royalty is payable to the Territory; or

(v) has committed an offence against any law of the Territory or another jurisdiction that involves an element of fraud or dishonesty; or

(vi) has behaved or is likely to behave in a way that is inconsistent with the person's duties as a mining operator; and

(b) may consider the matters prescribed by regulation; and

(c) may consider any other matters the Minister considers relevant.

(2) Nothing in this Part requires the Minister to conduct an investigation to determine whether a person is a fit and proper person.

124S General duties of mining operator

A mining operator of a mining site has the following general duties in applying for an environmental (mining) licence for a mining activity and in carrying out a mining activity under the environmental (mining) licence:

(a) to provide communities that may be affected by the mining activity with information and opportunities for consultation to assist each community's understanding of the mining activity and its potential impacts and benefits, including:

(i) any proposal for the remediation and rehabilitation of land as a result of the mining activity; and

(ii) any proposal for the closure of extractive operations or mining operations, including the proposed final land use for the mining site;

(b) to consult with affected communities, including Aboriginal communities, in a culturally appropriate manner;

(c) to consider the principles of ecologically sustainable development in the design of the mining activity;

(d) to apply the environmental decision-making hierarchy in the design of the mining activity;

(e) to consider the waste management hierarchy in the design of the mining activity.

Subdivision 2 Risk criteria, standard conditions and conditions generally

124T Risk criteria

(1) The Minister may declare risk criteria for the environmental impacts and environmental risks of mining activities.

(2) The Minister may declare different risk criteria for different types of mining activity and for different phases of a mining activity.

(3) A declaration of risk criteria must be prepared in accordance with the regulations.

(4) The Minister must publish the risk criteria as soon as practicable after they are declared under this section.

124U Standard conditions

(1) The Minister may approve standard conditions for this Part.

(2) The standard conditions may provide for the management of the environmental impacts of any aspect of the environment associated with a mining activity.

(3) The Minister may approve different standard conditions for different types of mining activity and for different phases of a mining activity.

(4) A standard condition providing for the management of the environmental impact of a mining activity may apply inside or outside a mining site.

(5) The Minister must publish standard conditions as soon as practicable after the conditions are approved under this section.

124V Review of risk criteria and standard conditions

(1) The Minister may conduct a review of the risk criteria or standard conditions at any time.

(2) The purpose of a review is to ensure that the risk criteria or the standard conditions (as the case requires) appropriately reflect the environmental impacts and environmental risks of the mining activity or phase of mining activity to which the risk criteria or standard conditions relate.

(3) A review of risk criteria or standard conditions must be carried out in accordance with the regulations.

124W Amendment of risk criteria and standard conditions

(1) The Minister may amend the risk criteria or standard conditions on completion of a review.

(2) The Minister may amend the risk criteria or standard conditions without conducting a review if the amendment is an administrative amendment.

(3) The Minister must publish the amended risk criteria or standard conditions as soon as practicable after the risk criteria or standard conditions are amended.

(4) The amended risk criteria or standard conditions take effect on the date that they are published or on a later date specified in the publication.

124X Conditions to manage environmental impacts

Conditions imposed on an environmental (mining) licence may include any conditions that are necessary to manage the environmental impacts associated with the mining activities including requiring the mining operator to:

(a) minimise and manage greenhouse gas emissions arising from the mining activities; and

(b) undertake mine closure planning at all stages of a mining activity to ensure that the following are informed by the proposed final land use for the mining site:

(i) exploration activities;

(ii) site design;

(iii) mining and processing methodologies;

(iv) waste management technologies and other processes and technologies used; and

(c) for any area of a mining site where no further mining activity is proposed – prepare and implement remediation and rehabilitation and closure plans that maximise the progressive remediation and rehabilitation of the area as soon as practicable after mining activity ceases; and

(d) prepare and implement post-closure monitoring, management and reporting plans; and

(e) comply with any other requirement prescribed by regulation.

124Y Conditions relating to management of social and cultural impacts

(1) Conditions on an environmental (mining) licence may include any conditions that are necessary to manage the potential social and cultural impacts of the mining activity.

(2) A condition mentioned in subsection (1) must not be imposed in relation to a mining activity if a similar condition could be imposed on a licence, permit or other authority issued or granted under another enactment.

124Z Conditions relating to activities regulated by prescribed enactments

(1) Conditions imposed on an environmental (mining) licence may authorise or regulate the environmental impacts of the following activities associated with a mining activity for which an authorisation under a prescribed enactment is required:

(a) the clearing of native vegetation;

(b) interference with a waterway;

(c) discharge of waste to water;

(d) the impact of emissions of contaminants or waste on nearby communities;

(e) the carrying out of bore work (see section 4 of the *Water Act 1992*);

(f) an activity prescribed by regulation.

(2) If a condition of an environmental (mining) licence authorises an activity mentioned in subsection (1)(a) to (f), an authorisation for that activity under the prescribed enactment is not required, despite anything to the contrary in the prescribed enactment.

(3) A condition of an environmental (mining) licence cannot authorise the extraction of water for which a licence is required under the *Water Act 1992*.

(4) In this section:

authorisation means a permit, approval or other authorisation.

prescribed enactment means an Act or statutory instrument, or a provision of an Act or statutory instrument, prescribed by regulation.

124ZA Conditions requiring reporting of activity and independent preparation or review of reports and documents

(1) A condition may be imposed on an environmental (mining) licence to require a mining operator to provide reports to the Minister in the manner and within the times specified in the licence.

(2) A condition under subsection (1) may require a report to the Minister on the mining operator's compliance with the environmental (mining) licence and with any other requirements imposed by this Act in relation to the licence.

(3) The Minister may direct the mining operator to publish a report mentioned in subsection (1) in the manner the Minister directs.

(4) A condition may be imposed on an environmental (mining) licence to require that specified information or reports required to be provided by the mining operator to the Minister under the licence or this Part must be prepared or reviewed by a qualified person in accordance with Part 13, Division 3A.

124ZB Conditions relating to care and maintenance periods

Conditions may be imposed on an environmental (mining) licence that require any of the following in relation to a care and maintenance period for a mining site:

(a) that the mining site and its structures, facilities and equipment are managed and maintained in a way that minimises the environmental impacts at the mining site;

(b) that remediation activities are carried out on the mining site;

(c) that rehabilitation activities are carried out on the mining site.

124ZC Conditions may apply after mining activity completed

(1) A condition on an environmental (mining) licence may be expressed to continue to apply in relation to the mining activity to which the licence applies after the completion of the mining activity.

(2) Without limiting subsection (1), the conditions of an environmental (mining) licence may include requirements for:

(a) remediation and rehabilitation of the mining site after the mining activity is completed or the site of the mining activity is closed; and

(b) ongoing monitoring, management and reporting of the mining site after the mining activity is completed or the site of the mining activity is closed.

(3) Without limiting subsection (1), any conditions referred to in subsection (2), including a condition that requires mining security, extend beyond the period to which the environmental (mining) licence relates to include any period for which remediation, rehabilitation, post-closure monitoring, management or reporting of the mining site are required.

Note for subsection (3)

Sections 124ZJ, 124ZK and 124ZL and Part 7, Division 1A, provide for matters relating to mining security.

Subdivision 3 Environmental (mining) licences

124ZD Application of Subdivision

(1) This Subdivision applies to the grant of an environmental (mining) licence for a mining activity.

(2) An environmental (mining) licence may be:

(a) a standard condition licence; or

(b) a modified condition licence; or

(c) a tailored condition licence.

124ZE Application for environmental (mining) licence

(1) A mining operator may apply to the Minister for an environmental (mining) licence for a mining activity or mining activities.

(2) The application may relate to all or any of the following:

(a) a single mining activity on a single mining site;

(b) more than one mining activity or kind of mining activity on a single mining site;

(c) a single kind of mining activity on more than one mining site;

(d) more than one kind of mining activity on more than one mining site.

(3) The application must:

(a) be in the approved form; and

(b) specify the mining activity or mining activities for which an environmental (mining) licence is sought; and

(c) specify whether the application is for:

(i) a standard condition licence; or

(ii) a modified condition licence; or

(iii) a tailored condition licence; and

(d) for an application for a modified condition licence or a tailored condition licence – be accompanied by an assessment of the environmental risks and impacts associated with the mining activity; and

(e) be accompanied by information required by the Minister to enable the Minister to calculate or recalculate any mining security required under this Act; and

(f) for an application for a tailored condition licence for an exploration activity – be accompanied by a plan for the rehabilitation of any area of the mining site that is not required for an extractive operation or a mining operation; and

(g) for an application for a tailored condition licence for an extractive operation or a mining operation – be accompanied by a closure plan for the mining site and a costing of the proposed closure activities; and

(h) be accompanied by any other information required by the Minister to assess the application; and

(i) be accompanied by the fee prescribed by regulation.

(4) The Minister may require specified information to be included in the application to be prepared or reviewed by a qualified person in accordance with Part 13, Division 3A.

(5) The Minister must publish and assess the application in accordance with the regulations.

(6) The Minister may refuse to accept an application if it does not include the required information.

124ZF Requirement for additional information

(1) The Minister may direct the mining operator to give the Minister, within a specified period, any additional information the Minister considers reasonably necessary to assess the application for an environmental (mining) licence to meet the objects of this Act.

(2) A direction to give information may be made at any time during the assessment of the application.

(3) If the Minister gives a direction under this section, the required time under section 124ZM for the Minister to decide the application for an environmental (mining) licence ceases to run until the information is provided.

124ZG Decision on application

(1) After assessing the application in accordance with this section and the regulations, the Minister may:

(a) grant:

(i) a standard condition licence; or

(ii) a modified condition licence; or

(iii) a tailored condition licence; or

(b) decide not to grant an environmental (mining) licence.

(2) If the Minister decides not to grant a standard condition licence, the Minister may treat the application as an application for a modified condition licence or a tailored condition licence and grant a modified condition licence or a tailored condition licence instead.

(3) The Minister may grant a modified condition licence or a tailored condition licence regardless of which of those types of licence is applied for.

(4) If an application relates to more than one mining activity, the Minister may grant:

(a) a separate environmental (mining) licence for each mining activity; or

(b) a composite environmental (mining) licence covering all of the mining activities; or

(c) a separate environmental (mining) licence for any of the mining activities and a composite environmental (mining) licence covering some or all of the remaining mining activities.

(5) The Minister may grant an environmental (mining) licence relating to more than one mineral interest if the mining operator:

(a) is the title holder for each mineral interest; or

(b) has been appointed under section 124D by the title holder for each mineral interest.

(6) In addition to the matters set out in Part 2, the Minister must consider the following in deciding whether to grant or not to grant an environmental (mining) licence:

(a) the objects of this Act;

(b) whether the mining operator is a fit and proper person to hold an environmental (mining) licence;

(c) the type of mineral interest applying to the mining site and whether the mining activity is authorised under the mineral interest;

(d) any other matters the Minister considers relevant.

(7) Subsection (6) does not apply if the mining operator:

(a) holds an environmental approval for the mining activity for which the environmental (mining) licence is sought; or

(b) has applied to the Minister for the transfer of an environmental approval for the mining activity for which the environmental (mining) licence is sought.

(8) The Minister is not required to comply with subsection (6)(b) if, under section 70(4) of the Mineral Titles Act, the Mining Minister considered the mining operator to be a fit and proper person to hold the mineral interest.

124ZH Restrictions on grant of environmental (mining) licence

(1) The Minister must refuse to grant an environmental (mining) licence for a mining activity if the Minister has refused to approve an environmental approval relating to the mining activity for which the licence is sought.

(2) If a referred action or strategic proposal relating to a mining activity is being assessed under Part 4, Division 3, the Minister must not grant an environmental (mining) licence for the mining activity until:

(a) the determination by the NT EPA as to whether the referred action or strategic proposal requires an environmental impact assessment under this Act; and

(b) if an environmental impact assessment is required for the referred action or strategic proposal – the completion of the environmental impact assessment and environmental approval process for the action or strategic proposal.

(3) Subsection (2) does not prevent the Minister from considering the application for the environmental (mining) licence while the environmental impact assessment of the referred action or strategic proposal relating to the mining activity is being carried out under this Act.

(4) If the mining operator has applied to the Minister for approval of the transfer of an environmental approval for the mining activity for which an environmental (mining) licence is sought, the Minister must not grant the licence until the transfer of the environmental approval is approved by the Minister.

124ZI Environmental (mining) licence not to be inconsistent with environmental approval

(1) An environmental (mining) licence for a mining activity is of no effect to the extent that it is inconsistent with an environmental approval applying to that activity.

(2) For subsection (1):

(a) an environmental (mining) licence that contains conditions that are more stringent than the environmental approval is not inconsistent with the environmental approval in relation to those conditions; and

(b) an environmental (mining) licence that contains conditions to address matters that are not included in the environmental approval is not inconsistent with the environmental approval in relation to those conditions.

124ZJ Standard condition licence

(1) A standard condition licence for a mining activity may be granted at any time if standard conditions have been approved for that mining activity and the risk criteria for the mining activity are met.

(2) A standard condition licence for a mining activity is subject to:

(aa) the risk criteria applying to the mining activity; and

(a) the standard conditions applying to the mining activity; and

(b) a condition that the mining operator must provide to the Minister a mining security in the amounts or values and at the times required by the Minister by written notice to the mining operator; and

(c) a condition that the mining operator must pay the mining levy payable by the mining operator under the Legacy Mines Remediation Act.

(3) If a standard condition applying to a mining activity is amended the standard condition licence is subject to the amended standard condition when the amendment takes effect.

124ZK Modified condition licence

(1) A modified condition licence may be granted for a mining activity if the mining activity meets the risk criteria applying to the mining activity, but:

(a) the mining operator cannot comply with some of the standard conditions for the mining activity; or

(b) conditions are required to be imposed that modify the standard conditions; or

(c) additional conditions are required to appropriately manage the environmental impacts of the mining activity; or

(d) the standard conditions for the mining activity are amended under section 124W and the mining operator cannot comply with the amended standard conditions.

(2) A modified condition licence is subject to:

(a) the risk criteria applying to the mining activity; and

(b) the standard conditions applying to the mining activity subject to any modifications determined by the Minister to ensure that the environmental risks and impacts of the mining activity are appropriately managed; and

(c) a condition that the mining operator must provide to the Minister a mining security in the amounts or values and at the times required by the Minister by written notice to the mining operator; and

(d) a condition that the mining operator must pay the mining levy payable by the mining operator under the Legacy Mines Remediation Act; and

(e) any other condition imposed by the Minister under this Division.

(3) The Minister may determine any modifications under subsection (2)(b) that the Minister thinks fit.

(4) If a standard condition that applies to a modified condition licence is amended, the modified condition licence is subject to the amended standard condition when the amendment takes effect to the extent that the amended condition is not inconsistent with the existing modifications in the licence.

(5) If a modified condition licence is granted in place of an existing standard condition licence, the standard condition licence is revoked.

124ZL Tailored condition licence

(1) A tailored condition licence may be granted for a mining activity if:

(a) no risk criteria have been declared for the mining activity; or

(b) the risk criteria applying to the mining activity cannot be met or the mining operator cannot comply with the standard conditions for the mining activity; or

(c) conditions are required to be imposed that differ from the conditions to which a standard condition licence or modified condition licence is subject; or

(d) standard conditions have not been approved for the mining activity; or

(e) the standard conditions for the mining activity are amended under section 124W and the mining operator cannot comply with the amended standard conditions.

(2) A tailored condition licence is subject to:

(a) the conditions specified in the tailored condition licence; and

(b) a condition that the mining operator must provide to the Minister a mining security in the amounts or values and at the times required by the Minister by written notice to the mining operator; and

(c) a condition that the mining operator must pay the mining levy payable by the mining operator under the Legacy Mines Remediation Act.

(3) The Minister may specify in a tailored condition licence any conditions the Minister determines are necessary or convenient to manage the environmental risks and impacts of the mining activity.

(4) If a tailored condition licence is granted in place of an existing standard condition licence or modified condition licence, the standard condition licence or modified condition licence is revoked.

124ZM Time for decision on environmental (mining) licence

(1) The Minister must make a decision to grant or refuse to grant an environmental (mining) licence within the required time.

(2) In this section:

prescribed period means:

(a) for a standard condition licence:

(i) for an exploration activity – 30 business days; and

(ia) for fossicking – 30 business days; and

(ii) for extractive operations – 30 business days; and

(iii) for mining operations – 40 business days; or

(b) for a modified condition licence:

(i) for an exploration activity – 40 business days; and

(ia) for fossicking – 40 business days; and

(ii) for extractive operations – 50 business days; and

(iii) for mining operations – 80 business days; or

(c) for a tailored condition licence:

(i) for an exploration activity – 60 business days; and

(ia) for fossicking – 60 business days; and

(ii) for extractive operations – 80 business days; and

(iii) for mining operations – 120 business days.

required time means:

(a) if a referred action or strategic proposal relating to the mining activity is being assessed under Part 4, Division 3 at the time the Minister receives the application for the environmental (mining) licence for the mining activity – the prescribed period after:

(i) the determination by the NT EPA as to whether the referred action or strategic proposal requires an environmental impact assessment under this Act; and

(ii) if an environmental impact assessment is required for the referred action or strategic proposal – the completion of the environmental impact assessment and the environmental approval process for the action or strategic proposal; or

(b) if an application has been made for approval to transfer the environmental approval for the mining activity and the application is not decided at the time the Minister receives the application for the environmental (mining) licence for the mining activity – the prescribed period after the decision to approve, or refuse to approve, the transfer of the environmental approval is made; or

(c) otherwise – the prescribed period after the Minister receives the application for the environmental (mining) licence.

124ZN Notice of decision

(1) The Minister must give notice to the mining operator of a decision to grant or refuse to grant an environmental (mining) licence.

(2) The notice must include a statement of reasons for the decision if the decision is:

(a) to refuse to grant a standard condition licence; or

(b) to grant or refuse to grant:

(i) a modified condition licence; or

(ii) a tailored condition licence.

(3) Subsection (2) does not apply to a decision to refuse to grant an environmental (mining) licence if the decision to refuse was made because the Minister has refused to approve an environmental approval or the transfer of an environmental approval.

(4) The Minister must publish a decision mentioned in subsection (1) and a statement of reasons for the decision notified under subsection (2) as soon as practicable after the decision is made.

(5) The Minister must publish an environmental (mining) licence as soon as practicable after it is granted.

Note for section 124ZN

An environmental (mining) licence will be recorded in the public register.

124ZO Period of environmental (mining) licence

(1) Subject to this Act, an environmental (mining) licence is in force for the period of the mining activity.

(2) An environmental (mining) licence does not take effect for a mining activity until:

(a) any required mining security has been paid in relation to that mining activity; and

(b) a notice of authority to commence the mining activity is issued under the Mineral Titles Act.

(3) If an amendment is made to an environmental (mining) licence under section 124ZS to permit a change to a mining activity and as a result an additional amount of mining security is payable, the amendment to the licence does not take effect until:

(a) the additional mining security has been paid in relation to that change to the mining activity; and

(b) any required notice of authority to continue the mining activity is issued under the Mineral Titles Act.

124ZP Environmental (mining) licence not personal property

For section 8(1)(k) of the *Personal Property Securities Act 2009* (Cth), an environmental (mining) licence is not personal property for that Act.

Note for section 124ZP

A law of the Commonwealth, a State or a Territory may declare a right, licence or authority granted by or under that law not to be personal property for the Personal Property Securities Act 2009 (Cth)

124ZQ Mining operator cannot comply with amended standard conditions

(1) This section applies if:

(a) a mining operator holds a standard condition licence or a modified condition licence; and

(b) the standard conditions applying to the standard condition licence or modified condition licence are amended after the grant of the licence; and

(c) the mining operator cannot comply with the amended standard conditions.

(2) If the mining operator holds a standard condition licence, the mining operator may apply to the Minister:

(a) under section 124ZE for a modified condition licence or a tailored condition licence; or

(b) to participate in a performance improvement program.

(3) If the mining operator holds a modified condition licence, the mining operator may apply to the Minister:

(a) to amend the conditions of the modified condition licence; or

(b) under section 124ZE for a tailored condition licence; or

(c) to participate in a performance improvement program.

(4) An application under subsection (2) or (3) must be made before, or not later than 30 business days after, the amended standard condition takes effect.

124ZR Review of licence conditions

(1) A modified condition licence and a tailored condition licence are to be reviewed to ensure that the conditions of the licence:

(a) are appropriate to manage the environmental risks and impacts of the mining activity; and

(b) reflect the environmental risks associated with the different phases of a mining activity.

(2) An environmental (mining) licence may specify a period for the review of the licence.

(3) In addition to any review for which a period is specified in an environmental (mining) licence, the Minister may review the conditions of an environmental (mining) licence in the following circumstances:

(a) if the Minister becomes aware of information that was not available to the Minister at the time of granting the licence and the Minister would have imposed different conditions on the licence if the information had been so available;

(b) if, in the reasonable opinion of the Minister, the mining operator has contravened a provision of this Act, or a condition of the licence, and an amendment to the conditions is necessary or convenient to prevent environmental harm (whether or not any enforcement action has been taken in relation to the contravention);

(c) if mining activities under the licence have been suspended for 12 months or longer during a care and maintenance period;

(d) if there is a change in the mining activity to which the licence relates or in the methods for conducting the mining activity or the mining activity is entering a different phase of activity;

(e) if the results of monitoring of the mining activity indicate that a change in the level of environment protection or management is required for the mining activity;

(f) a circumstance prescribed by regulation.

(4) A review under this section is not required to include a review of the standard conditions applying to an environmental (mining) licence.

124ZS General powers of Minister to amend environmental (mining) licence conditions

(1) The Minister may amend the conditions (other than the standard conditions) of an environmental (mining) licence during the period of the licence in the following circumstances:

(a) on the application of the mining operator;

(b) if in the reasonable opinion of the Minister – an amendment to the conditions is necessary or convenient as a result of a review of licence conditions under section 124ZR;

(c) if in the reasonable opinion of the Minister – an amendment to the conditions is necessary or convenient as a result of a review of standard conditions under section 124V;

(d) if the amendment is an administrative amendment.

(2) The Minister must consult with the mining operator before amending an environmental (mining) licence on the Minister's own initiative.

(3) The Minister must publish a proposed amendment to the conditions of an environmental (mining) licence and invite public comment in accordance with the regulations if the Minister considers that the proposed amendment is required as a result of a substantial alteration to any mining activity to which the licence relates.

(4) Before making a decision to amend the conditions of an environmental (mining) licence, the Minister must consider any written comments received:

(a) within the time specified by the Minister from the mining operator consulted under subsection (2); and

(b) during any public comment period under subsection (3).

(5) In deciding whether to amend the conditions of an environmental (mining) licence, the Minister must be satisfied that:

(a) the environmental impacts associated with the mining activity will be managed; and

(b) the amendments to the conditions will not undermine the objects of this Act.

(6) Subsections (2) and (4) do not apply to an administrative amendment.

Subdivision 4 Performance improvement programs

124ZT Application of Subdivision

This Subdivision applies in relation to a mining operator if:

(a) the mining operator holds a standard condition licence or a modified condition licence; and

(b) the standard conditions applying to the licence are amended after the grant of the licence; and

(c) the mining operator cannot comply with the amended standard conditions.

124ZU Power to agree to participation in performance improvement program

The Minister may agree to a mining operator participating in a performance improvement program to give the mining operator time to improve the mining operator's ability to comply with the mining operator's standard condition licence or modified condition licence.

124ZV Minister requirement to participate in performance improvement program

The Minister may require a mining operator to participate in a performance improvement program if the Minister is satisfied that the mining operator is not complying with the amended standard conditions of the mining operator's standard condition licence or modified condition licence but will be able to comply over time.

124ZW Mining operator request to participate in performance improvement program

The Minister, at the request of a mining operator, may permit the mining operator to participate in a performance improvement program if the Minister is satisfied that the mining operator is not likely to comply with the standard conditions applying to the mining operator's standard condition licence or modified condition licence when the amendments to the standard conditions commence.

124ZX Termination of performance improvement program by Minister

(1) The Minister may terminate a performance improvement program if, in the reasonable opinion of the Minister, the mining operator is not complying with the requirements of the performance improvement program.

(2) The Minister must not terminate a performance improvement program unless the Minister:

(a) gives notice to the mining operator of the intention to terminate the program; and

(b) gives the mining operator the opportunity to make submissions to the Minister within the period (being not less than 10 business days) specified in the notice; and

(c) considers any submissions made by the mining operator within the period specified in the notice.

124ZY Termination of performance improvement program at request of mining operator

The Minister may terminate a performance improvement program at the request of a mining operator if the Minister is satisfied that:

(a) the obligations under the program have been complied with; and

(b) the mining operator is able to comply with the amended standard conditions.

124ZZ Termination of performance improvement program on grant of environmental (mining) licence

A performance improvement program for a mining operator is terminated if the Minister grants to the mining operator:

(a) a modified condition licence or a tailored condition licence in place of a standard condition licence; or

(b) an amended modified condition licence in place of a modified condition licence; or

(c) a tailored condition licence in place of a modified condition licence.

124ZZA No criminal or civil proceedings while performance improvement program is in place

The Minister must not commence a criminal proceeding or civil proceeding under this Act in relation to an alleged contravention of the conditions of an environmental (mining) licence that relates to a matter covered by a performance improvement program while the performance improvement program is in place.

Subdivision 5 Revocation and suspension of environmental (mining) licence

124ZZB Revocation of environmental (mining) licence

The Minister may revoke an environmental (mining) licence for a mining activity:

(a) if the Minister reasonably considers that the mining operator has not complied with the conditions of the environmental (mining) licence; or

(b) if the mining operator has contravened a provision of this Act; or

(c) if any enforcement action has been taken against the mining operator:

(i) under this Act, for a failure to comply with an environmental approval; or

(ii) under the *Mining Management Act 2001* for a failure to comply with a mining authorisation or an obligation under that Act before its repeal; or

(d) if any enforcement action has been taken against the title holder under the Mineral Titles Act for failure to comply with an obligation or requirement under that Act; or

(e) if the Minister reasonably considers that the mining operator is no longer a fit and proper person to hold the environmental (mining) licence; or

(f) in a circumstance prescribed by regulation.

124ZZC Suspension of environmental (mining) licence

(1) The Minister may, by written notice to the mining operator, suspend an environmental (mining) licence instead of revoking the licence.

(2) The suspension must be for a period specified in the notice.

124ZZD Revocation of standard condition licence and issue of other environmental (mining) licence

The Minister may revoke a standard condition licence for a mining activity and grant a modified condition licence or a tailored condition licence to the mining operator:

(a) if the Minister reasonably considers that the mining operator has not complied with the conditions of the standard condition licence; or

(b) if the mining operator has contravened a provision of this Act; or

(c) if any enforcement action has been taken against the mining operator:

(i) under this Act for a failure to comply with an environmental approval; or

(ii) under the *Mining Management Act 2001* for a failure to comply with a mining authorisation or an obligation under that Act before its repeal; or

(d) if any enforcement action has been taken against the title holder under the Mineral Titles Act for failure to comply with an obligation or requirement under that Act; or

(e) in a circumstance prescribed by regulation.

124ZZE Show cause process

(1) The Minister must not revoke or suspend an environmental (mining) licence under section 124ZZB, 124ZZC or 124ZZD unless the Minister has first complied with this section.

(2) The Minister must give written notice (a ***show cause notice***) to the mining operator and if the proposed revocation or suspension is on a ground set out in section 124ZZB(d) or 124ZZD(d), the title holder under the Mineral Titles Act:

(a) stating the Minister's intention to revoke or suspend the environmental (mining) licence; and

(b) asking the mining operator or title holder to show cause why the environmental (mining) licence should not be revoked or suspended.

(3) The show cause notice must specify the date by which the mining operator or title holder may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The Minister must consider any response given by the mining operator or the title holder to the show cause notice in making a decision under section 124ZZB, 124ZZC or 124ZZD.

(6) The Minister may suspend an environmental (mining) licence under section 124ZZC instead of revoking the licence without giving a further show cause notice if a show cause notice has been given for the intention to revoke the licence.

124ZZF Automatic revocation or suspension of environmental (mining) licence

(1) An environmental (mining) licence for a mining activity is revoked if the environmental approval for the mining activity is revoked.

(2) An environmental (mining) licence for a mining activity is suspended during any period that the environmental approval for the mining activity is suspended.

124ZZG Compliance with environmental (mining) licence to continue

(1) This section applies if an environmental (mining) licence for a mining activity is revoked or suspended or ceases to have effect.

(2) The person who is or was the mining operator must continue to:

(a) comply with the environmental (mining) licence in relation to the management of the mining site to which the licence applies to minimise or remediate the environmental impact of the mining activity; and

(b) comply with the environmental (mining) licence in relation to the remediation and rehabilitation of the environment; and

(c) undertake any necessary environmental monitoring and reporting activities at the mining site to which the environmental (mining) licence applies.

(3) The person required to comply with subsection (2) may apply to the Minister to waive the requirement to comply with that subsection.

(4) The Minister may waive compliance with any of the requirements of subsection (2) if the Minister considers it appropriate to do so.

Subdivision 6 Notice and cancellation at request of mining operator

124ZZH When mining activity is completed

For this Subdivision, a mining activity for which an environmental (mining) licence is granted is completed:

(a) for exploration activities – when any rehabilitation, monitoring, management and reporting requirements of the licence are completed; and

(b) for mining operations and extractive operations – when any post-closure monitoring, management and reporting requirements of the licence are completed.

124ZZI Notice to Minister of completion of mining activity

(1) A mining operator who holds an environmental (mining) licence for a mining activity must notify the Minister of the completion of the mining activity.

(2) The notice must be given within the required time after the mining activity is completed.

(3) The notice must:

(a) be in an approved form; and

(b) be accompanied by a final report setting out:

(i) the mining activities undertaken; and

(ii) the environmental impacts associated with the mining activities; and

(iii) the remediation and rehabilitation activities completed as part of the mining activity; and

(iv) the post-closure monitoring, management and reporting of the mining site undertaken under the environmental (mining) licence.

(4) The notice may request the Minister to cancel the environmental (mining) licence.

(5) In this section:

required time means 30 business days.

124ZZJ Offence to contravene notice requirement

(1) A mining operator commits an offence if:

(a) the mining operator is required to give a notice and final report to the Minister under section 124ZZI; and

(b) the mining operator intentionally engages in conduct; and

(c) the conduct contravenes section 124ZZI and the mining operator is reckless in relation to that circumstance.

Maximum penalty: 200 penalty units.

(2) A mining operator commits an offence if:

(a) the mining operator is required to give a notice and final report to the Minister under section 124ZZI; and

(b) the mining operator contravenes that requirement.

Maximum penalty: 100 penalty units.

(3) Strict liability applies to subsection (1)(a).

(4) An offence against subsection (2) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

124ZZK Requirement for additional information

The Minister may direct the mining operator to give the Minister, within a specified period, any additional information the Minister considers reasonably necessary to assess the proposed cancellation of the environmental (mining) licence to meet the objects of this Act.

124ZZL Decision in relation to cancellation

(1) The Minister may consider a notice and any request under this Subdivision and decide:

(a) to cancel the environmental (mining) licence; or

(b) to refuse to cancel the environmental (mining) licence and direct the mining operator to undertake specified activities to complete the mining activity.

(2) Before deciding to cancel an environmental (mining) licence, the Minister must be satisfied that:

(a) any environmental risks and impacts at the mining site have been appropriately avoided, mitigated and managed; and

(b) all necessary remediation and rehabilitation actions have been undertaken at the mining site; and

(c) the cancellation will not undermine the objects of this Act.

124ZZM Notice of decision

(1) The Minister must give notice to the mining operator of a decision under section 124ZZL and a statement of reasons for the decision.

(2) The Minister must publish a decision under section 124ZZL and a statement of reasons for the decision as soon as practicable after the decision is made.

Subdivision 7 Transfer of environmental (mining) licence

124ZZN Transfer of environmental (mining) licence

An environmental (mining) licence may be transferred in accordance with this Subdivision.

124ZZO Application for approval to transfer

(1) The proposed transferee must apply to the Minister to approve the transfer.

(2) The application must:

(a) be in the approved form; and

(b) be accompanied by any information required by the Minister to assess the application; and

(c) be accompanied by the fee prescribed by regulation.

(3) In the application the transferee must:

(a) agree to comply with the conditions of the environmental (mining) licence; and

(b) agree to take responsibility for all existing environmental impacts associated with the mining site that are the responsibility of the mining operator, including responsibility for any remediation and rehabilitation activities relating to legacy mine features that are required to be undertaken by the mining operator; and

(c) agree to fulfil all remediation and rehabilitation obligations specified in the environmental (mining) licence and in any mining closure plan for the mining site; and

(d) comply with any other obligations prescribed by regulation.

(4) An application cannot be made unless the mining operator and the title holder consent in writing to the transfer.

(5) The Minister may refuse to accept an application if it does not include the required information.

124ZZP Minister may request information

(1) The Minister may ask the following persons for information to assist the Minister in assessing the application:

(a) the mining operator;

(b) the proposed transferee;

(c) any other person who the Minister considers may have relevant information.

(2) If the Minister asks for information under this section, the required time under section 124ZZT for the Minister to make a decision ceases to run until the information is given.

124ZZQ Minister to consider certain matters

(1) In addition to the matters set out in Part 2, in deciding whether to approve a transfer of an environmental (mining) licence, the Minister:

(a) must consider:

(i) the objects of this Act; and

(ii) whether the proposed transferee is a fit and proper person to hold an environmental (mining) licence; and

(b) may consider any other matters the Minister considers relevant.

(2) Subsection (1) does not apply if the proposed transferee:

(a) holds an environmental approval for the mining activity for which the transfer of the mining licence is sought; or

(b) has applied to the Minister for the transfer of an environmental approval for the mining activity for which the environmental (mining) licence is sought.

(3) The Minister is not required to comply with subsection (1)(a)(ii) if:

(a) the proposed transferee holds a mineral interest authorising the mining activity for which the transfer of the environmental (mining) licence is sought; and

(b) under section 70(4) of the Mineral Titles Act, the Mining Minister considered the proposed transferee to be a fit and proper person to hold the mineral interest.

124ZZR Consultation on transfer

(1) Subject to subsection (2), the Minister must consult with the proposed transferee if the Minister proposes to:

(a) amend the environmental (mining) licence; or

(b) refuse to approve the transfer.

(2) The Minister is not required to consult with the proposed transferee if the Minister proposes to refuse to approve the transfer because the Minister has refused to approve the transfer of the environmental approval.

(3) The required time under section 124ZZT for the Minister to make a decision ceases to run during any period that the Minister carries out a consultation under subsection (1).

124ZZS Decision on transfer

(1) The Minister may:

(a) approve the transfer of an environmental (mining) licence; or

(b) refuse to approve the transfer of an environmental (mining) licence.

(2) The Minister must approve the transfer of an environmental (mining) licence for a mining activity if the Minister has approved the transfer of an environmental approval relating to the mining activity.

(3) The Minister must refuse to transfer an environmental (mining) licence for a mining activity if the Minister has refused to approve the transfer of an environmental approval relating to the mining activity.

(4) The Minister must not make a decision on the transfer of an environmental (mining) licence for a mining activity to which an environmental approval applies unless the Minister makes a decision whether or not to approve the transfer of the environmental approval.

(5) The Minister's approval may be subject to a condition that the transfer does not take effect until the transfer of assets or other matters related to the mining activity have occurred.

(6) Until a transfer of an environmental (mining) licence takes effect the mining operator must comply with the environmental (mining) licence.

124ZZT Time for decision on request

(1) The Minister must make a decision to approve or refuse to approve a transfer of an environmental (mining) licence within the required time.

(2) In this section:

required time means:

(a) if the Minister has approved the transfer of an environmental approval relating to the mining activity – 15 business days after the Minister receives the application for approval of the transfer of the environmental (mining) licence; or

(b) if the Minister has refused the transfer of an environmental approval relating to the mining activity – 15 business days after the Minister receives the application for approval of the transfer of the environmental (mining) licence; or

(c) if an application has been made for approval to transfer the environmental approval for the mining activity and the application is not decided at the time the Minister receives the application for approval of the transfer of the environmental (mining) licence – 15 business days after the decision to approve, or refuse to approve, the transfer of the environmental approval is made; or

(d) otherwise – the following period after the Minister receives the application for approval of the transfer of the environmental (mining) licence:

(i) for an exploration activity – 20 business days;

(ii) for extractive operations – 20 business days;

(iii) for mining operations – 30 business days.

124ZZU Amendment of environmental (mining) licence or grant of environmental (mining) licence instead

(1) If the Minister approves the transfer of a modified condition licence or tailored condition licence, the Minister may, in accordance with section 124ZR and 124ZS, amend the licence by amending or removing any condition applying to the licence or by imposing a new condition.

(2) If the Minister considers the conditions of a standard condition licence to be transferred should be amended, the Minister may grant a modified condition licence or tailored condition licence to the transferee in place of the transfer of the standard condition licence.

(3) An amendment or grant of an environmental (mining) licence under this section may be made on the Minister's own initiative or at the request of the transferee.

(4) In deciding whether or not to amend an environmental (mining) licence or grant a modified condition licence or tailored condition licence under this section, the Minister must be satisfied that:

(a) the environmental impacts associated with the mining activity will be managed; and

(b) the amendments to the environmental (mining) licence or the grant of the environmental (mining) licence will not undermine the objects of the Act.

(5) If the Minister amends an environmental (mining) licence or grants a modified condition licence or tailored condition licence under this section, the obligations agreed to under section 124ZZO continue and extend to the amended environmental (mining) licence or the modified condition licence or tailored condition licence.

(6) If the Minister grants a modified condition licence or tailored condition licence in place of a standard condition licence under this section, the standard condition licence is revoked.

124ZZV Notice of decision

(1) The Minister must give notice to the mining operator and the transferee of a decision on an application for a transfer of an environmental (mining) licence and a statement of reasons for the decision.

(2) The Minister must publish a decision to do the following, and a statement of reasons for the decision, as soon as practicable after the decision is made:

(a) to approve or refuse to approve a transfer of an environmental (mining) licence;

(b) to grant a modified condition licence or a tailored condition licence to the transferee in place of the transfer of a standard condition licence.

(3) The Minister must publish:

(a) a transferred environmental (mining) licence as soon as practicable after it is transferred; and

(b) a modified condition licence or a tailored condition licence as soon as practicable after it is granted under section 124ZZU.

Note for section 124ZZV

A transfer or grant of an environmental (mining) licence is recorded in the public register.

Division 5 Environmental offences – licensing

124ZZW Licensing – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out a mining activity for which an environmental (mining) licence is required under this Act and the person is reckless in relation to that circumstance; and

(c) the mining activity is not authorised by an environmental (mining) licence; and

(d) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out a mining activity for which an environmental (mining) licence is required under this Act and the person is reckless in relation to that circumstance; and

(c) the mining activity is not authorised by an environmental (mining) licence; and

(d) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out a mining activity for which an environmental (mining) licence is required under this Act; and

(c) the mining activity is not authorised by an environmental (mining) licence; and

(d) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out a mining activity for which an environmental (mining) licence is required under this Act; and

(c) the mining activity is not authorised by an environmental (mining) licence.

Penalty: environmental offence level 3.

(5) Strict liability applies to subsections (1)(b) and (c) and (2)(b) and (c).

(6) An offence against subsection (3) or (4) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

124ZZX Contravention of environmental (mining) licence – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the person is the holder of an environmental (mining) licence; and

(c) the conduct contravenes the environmental (mining) licence and the person is reckless in relation to that circumstance; and

(d) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the person is the holder of an environmental (mining) licence; and

(c) the conduct contravenes the environmental (mining) licence and the person is reckless in relation to that circumstance; and

(d) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the person is the holder of an environmental (mining) licence; and

(c) the conduct contravenes the environmental (mining) licence; and

(d) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the person is the holder of an environmental (mining) licence; and

(c) the conduct contravenes the environmental (mining) licence.

Penalty: environmental offence level 3.

(5) Strict liability applies to subsections (1)(b) and (2)(b).

(6) An offence against subsection (3) or (4) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

124ZZY Contravention of requirements of performance improvement program – environmental offences

(1) A mining operator commits an offence if:

(a) the mining operator is required to participate in a performance improvement program; and

(b) the mining operator intentionally engages in conduct; and

(c) the conduct contravenes the requirements of the performance improvement program and the mining operator is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

(a) the mining operator is required to participate in a performance improvement program; and

(b) the mining operator contravenes the requirements of the performance improvement program.

Penalty: environmental offence level 3.

(3) Strict liability applies to subsection (1)(a).

(4) An offence against subsection (2) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

Division 6 Release of waste or contaminant

124ZZZ Obligations relating to release of waste or contaminant

(1) A person on a mining site must not release waste or a contaminant from that site unless the release is authorised under this Act.

(2) A mining operator, worker or contractor on a mining site must prevent the release of waste or a contaminant from that site unless the release is authorised under this Act.

124ZZZA No unauthorised release of waste or contaminant

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is engaged in on a mining site; and

(c) the conduct results in the release of waste or a contaminant; and

(d) the release is not authorised under this Act; and

(e) the release results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is engaged in on a mining site; and

(c) the conduct results in the release of waste or a contaminant; and

(d) the release is not authorised under this Act; and

(e) the release results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is engaged in on a mining site; and

(c) the conduct results in the release of waste or a contaminant; and

(d) the release is not authorised under this Act; and

(e) the release results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct results in the release of waste or a contaminant from a mining site; and

(c) the release is not authorised under this Act.

Penalty: environmental offence level 3.

(5) A mining operator, worker or contractor on a mining site commits an offence if:

(a) waste or a contaminant is released from a mining site; and

(b) the mining operator, worker or contractor fails to prevent the release of the waste or contaminant from the mining site; and

(c) the release is not authorised under this Act.

Penalty: environmental offence level 3.

(6) Strict liability applies to subsections (1)(b), (c) and (d) and (2)(b), (c) and (d).

(7) An offence against subsection (3), (4) or (5) is an offence of strict liability.

(8) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

Division 7 General provisions

Subdivision 1 Publication of reports

124ZZZB Publication of reports

(1) The Minister may direct a mining operator to publish, in the manner and within the time determined by the Minister, any report given to the Minister by the mining operator under:

(a) this Act; or

(b) an environmental (mining) licence.

(2) A mining operator must comply with a direction given under subsection (1).

124ZZZC Offence to contravene direction

(1) A person commits an offence if:

(a) the person has been directed to publish a report under section 124ZZZB(1); and

(b) the person contravenes the direction.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Subdivision 2 Extension of specified periods

124ZZZD Regulations may provide for extension of period for mining operator or transferee to do thing

(1) The regulations may provide for a process for the extension of any period within which a mining operator or a transferee is required under this Part to prepare a document or information or give a document or information to the Minister.

(2) If a period mentioned in subsection (1) is extended in accordance with the regulations, the period as extended is taken to be the period under this Part.

124ZZZE Regulations may provide for extension of period for Minister to do thing

(1) The regulations may provide for a process for the extension of any period under this Part within which the Minister is required under this Part to make a decision or to do another thing.

(2) If a period mentioned in subsection (1) is extended in accordance with the regulations, the period as extended is taken to be the period under this Part.

Part 5B General obligations

Division 1 Preliminary matters

124ZZZF Purpose of Part

The purpose of this Part is to provide for general obligations in relation to:

(a) any action that requires environmental approval; or

(b) any mining activity that requires an environmental (mining) licence.

Division 2 Environmental obligations

124ZZZG General obligation to take care of environment

Every person on an activity site has an obligation to take care of the environment.

124ZZZH Obligations in respect of site

(1) A person on an activity site must comply with instructions and procedures applying to the person that are included in the environment protection management system for the site.

(2) A person on an activity site must follow all reasonable directions given by a person having the duty to give directions about preventing environmental harm.

(3) A person must not interfere with or misuse anything provided on an activity site for environment protection.

124ZZZI Obligations of operator – management system

(1) The operator for an activity site must:

(a) establish and maintain an appropriate management structure of competent persons for the site; and

(b) as far as practicable, ensure that workers on the site are competent to perform their duties; and

(c) establish, implement and maintain an environment protection management system that is appropriate to the nature, scale and environmental impacts of the regulated action or regulated mining activity being carried out on the site; and

(d) provide adequate resources for the implementation and maintenance of the environment protection management system; and

(e) ensure, by regular assessment, that the environment protection management system operates effectively.

(2) For subsection (1)(c), an environment protection management system for an activity site must comply with the requirements prescribed by regulation.

(3) The operator of an activity site must display in a prominent place on the activity site any environmental approval or environmental (mining) licence applying to the activity site and make the approval or licence available to a contractor or worker on request.

124ZZZJ Consultation and cooperation for taking care of environment

(1) For section 124ZZZI(1)(c), the operator for an activity site must facilitate consultation and cooperation between the operator, contractors and workers in initiating, developing and implementing environment protection measures for the activity site's environment protection management system.

(2) Without limiting subsection (1), the measures may include one or more of the following:

(a) establishing one or more environment protection committees for the activity site or for a particular action or mining activity;

(b) establishing appropriate policies and procedures for dealing with issues involving risk of environmental harm;

(c) ensuring, as far as practicable, that adequate information is available about environmental risks involved in operations on the activity site;

(d) planning appropriate strategies for dealing with environmental incidents and serious environmental incidents on the activity site.

124ZZZK Obligations of worker

(1) A worker must keep informed about, and comply with, work instructions and procedures applying to the worker that are included in the environment protection management system for the activity site.

(2) A worker must, as soon as practicable, report to the operator for the activity site or, if employed by a contractor, to the contractor:

(a) the occurrence of an incident required to be reported or recorded under Part 9, Division 8 or the regulations; and

(b) a situation the worker has reason to believe may present a risk to the environment.

124ZZZL Obligations of contractor who is not worker

(1) A contractor (other than a worker) must ensure that the provisions of this Act and the environment protection management system for the activity site are complied with to the extent that they relate to the work performed or service provided by the contractor.

(2) A contractor (other than a worker) must, as soon as practicable, report to the operator for the activity site:

(a) the occurrence of an incident required to be reported or recorded under Part 9, Division 8 or the regulations; and

(b) a situation the contractor has reason to believe may present a risk to the environment; and

(c) any matter reported to the contractor by a worker under section 124ZZZK.

124ZZZM Environmental obligations – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is engaged in on an activity site; and

(c) the conduct contravenes an obligation under this Division and the person is reckless in relation to that circumstance; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is engaged in on an activity site; and

(c) the conduct contravenes an obligation under this Division and the person is reckless in relation to that circumstance; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is engaged in on an activity site; and

(c) the conduct contravenes an obligation under this Division; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is engaged in on an activity site; and

(c) the conduct contravenes an obligation under this Division; and

(d) the conduct is not authorised under this Act; and

(e) the conduct results in material environmental harm.

Penalty: environmental offence level 3.

(5) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is engaged in on an activity site; and

(c) the conduct contravenes an obligation under this Division; and

(d) the conduct is not authorised under this Act.

Penalty: environmental offence level 4.

(6) Strict liability applies to subsections (1)(b) and (d) and (2)(b) and (d).

(7) An offence against subsection (3), (4) or (5) is an offence of strict liability.

(8) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

Part 5C Power to enter land to comply with specified conditions

124ZZZN Application

This Part applies if:

(a) either:

(i) an environmental approval is subject to a condition mentioned in section 85; or

(ii) an environmental (mining) licence is subject to a condition mentioned in section 124ZC; and

(b) the approval holder or the mining operator:

(i) is not the owner or occupier of the land or premises to which the condition applies; or

(ii) does not have a right of access to the land or premises to which the condition applies.

124ZZZO Power to enter land

(1) The following persons may enter land or premises to which the condition under section 85 or 124ZC applies:

(a) the approval holder or an employee of the approval holder;

(b) the mining operator or an employee of the mining operator;

(c) a contractor engaged by the approval holder or mining operator to carry out works on the land or premises or an employee of the contractor.

(2) The following persons may enter land or premises to which a condition under section 85 or 124ZC applies to monitor the carrying out of the works on the land or premises to which the condition applies:

(a) a person engaged by the approval holder or mining operator to monitor the carrying out of the works or an employee of the monitor;

(b) the CEO.

(3) A person permitted to enter land or premises under this section may only enter:

(a) with the consent of the owner or occupier of the land; or

(b) if the person gives at least 10 business days prior written notice to the owner or occupier of the land; or

(c) in an emergency, if there is a risk of environmental harm if works are not carried out immediately.

(4) A person entering land or premises under subsection (3)(c) must:

(a) if possible, give oral notice of the entry to the owner or occupier of the land as soon as possible before, on or after that entry; and

(b) give written notice of the entry to the owner or occupier within 10 business days after that entry or the giving of the oral notice, whichever occurs first.

(5) The notice under subsection (3)(b) or (4) must inform the owner or occupier of the land of the matters prescribed by regulation.

(6) Despite subsection (3), a person must not enter residential premises under this section without the consent of the owner or occupier of the land.

(7) The power of a person to enter land or premises under this section may be exercised, despite:

(a) the land being, or the premises being on, Aboriginal land; and

(b) the person not holding a permit under the *Aboriginal Land Act 1978* to enter or remain on Aboriginal land.

124ZZZP Notice to CEO and Mining Minister

(1) The approval holder or mining operator must give written notice to the CEO of the intention of the approval holder or mining operator, a contractor or monitor engaged by the approval holder or mining operator or an employee of any of them, to enter land or premises under section 124ZZZO.

(2) The notice must be given at least 10 business days before entry to the land or premises.

(3) Despite subsection (2), if entry to the land or premises is made in an emergency under section 124ZZZO(3)(c), the approval holder or mining operator must:

(a) give oral notice of the entry to the CEO as soon as possible before, on or after that entry; and

(b) give written notice of the entry to the CEO within 10 business days after that entry or the giving of the oral notice, whichever occurs first.

(4) A notice under subsection (1) or (3) must also be given to the Mining Minister if it relates to an environmental (mining) licence that is granted on an application under this Act.

(5) The notice given by a person under subsection (1), (3) or (4) must inform the CEO and the Mining Minister, as the case requires, of the matters prescribed by regulation.

124ZZZQ Powers on entry

A person who is authorised under section 124ZZZO to enter land or premises may on entry do any of the following to comply with the condition of the environmental approval or environmental (mining) licence or to monitor the carrying out of works under that condition:

(a) inspect the land or premises and anything found there;

(b) dig up any land and operate any machinery or equipment on the land;

(c) bring equipment, machinery and materials onto the land or premises and install and maintain any equipment, machinery or materials;

(d) take photographs and make sketches or other records of the land or premises;

(e) measure anything, or take samples of anything, on the land or premises;

(f) take any other action reasonably required to comply with that condition or monitor the carrying out of works.

124ZZZR Duties on entry

A person who is authorised under section 124ZZZO to enter land or premises:

(a) must take reasonable steps to minimise disruption to the owner or occupier of the land or premises caused by the entry to the land or premises or the taking of an action specified in the condition mentioned in section 85 or 124ZC; and

(b) must not remain on the land or premises any longer than is reasonably necessary to comply with the condition of the environment approval or environmental (mining) licence or to monitor the carrying out of works under that condition.

124ZZZS Recovery of costs

(1) A person is entitled to be paid reasonable compensation under this section for loss or damage incurred because of action taken under this Part by:

(a) an approval holder or mining operator or an employee of that person; or

(b) a contractor or monitor engaged by an approval holder or mining operator or an employee of a contractor or monitor.

(2) The approval holder or mining operator is liable to pay the compensation for the loss or damage.

(3) No action lies against the Territory for the loss or damage.

124ZZZT Offence to obstruct

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct obstructs another person from taking any action that is authorised under this Part to comply with a condition of an environmental approval or environmental (mining) licence and the person is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct obstructs another person from carrying out the monitoring of works that is authorised under this Part and the person is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

(3) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

124ZZZU Offence to fail to give notice

(1) A person commits an offence if:

(a) the person is required to give a notice under section 124ZZZO or 124ZZZP; and

(b) the person contravenes that requirement.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

124ZZZV Offence to fail to comply with duty on entry

(1) A person commits an offence if:

(a) the person has a duty under section 124ZZZR; and

(b) the person intentionally engages in conduct; and

(c) the conduct contravenes that duty and the person is reckless in relation to that circumstance.

Maximum penalty: 100 penalty units.

(2) Strict liability applies to subsection (1)(a).

(3) It is a defence to a prosecution for an offence against subsection(1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Part 6 Environmental offsets

125 Environmental offsets framework and guidelines

(1) The Minister may establish an environmental offsets framework for the use of environmental offsets under this Act or an Act prescribed by regulation.

(2) The Minister may, by *Gazette* notice, publish guidelines for the environmental offsets framework.

(3) Without limiting subsection (2), the guidelines may provide for any of the following:

(a) the types of environmental offsets that may be required;

(b) different requirements for different classes of persons;

(c) different requirements for different classes of actions;

(d) different requirements for different areas;

(e) different requirements for different kinds of environmental offsets.

126 Environmental offsets register

(1) The CEO must keep a public environmental offsets register for this Act.

(2) The environmental offsets register must be kept in a form determined by the CEO.

(3) The CEO must record in the environmental offsets register all environmental offsets that are approved under this Act or an Act prescribed by regulation.

(4) The environmental offsets register must include the information required by regulation for each approved environmental offset.

Part 6A Environmental monitoring schemes

126A Definition

In this Part:

environmental monitoring scheme means a program for monitoring environmental quality or the impacts on the environment or human health of actions, including substances or other matters resulting from those actions.

126B Environmental monitoring schemes

(1) The Regulations may establish one or more environmental monitoring schemes.

(2) Without limiting subsection (1), the Regulations may provide for the following in relation to an environmental monitoring scheme:

(a) the purpose of the scheme;

(b) the actions and the region or area to which the scheme applies;

(c) the establishment, operation and administration of the scheme;

(d) the manner and form of publication of monitoring data collected under the scheme;

(e) the appointment of one or more persons as a scheme administrator or as joint scheme administrators, and the conferral of functions and powers on the administrator or administrators;

(f) the requirement for persons or classes of persons to make contributions towards all or part of the costs or anticipated costs of establishing, operating and administering the scheme;

(g) the Minister to have the power to determine, by *Gazette* notice, the persons or classes of persons that are required to make the contributions mentioned in paragraph (e);

(h) in relation to the contributions to be made by persons, or different classes of persons:

(i) the method of calculating those contributions, whether by reference to region, area, type of action or other criteria; or

(ii) the Minister to have the power to determine, by *Gazette* notice, the method of calculating those contributions, whether by reference to region, area, type of action or other criteria;

(i) the establishment of a fund for the scheme, including payments into and out of the fund and requirements relating to accounting, auditing and reporting;

(j) compliance, enforcement and reporting requirements in relation to the scheme;

(k) any other matter necessary or convenient for the establishment, operation or administration of the scheme.

Part 7 Financial provisions

Division 1 Environment protection bonds

127 Application of Division

This Division applies if a condition of an environmental approval requires a person to provide an environment protection bond.

128 Purpose of environment protection bond

The purpose of an environment protection bond is to secure:

(a) the approval holder's obligation to comply with this Act and the environmental approval; and

(b) the payment of the reasonable costs and expenses of the Minister or the CEO taking action at any time to prevent, minimise or remediate environmental harm resulting from the action to which the environmental approval applies; and

(c) the payment of the reasonable costs and expenses of the Minister or the CEO taking action to complete rehabilitation of the site to which the environmental approval applies or any area affected by the action; and

(d) the payment of the reasonable costs of post-closure monitoring, management and reporting; and

(e) the payment of any amount payable to the CEO by the approval holder for anything done by the CEO under this Act in relation to the approval holder's obligations under this Act.

129 Amount of bond

(1) The Minister must determine the amount or value of the environment protection bond to be provided.

(2) In determining the amount or value of an environment protection bond, the Minister may consider:

(a) the environmental risks and impacts of the action; and

(b) the level of uncertainty in assessing those risks and impacts and the management measures to deal with them.

(2A) If the regulations prescribe a minimum amount of environment protection bond payable in relation to an action or class of actions or a circumstance or class of circumstances, the Minister may determine that the amount of the environment protection bond is or includes the prescribed minimum amount.

(3) The Minister may determine the nature of the environment protection bond to be provided, which may include:

(a) cash; or

(b) a bank guarantee; or

(c) any other form of financial accommodation acceptable to the Minister.

(4) The conditions of an environmental approval may require the provision of an environment protection bond specifying:

(a) the amount of the bond or a formula for calculating the amount of the bond; and

(b) the form of the bond; and

(c) the terms on which the bond must be provided.

(5) The amount of an environment protection bond required for an environmental approval may be recalculated:

(a) in accordance with the environmental approval; or

(b) if the environmental approval is varied; or

(c) if the Minister is satisfied that there is a substantial change in the circumstances on the basis of which the bond was calculated; or

(d) at the request of the approval holder.

(6) The Minister may consider the matters in subsection (2) in recalculating an amount of environment protection bond under subsection (5).

(6A) An environment protection bond must not be imposed on a person in relation to a mining activity.

(7) The Minister may determine and publish the methodology for calculating the amount or value of an environment protection bond payable in respect of an action or class of actions or in a circumstance or class of circumstances.

(7A) The regulations may prescribe a minimum amount of environment protection bond payable in respect of an action or class of actions or in a circumstance or class of circumstances.

(8) An environment protection bond must not be imposed on a person for a purpose if a bond or security has been, or is required to be, provided by the person under another Act for the same, or substantially the same, environmental impacts.

130 Environment protection bond account

(1) The Minister must establish an environment protection bond account.

(2) The account must be a trust account.

(3) The Minister must ensure that an amount of environment protection bond paid in cash (including by cheque) is paid into the environment protection bond account.

(4) An amount may only be paid from the environment protection bond account for one of the following purposes:

(a) for a payment as a result of a claim under section 131;

(b) for a refund of all or any part of the bond.

131 Claim on bond

(1) The Minister or the CEO may make a claim on an environment protection bond for any purpose mentioned in section 128.

(2) The claim must be made in accordance with the regulations.

(3) A claim may be made before the Minister or the CEO incur any costs or expenses, but the amount claimed cannot exceed the expected reasonable costs and expenses of the Minister or the CEO in carrying out any action mentioned in section 128.

(3A) Costs and expenses may be recovered under this section even if they were incurred as a result of an act or matter that occurred before the environment protection bond was provided.

(4) A claim may be made on an environment protection bond after a request is made by the approval holder for the return of the bond.

132 Unused bond refundable

(1) Subject to subsection (2), any amount of an environment protection bond not used for a purpose mentioned in section 128 is refundable if all remediation, rehabilitation and closure requirements of the environmental approval have been completed to the Minister's satisfaction.

(1A) If an amount of environment protection bond held is reduced as a result of a recalculation under section 129, the amount of bond that is the difference between the environment protection bond held and the recalculated bond is refundable to the approval holder.

(2) Any amount owing to the Territory by the approval holder under this Act may be deducted from the environment protection bond at the time of the refund of the bond.

Division 1A Mining security

132A Application of Division

(1) Subject to subsection (2), this Division applies if a mining operator is required under an environmental (mining) licence under section 124ZJ(2)(b), 124ZK(2)(c) or 124ZL(2)(b) to provide a mining security.

(2) This Division and sections 124ZJ(2)(b), 124ZK(2)(c) and 124ZL(2)(b) do not apply in relation to an environmental (mining) licence that applies to the Ranger Project Area.

132B Purpose of mining security

The purpose of a mining security is to secure:

(a) the mining operator's obligation to comply with this Act and the environmental (mining) licence and any applicable environmental approval; and

(b) the payment of the reasonable costs and expenses of the Minister or the CEO taking action to prevent, minimise or remediate environmental harm resulting from any phase of the mining activity to which the environmental (mining) licence and any environmental approval applies; and

(c) the payment of the reasonable costs and expenses of the Minister or the CEO taking action to complete remediation and rehabilitation or closure of the mining site to which the environmental (mining) licence and any environmental approval applies or any area affected by the mining activity; and

(d) the payment of the reasonable costs of post-closure monitoring, management and reporting; and

(e) the payment of outstanding amounts owed to the Territory by the mining operator under this Act, the Mineral Titles Act (including for fees, rent or royalty) or the Legacy Mines Remediation Act.

132BA Duration of mining security

Mining security provided by a mining operator must continue in force for any period for which remediation, rehabilitation, post-closure monitoring, management or reporting of the mining site are required.

132C Amount of mining security

(1) The Minister must determine and publish the methodology for calculating the amount or value of the mining security to be provided.

(2) In determining the methodology for calculating an amount or value of a mining security, the Minister may consider all or any of the following:

(a) the environmental risks and impacts of the mining activity to be carried out under the environmental (mining) licence and any environmental approval applying to the activity;

(b) the level of uncertainty in assessing those risks and impacts and the management measures to deal with them;

(c) the level of environmental disturbance that has been caused, is caused or is likely to be caused by the mining activities that have been or are to be carried out under the environmental (mining) licence and any environmental approval applying to the activity;

(d) the level of environmental disturbance that has been caused by mining activities carried out on a mining site by:

(i) the mining operator or a previous mining operator appointed by the title holder for the mining site; or

(ii) an operator of the mining site under an authorisation under the *Mining Management Act 2001* under which a mining security was paid before the repeal of that Act;

(e) any proposed phase of the mining activity (including the development of the mining site) to be carried out under the environmental (mining) licence;

(f) any matter prescribed by regulation.

(3) If the regulations prescribe a minimum amount of mining security in relation to a mining activity or class of mining activities or in a circumstance or class of circumstances, the Minister may determine that the amount of the mining security is or includes the prescribed minimum amount.

(4) The Minister may determine the nature of the mining security to be provided, which may include:

(a) cash; or

(b) a bank guarantee; or

(c) any other form of financial accommodation acceptable to the Minister.

(5) The amount of mining security required for an environmental (mining) licence may be recalculated:

(a) in accordance with the environmental (mining) licence; or

(b) if the environmental (mining) licence or any applicable environmental approval is amended; or

(c) if the Minister is satisfied that there is a substantial change in the circumstances on the basis of which the mining security was calculated; or

(d) at the request of the mining operator.

(6) The Minister may consider all or any of the matters in subsection (2) in recalculating an amount of mining security under subsection (5).

(7) The regulations may prescribe a minimum amount of mining security in relation to a mining activity or class of mining activities or in a circumstance or class of circumstances.

132D Mining security account

(1) The Minister must establish a mining security account.

(2) The account must be a trust account.

(3) The Minister must ensure that an amount of mining security paid in cash (including by cheque) is paid into the mining security account.

(4) An amount may only be paid from the mining security account for one of the following purposes:

(a) for a payment as a result of a claim under section 132E;

(b) for a refund of all or any part of the mining security.

132E Claim on mining security

(1) The Minister or the CEO may make a claim on a mining security for any purpose mentioned in section 132B.

(2) The claim must be made in accordance with the regulations.

(3) A claim may be made:

(a) except in respect of a claim referred to in paragraph (b) – by the Minister or the CEO before the Minister or the CEO incur any costs or expenses but, in this case, the amount claimed cannot exceed the expected reasonable costs and expenses of the Minister or the CEO in carrying out any action mentioned in section 128; and

(b) in the case of a claim that relates to any levy, fees, rent or royalty owed to the Territory – by the Minister on behalf of the Territory when the Minister is satisfied that the other purposes with respect to which the mining security may be applied have been covered to a reasonable extent or degree.

(3A) Subsection (3)(a) does not limit the ability to make a claim after any costs or expenses have actually been incurred.

(4) Costs and expenses may be recovered under this section even if they were incurred as a result of an act or matter that occurred before the mining security was provided.

(5) A claim may be made on mining security after a request is made by the mining operator for the return of the mining security.

132F Unused mining security refundable

(1) Subject to subsection (2), any amount of a mining security not used for a purpose mentioned in section 132B is refundable if:

(a) a mining closure certificate is issued for the mining site or the part of the mining site to which the mining security applies; or

(b) remediation, rehabilitation and closure requirements of the environmental (mining) licence for the site or the part of the site for which the refund is requested have been completed to the Minister's satisfaction.

(2) If an amount of a mining security held is reduced as a result of a recalculation under section 132C, the amount of mining security that is the difference between the mining security held and the recalculated security is refundable to the mining operator.

(3) Any amount owing to the Territory by the mining operator under this Act, the Mineral Titles Act or the Legacy Mines Remediation Act, and not already recovered under section 132E, may be deducted from the mining security at the time of the refund of the security.

(4) A mining operator may apply to the Minister for a refund of an amount of mining security to which they are entitled under this section.

Division 2 Environment protection levy

133 Environment protection levy

(1) An environment protection levy is established.

(2) The environment protection levy is a tax that is levied to provide funding for the following purposes:

(a) the carrying out of works for the remediation of environmental harm;

(b) the carrying out of works for the rehabilitation of the environment;

(c) research into the environmental impacts of particular industries;

(d) research into the management of the environmental impacts of particular industries;

(e) other activities relating to protecting or enhancing the environment.

134 Liability for environment protection levy

(1) A person is liable to pay the environment protection levy if the person is in a class of persons prescribed by regulation to be liable to pay the levy.

(2) An environment protection levy must not be imposed on a person for a purpose if a levy has been, or is required to be, paid by the person under another Act for the same, or substantially the same, environmental impacts.

135 Amount of levy

(1) The amount of environment protection levy to be paid by a person must be determined in accordance with the regulations.

(2) The regulations may deal with matters relevant to the determination, payment and collection of the environment protection levy.

(3) The regulations may provide for the amount of the environment protection levy and the method of calculating the levy to be different in relation to different classes of actions, industries or circumstances.

(4) An environment protection levy paid by a person is not refundable.

Division 3 Environment protection funds

136 Minister may establish environment protection funds

(1) The Minister may establish one or more environment protection funds in accordance with the regulations.

(2) The Minister must, by *Gazette* notice, specify the purposes of each fund.

(3) The purposes of an environment protection fund may include providing funds for any of the following:

(a) actions taken in the event of an environmental emergency;

(b) works for the remediation of environmental harm;

(c) works for the rehabilitation of the environment;

(d) works for the protection of the environment;

(e) research into the environmental impacts of particular industries;

(f) research into the management of the environmental impacts of particular industries;

(g) other activities relating to protecting or enhancing the environment.

(4) Without limiting subsection (1), the Minister may establish separate environment protection funds for different industries.

137 Payments into environment protection funds

(1) The *Gazette* notice establishing an environment protection fund under section 136 must state the kinds of funds that may be paid into the fund.

(2) The following kinds of funds may be paid into an environment protection fund:

(a) amounts or a proportion of amounts of environment protection levy payable under this Act;

(b) the amounts of any costs recovered under Part 10, Division 2 or Part 11, Division 2;

(c) fees or a proportion of fees payable under this Act;

(d) amounts or a proportion of any amounts required to be paid to the CEO under this Act;

(e) any other amount required to be paid into an environment protection fund under this Act.

(3) Each environment protection fund must be invested in a manner approved by the Treasurer.

(4) The proceeds of the investment of an environment protection fund are payable into that fund.

138 Expenditure from an environment protection fund

(1) The Minister must, by *Gazette* notice, determine the purposes for which the money in an environment protection fund may be expended.

(2) A purpose determined for an environment protection fund:

(a) must be a purpose specified in section 136(3); and

(b) may also include the following:

(i) the reimbursement of fees paid into the fund;

(ii) the reimbursement of any amount paid into the fund in relation to an enforceable undertaking.

(3) Any expenditure from an environment protection fund must be authorised by the Minister.

(4) If an environment protection fund includes an amount of levy paid in respect of a particular industry, that amount cannot be expended for the support of another industry unless the other industry is impacted by the particular industry.

139 Recovery of amounts paid out of fund

(1) This section applies if an amount is paid out of an environment protection fund to undertake:

(a) actions in the event of an environmental emergency; or

(b) works for the remediation of environmental harm; or

(c) works for the rehabilitation of the environment; or

(d) works for the protection of the environment.

(2) The CEO may recover the amount expended from the environment protection fund from the person who was responsible for:

(a) the environmental emergency; or

(b) the environmental harm that required the remediation works; or

(c) the need for the rehabilitation works; or

(d) the action that resulted in the need for environment protection.

(3) The amount may be recovered in a court of competent jurisdiction as a debt due to the Territory.

(4) Any amount recovered under this section must be paid into the environment protection fund from which the expenditure was made.

Part 8 Environmental audits, environmental auditors and environmental practitioners

Division 1 Preliminary matters

140 Relationship of this Part to other provisions

This Part does not affect the operation of any condition of an environmental approval or an environmental (mining) licence requiring:

(a) monitoring or testing; or

(b) reporting on monitoring or testing.

141 Environmental audit

An environmental audit is a documented evaluation of an action or mining activity and its environmental impact (including an evaluation of management practices, systems and plant) for any of the following purposes:

(a) to provide information to the persons managing the action on compliance with legal requirements, codes of practice and relevant policies relating to the protection of the environment;

(b) to enable persons to determine whether the way the action or mining activity is carried out can be improved in order to protect the environment;

(c) to assess the nature, type, intensity, magnitude and extent of environmental impacts;

(ca) to assess:

(i) whether the action or mining activity is a prohibited action or is being, or has been, carried out in a protected environmental area and is prohibited in that area; and

(ii) if so, the nature and environmental impact of the action or mining activity;

(d) to assess whether environmental impacts have been, or are being, appropriately managed;

(e) to assess whether measures to minimise or remediate environmental harm or to rehabilitate the environment have been taken or have been effective;

(f) to assess the effectiveness of the safeguards or standards for the protection of the environment applied or adopted in relation to the action or mining activity;

(g) to obtain improved information as to the effectiveness and accuracy of the risk management processes and systems used to identify environmental impacts during the environmental impact assessment process;

(h) to assess the accuracy of forecasts of the environmental impacts of the action or mining activity.

Division 2 Environmental audit requirements

142 Direction by CEO to carry out environmental audit

(1) The CEO may direct an approval holder to cause an environmental audit to be carried out by a qualified person if the CEO believes or suspects on reasonable grounds that:

(a) the approval holder has contravened, or is likely to contravene, a condition of the environmental approval; or

(ab) the approval holder, in carrying out an action, is carrying out, or has carried out, a prohibited action or an action in a protected environmental area that is prohibited in that area; or

(ac) the approval holder has otherwise contravened, or is likely to contravene, this Act; or

(b) the environmental impacts that the action authorised by the environmental approval has, has had, or is likely to have are significantly greater than was indicated in the information that was available to the Minister when the environmental approval was granted.

(2) The CEO may direct a mining operator who is the holder of an environmental (mining) licence to cause an environmental audit to be carried out by a qualified person if the CEO believes or suspects on reasonable grounds that:

(a) the mining operator has contravened, or is likely to contravene, the environmental (mining) licence; or

(b) the mining operator, in carrying out a mining activity, is carrying out, or has carried out, a prohibited action or an action in a protected environmental area that is prohibited in that area; or

(c) the mining operator has otherwise contravened, or is likely to contravene, this Act; or

(d) the environmental impacts that the mining activity authorised by the environmental (mining) licence has, has had, or is likely to have are significantly greater than was indicated in the information that was available to the Minister when the environmental (mining) licence was granted.

(3) The CEO may direct a person to cause an environmental audit to be carried out by a qualified person if the CEO believes or suspects on reasonable grounds that the person is carrying out, or has carried out, a prohibited action or an action in a protected environmental area that is prohibited in that area.

143 CEO may appoint qualified person to carry out environmental audit

The CEO may appoint a qualified person to carry out an environmental audit.

144 Environmental audit and report

(1) An environmental audit under section 142 or 143 must be carried out to the satisfaction of the CEO.

(2) The qualified person must provide a report on the environmental audit to the CEO in the manner required by the CEO.

145 Contravention of direction – environmental offence

(1) A person commits an offence if the person contravenes a direction under section 142.

Penalty: environmental offence level 3.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

146 Offence relating to conflict of interest

(1) A person commits an offence if the person:

(a) is a qualified person; and

(b) intentionally carries out an environmental audit or part of an environmental audit; and

(c) has a conflict of interest and is reckless in relation to that circumstance; and

(d) does not have the authorisation of the CEO to engage in the conduct despite the conflict of interest.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(2) Strict liability applies to subsection (1)(a) and (d).

147 Authorisation of audit despite conflict

The CEO may authorise a qualified person to carry out an environmental audit or a part of an environmental audit despite a conflict of interest if the CEO considers it appropriate to do so in the particular circumstances of the case.

148 Nature of conflict of interest

(1) For sections 146 and 147, a person has a ***conflict of interest*** if the person:

(a) is an associate of another person who owns or occupies any part of the site to which the audit relates; or

(b) has a direct or indirect pecuniary or personal interest in:

(i) any part of the site to which the audit relates; or

(ii) any action or mining activity carried out or proposed to be carried out on the site or part of the site to which the audit relates; or

(c) has been involved in, or is an associate of another person who has been involved in, an assessment or remediation under this Act of the site to which the audit relates.

(2) For this section, a person is an ***associate*** of another person if:

(a) they are partners; or

(b) one is a spouse, de facto partner, parent, step-parent, child or stepchild of the other; or

(c) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or

(d) one is a body corporate or other entity (whether inside or outside Australia) and the other is a director or member of the governing body of the body corporate or other entity; or

(e) one is a body corporate or other entity (whether inside or outside Australia) and the other is a person who has a legal or equitable interest in 5% or more of the share capital of the body corporate or other entity; or

(f) they are related bodies corporate; or

(g) a relationship of a kind prescribed by regulation exists between them; or

(h) a chain or relationships can be traced between them under any one or more of paragraphs (a) to (g).

(3) In this section:

beneficiary, of a trust, includes an object of a discretionary trust.

related body corporate, see section 9 of the Corporations Act 2001.

149 Qualified person may direct information to be provided

A qualified person carrying out an environmental audit under section 142 or 143 may direct the person carrying out or proposing to carry out the action or mining activity being audited to provide all relevant information to the qualified person for carrying out the audit.

150 Declarations in relation to environmental audit reports

A report of an environmental audit by a qualified person provided to the CEO must be accompanied by:

(a) in the case of an audit under section 142 – a declaration signed by the person who is directed to obtain the audit certifying that the person:

(i) has not knowingly provided any false or misleading information to the qualified person; and

(ii) has provided all relevant information to the qualified person; and

(b) in the case of an audit under section 142 or 143 – a declaration signed by the qualified person certifying that:

(i) the report is accurate; and

(ii) the qualified person has not knowingly included any false or misleading information in it or failed to include any relevant information in it.

151 Contravention of direction to provide relevant information – environmental offences

(1) A person commits an offence if:

(a) the person is given a direction under section 149; and

(b) the person contravenes that direction and is reckless in relation to that result.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

(a) the person is given a direction under section 149; and

(b) the person contravenes that direction.

Penalty: environmental offence level 3.

(3) Strict liability applies to subsection (1)(a).

(4) An offence against subsection (2) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

152 Offence if false or misleading information in audit report or missing information

(1) A qualified person commits an offence if:

(a) the qualified person intentionally signs a declaration under section 150(b) in relation to an environmental audit report; and

(b) the audit report contains false or misleading information or does not contain all relevant information and the qualified person is reckless in relation to that circumstance.

Maximum penalty: 500 penalty units or imprisonment for 2 years.

(2) Subsection (1) does not apply if the qualified person when giving the audit report:

(a) draws the false or misleading aspect of the document to the CEO's attention; and

(b) to the extent to which the qualified person can reasonably do so – gives the CEO the information necessary to remedy the false or misleading aspect of the document.

153 Retention and production of audit documentation

(1) A person to whom a direction is given under section 142 must retain the prescribed documents relating to an environmental audit until the end of the last of the following periods after the audit report was provided to the CEO:

(a) 5 years;

(b) the period prescribed by regulation for that class of audit;

(c) the period (not exceeding 10 years) determined by the CEO in relation to the audit and notified to the person.

(2) The CEO may direct a person to produce a document that the person is required to retain under subsection (1).

154 Contravention of direction – environmental offences

(1) A person commits an offence if:

(a) the person is given a direction under section 153(2); and

(b) the person contravenes that direction and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

(a) the person is given a direction under section 153(2); and

(b) the person contravenes that direction.

Penalty: environmental offence level 3.

(3) Strict liability applies to subsection (1)(a).

(4) An offence against subsection (2) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

Division 3 Registration of environmental auditors

155 Offence to represent that registered as auditor

(1) A person commits an offence if:

(a) the person recklessly makes a representation that the person is registered as an environmental auditor under this Act; and

(b) the person is not registered under this Act as an environmental auditor.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(2) Strict liability applies to subsection (1)(b).

156 Registration of environmental auditors

The regulations may provide for matters relating to the registration of persons as environmental auditors, including the following:

(a) the grant or renewal of registration, including the qualifications for registration which may include certification by another jurisdiction or entity;

(b) the information to be provided to the CEO for applications for the grant or renewal of registration;

(c) application fees and renewal fees;

(d) conditions of registration;

(e) the period of registration or renewal of registration;

(f) suspension or cancellation of registration and disqualification from registration;

(g) reviews by NTCAT of decisions of the CEO relating to registration;

(h) the keeping of a register of environmental auditors, including by adopting a register or record of environmental auditors kept by another jurisdiction or entity.

Division 4 Registration of environmental practitioners

157 Offence to represent that registered as environmental practitioner

(1) A person commits an offence if:

(a) the person recklessly makes a representation that the person is registered as an environmental practitioner under this Act; and

(b) the person is not registered under this Act as an environmental practitioner.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(2) Strict liability applies to subsection (1)(b).

158 Registration of environmental practitioners

The regulations may provide for matters relating to the registration of persons as environmental practitioners, including the following:

(a) the grant or renewal of registration, including the qualifications for registration which may include certification by another jurisdiction or entity;

(b) the information to be provided to the CEO for applications for the grant or renewal of registration;

(c) application fees and renewal fees;

(d) conditions of registration;

(e) the period of registration or renewal of registration;

(f) suspension or cancellation of registration and disqualification from registration;

(g) reviews by NTCAT of decisions of the CEO relating to registration;

(h) the keeping of a register of environmental practitioners, including by adopting a register or record of environmental practitioners kept by another jurisdiction or entity.

Part 9 Enforcement

Division 1 Environmental officers

159 Appointment or authorisation of environmental officers

(1) The CEO may appoint or authorise a person as an environmental officer.

(2) The CEO must not appoint or authorise a person as an environmental officer unless satisfied that the person has the skills, qualifications, training or experience to properly perform the functions of an environmental officer.

(3) A police officer is an environmental officer for this Act.

160 Identity card

(1) The CEO must give an environmental officer appointed or authorised under section 159(1) an identity card stating the person's name and that the person is an environmental officer.

(2) The identity card must:

(a) show a recent photograph of the environmental officer; and

(b) show the card's date of issue; and

(c) be signed by the environmental officer.

(3) This section does not prevent the issue of a single identity card to a person for this and another Act.

(4) An environmental officer to whom an identity card is issued who is exercising a power or performing a function under this Act must produce that card for inspection if requested to do so by any person affected by the exercise of the power or the performance of the function.

161 Offence not to return identity card

(1) A person who ceases to be an environmental officer must return the person's identity card to the CEO within 15 business days after the cessation.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

162 Powers of environmental officers: purposes

(1) An environmental officer may do anything or cause anything to be done or take any action the environmental officer believes on reasonable grounds is necessary for the purpose of exercising a power or performing a function under this Act.

(2) Without limiting subsection (1), an environmental officer may exercise the powers set out in this Division for the following purposes:

(a) to monitor compliance with this Act;

(b) to investigate a suspected contravention of this Act.

163 General powers of environmental officers

(1) Subject to section 164, an environmental officer may do any of the following:

(a) enter any land or premises;

(b) move any vehicle;

(c) inspect any land or premises and anything on the land or premises;

(d) search any land or premises entered and anything found there;

(e) take photographs and make sketches or other records of land or premises or things found on land or premises;

(f) take photographs of any person on or in land or premises;

(g) make recordings in any medium, including audio, visual and audio-visual recordings, of land or premises or things found on land or premises;

(h) inspect and take copies of documents and records;

(i) seize any documents and any equipment required to access any documents;

(j) dig up any land;

(k) operate any equipment;

(l) bring equipment or materials on to the land or premises and install and maintain equipment or materials;

(m) measure anything, or take samples of anything on land or premises;

(n) examine or test any equipment or machinery or other thing;

(o) require a person to produce for inspection an environmental approval, environmental (mining) licence or environmental audit report or a document of a class prescribed by regulation or a copy of the document;

(p) require a relevant person to:

(i) provide the person's name, address and date of birth and evidence of these; and

(ii) if the relevant person is acting as a member of a partnership – provide the name and address and telephone number of any other partner in the partnership; and

(iii) if the relevant person is acting as a member of the committee of management of an unincorporated body – provide the name and address and telephone number of any other member of the committee of management;

(q) require a person on the land or premises to give the environmental officer reasonable assistance to exercise or perform the environmental officer's powers or functions including:

(i) operate any computer or other equipment; and

(ii) provide any access or assistance to access any computer or other equipment or any service;

(r) authorise a person to provide assistance to an environmental officer in the exercise or performance of the environmental officer's powers or functions;

(s) do any other act or thing necessary for, or incidental to, the exercise of a power mentioned in this Division.

(2) In this section:

associated person, of a person, means:

(a) if the person is a member of a partnership – a partner of the person; or

(b) if the person is a member of and acting on behalf of an unincorporated body – a member of the committee of management of the body; or

(c) an employee, agent, licensee, contractor or subcontractor of the person or of a partnership or body mentioned in paragraph (a) or (b).

relevant person means:

(a) a person who is on, or in the vicinity of, the land or premises; or

(b) a person who the environmental officer reasonably suspects is travelling to or from the land or premises; or

(c) a person who the environmental officer reasonably suspects is the owner or occupier of the land or premises; or

(ca) a person who the environmental officer reasonably suspects is the mining operator if the land or premises is part of a mining site; or

(d) a person who the environmental officer reasonably suspects is a person who is under investigation for a suspected contravention of this Act; or

(e) a person who the environmental officer reasonably suspects is a person who is an associated person of a person mentioned in paragraph (c) or (d).

164 Entry of residential premises

(1) The power to enter premises given by section 163 does not apply to residential premises unless:

(a) the entry is with the consent of the occupier obtained under subsection (2); or

(b) the entry is under a search warrant issued under section 170.

(2) An environmental officer seeking an occupier's consent to enter residential premises must:

(a) show the officer's identity card to the occupier; and

(b) give the occupier the reasons why the entry is sought; and

(c) inform the occupier that the occupier may refuse to give consent.

(3) An environmental officer is not entitled to remain on residential premises if the environmental officer does not show the officer's identity card to an occupier of those premises.

(4) Having entered residential premises, an environmental officer may remain on the premises for as long as is reasonably necessary to enable the officer to perform the officer's functions.

(5) This section does not affect any powers a police officer may exercise under another law of the Territory.

165 Entry on Aboriginal land

The power of an environmental officer to enter land or premises may be exercised under this Act, despite:

(a) the land or premises being Aboriginal land*;* and

(b) the officer not holding a permit under the *Aboriginal Land Act 1978* to enter or remain on Aboriginal land.

166 Duties of environmental officer on land or premises

An environmental officer must take reasonable steps to:

(a) minimise disruption caused by the entry or inspection of land or premises or the taking of an action specified in section 163; and

(b) ensure the environmental officer does not remain on land or premises any longer than is reasonably necessary.

167 Duty of environmental officer in relation to seized thing

(1) As soon as practicable but within 5 business days after an environmental officer seizes a thing under section 163, the officer must give a receipt for the seized thing to the person from whom it was seized.

(2) The receipt must describe generally each thing seized and its condition.

(3) If, for any reason, it is not practicable to comply with subsection (1), the environmental officer must:

(a) leave the receipt at the place of seizure; and

(b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.

(4) The environmental officer must allow a person who would be entitled to the seized thing if it were not in the environmental officer's possession to inspect it and, if it is a document, to take extracts from it or make copies of it.

(5) The environmental officer must return the seized thing to its owner at the end of the later of:

(a) 3 years; or

(b) if a prosecution for an offence involving the seized thing is started within the 3 years – 12 months after the end of the prosecution for the offence and any appeal from the prosecution.

(6) Despite subsection (5), the environmental officer must return the seized thing to its owner immediately the environmental officer stops being satisfied its retention as evidence is necessary.

(7) However, the environmental officer may keep the seized thing if the environmental officer believes on reasonable grounds that it is necessary to continue to keep it to prevent its use in committing an offence.

(8) An environmental officer must give written notice to the owner of a seized thing as soon as practicable if the environmental officer decides under subsection (7) to keep the thing.

168 Forfeiture of seized thing

(1) Despite section 167, if the owner of the seized thing is convicted of an offence for which the thing was retained as evidence, the court may order its forfeiture to the Territory.

(2) Despite section 167, if the court makes an order against the owner of a seized thing under Part 10, the court may order its forfeiture to the Territory.

(3) The forfeited thing becomes the property of the Territory and may be destroyed or disposed of as directed by the CEO.

(4) This section does not limit the court's powers under any other law.

169 Offence to contravene requirement

(1) A person commits an offence if:

(a) the person has been required to do a thing under section 163(1); and

(b) the person contravenes the requirement.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

170 Application for and issue of search warrant

(1) An environmental officer may apply to a judicial officer for a search warrant to enter land or premises:

(a) by appearing in person before the judicial officer; or

(b) if it is not practicable to appear in person – by telephone, radio or other means of communication.

(2) If the judicial officer is satisfied that there are reasonable grounds to permit the environmental officer to enter the land or premises, the judicial officer may issue a warrant directed to the environmental officer.

(3) If the judicial officer issues a warrant on an application made under subsection (1)(b), the judicial officer must:

(a) complete and sign the warrant (the ***original warrant***); and

(b) record on the original warrant the reasons for issuing it; and

(c) inform the environmental officer by telephone, radio or other means of communication of its terms.

(4) When informed of the terms of the warrant under subsection (3)(c), the environmental officer must as soon as practicable:

(a) complete 2 copies of the form of warrant in the terms provided by the judicial officer; and

(b) write on each copy the name of the judicial officer and the date and time of the issue of the original warrant; and

(c) forward one copy to the judicial officer.

(5) The environmental officer may use the remaining copy of the warrant to exercise the powers granted by the original warrant.

(6) If the judicial officer is satisfied, after comparing the forwarded copy with the original warrant, that the copy is in substance identical to the original warrant, the judicial officer must certify the copy as being in substance identical to the original warrant.

(7) In this section:

judicial officer means any of the following:

(a) a Supreme Court Judge;

(b) an Associate Judge;

(c) a Local Court Judge.

171 Effect and term of search warrant

(1) A search warrant permits the environmental officer to whom it is directed, and any other environmental officer, to:

(a) enter the land or premises specified in the warrant; and

(b) exercise the powers of the environmental officer under this Act in relation to the land or premises.

(2) A warrant remains in force for 30 business days from its date of issue.

172 Directions by environmental officer

(1) An environmental officer may issue a direction to a person to do any of the following:

(a) take an action to prevent, minimise, manage or remediate any environmental harm by the method, and within the time, specified in the direction;

(b) cease taking any action that may impact on the environment;

(c) within the time specified in the direction:

(i) take photographs and make sketches or other records of land or premises or things found on land or premises; or

(ii) take photographs of any person on land or premises; or

(iii) make recordings in any medium, including audio, visual and audio-visual recordings, of land or premises or things found on land or premises; or

(iv) inspect and take copies of documents and records; or

(v) measure anything, or take samples of anything on land or premises; or

(vi) provide the photographs, sketches, records, recordings, documents, measurements or samples mentioned in subparagraphs (i) to (v) to the environmental officer or a person nominated by the environmental officer for analysis.

(2) A direction must not be inconsistent with this Act or any relevant environmental approval.

(3) A direction may be given orally but must be confirmed by written notice to the person as soon as practicable.

(4) In this section:

land or premises means land or premises (including residential premises) owned, occupied or managed by the approval holder.

173 Offence to contravene direction

(1) A person commits an offence if:

(a) the person has been directed to do a thing under section 172(1); and

(b) the person contravenes the direction.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

174 Offence to obstruct environmental officer

(1) A person commits an offence if:

(a) the person intentionally obstructs another person; and

(b) the other person is an environmental officer; and

(c) the environmental officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(b).

175 Compliance with requirement to provide information

(1) This section applies in relation to:

(a) a requirement to provide information under section 163; or

(b) a direction to provide information under section 172(1).

(2) It is not an excuse for a person to refuse or fail to provide the information in response to the requirement or direction on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(3) Information provided by an individual in response to a requirement or direction that might tend to incriminate the individual or make the individual liable to a penalty is not admissible in evidence against the individual in a proceeding for an offence or the imposition of a penalty.

(4) Subsection (3) does not prevent the use of information provided by an individual in response to a requirement or direction to locate or identify further evidence that may be used in evidence against the individual in a proceeding for an offence or the imposition of a penalty.

(5) Subsection (3) does not apply to a proceeding in relation to the provision of false or misleading information or documents.

Division 2 Environment protection notices

Subdivision 1 Environment protection notices

176 Environment protection notice – purpose and issue

(1) The CEO may issue an environment protection notice to any person under this Division for the purpose of securing compliance with:

(a) a declaration under section 35, 36 or 38; or

(ab) an environmental approval; or

(ac) an environmental (mining) licence; or

(ad) Part 5A or 5B; or

(b) a requirement prescribed by regulation.

(2) In addition to subsection (1), the CEO may issue an environment protection notice under this Division in the circumstances set out in Division 2A.

(3) Without limiting subsection (1), an environment protection notice can be made on the revocation or ceasing to have effect of a notice under section 182, 182A or 183.

177 Content of environment protection notice

(1) Subject to section 183, an environment protection notice must be:

(a) in writing; and

(b) given to the person to whom it is issued.

(2) The environment protection notice must:

(a) specify the person to whom it is issued, whether by name or a description sufficient to identify the person; and

(ab) if the notice is issued for the purpose of securing compliance with a declaration under section 35, 36 or 38:

(i) state that purpose; and

(ii) specify the non-compliance to be rectified; and

(b) if the notice is issued for the purpose of securing compliance with the conditions of an environmental approval or an environmental (mining) licence:

(i) state that purpose; and

(ii) specify the conditions to be complied with; and

(ba) if the notice is issued for the purpose of securing compliance with Part 5A or 5B:

(i) state that purpose; and

(ii) specify the non-compliance to be rectified; and

(c) if the notice is issued for the purpose of securing compliance with a requirement prescribed by regulation:

(i) state that purpose; and

(ii) specify the requirement.

(3) The environment protection notice must state that the person may apply to NTCAT for review of the decision to issue the notice.

(4) An environment protection notice is binding on each person to whom it is issued.

178 Requirements of environment protection notices

(1) Subject to sections 182, 182A and 183, an environment protection notice may impose any requirement reasonably required for the purpose for which the notice is issued, including one or more of the following:

(a) a requirement (a ***cease work requirement***) that the person discontinue, or not commence, a specified activity or specified part of an activity;

(b) a requirement that the person not undertake or continue a specified activity except at specified times or subject to specified conditions;

(c) a requirement that the person undertake a specified activity within a specified period or at specified times or in specified circumstances;

(d) a requirement that the person prepare, in accordance with specified requirements and to the satisfaction of the CEO, a plan to prevent, minimise, manage or remediate environmental harm;

(da) a requirement that the person:

(i) rehabilitate the environment; or

(ii) prepare, in accordance with specified requirements and to the satisfaction of the CEO, a plan to rehabilitate the environment;

(e) a requirement that the person comply with the plan mentioned in paragraph (d) or (da);

(f) a requirement that the person undertake specified tests or environmental monitoring;

(g) a requirement that the person submit to the CEO specified testing, monitoring or compliance reports;

(h) a requirement that the person appoint or engage a person in a specified class of qualified person to prepare a plan or report or undertake tests or monitoring required by the notice;

(i) a requirement prescribed by regulation.

(2) An environment protection notice that includes a cease work requirement remains in force until it is revoked by the CEO under section 184.

(3) An application to NTCAT for review of an environment protection notice that imposes a requirement mentioned in subsection (1)(a), (b) or (c) or a requirement prescribed by regulation does not stay the operation of the notice.

179 Environment protection notice may permit certain acts or omissions

(1) The CEO may include in an environment protection notice a requirement for an act or omission that might otherwise constitute a contravention of this Act if the CEO considers that it is reasonably necessary in the circumstances to do so.

(2) A person incurs no liability to a penalty under this Act for an act or omission made in compliance with a requirement mentioned in subsection (1).

180 Effect of environment protection notice on need for statutory authorisation

(1) This section applies if:

(a) a person is required by an environment protection notice to carry out an action; and

(b) a statutory authorisation of a kind prescribed by regulation is required for that action.

(2) The person may carry out the action without obtaining the statutory authorisation.

(3) A person incurs no liability to a penalty under the Act governing the statutory authorisation for complying with subsection (2).

(4) Subsections (2) and (3) apply despite anything to the contrary in the Act governing the statutory authorisation.

181 Notice to prescribed statutory decision-maker of proposed notice

(1) This section applies if:

(a) the CEO proposes to:

(i) issue or vary an environment protection notice requiring a person to carry out an action; or

(ii) issue a notice confirming an emergency environment protection notice under section 183(6) requiring a person to carry out an action; and

(b) but for section 180, a statutory authorisation would be required for that action.

(2) The CEO must:

(a) give notice of the proposed environment protection notice or the proposed variation or confirmation of an environment protection notice to the statutory decision-maker responsible for granting the statutory authorisation; and

(b) consider any written comments received within the time specified in the notice from the statutory decision-maker.

(3) The notice must be given before the environment protection notice is issued or varied or confirmed, as the case requires.

(4) The time specified in the notice must be:

(a) for a notice under section 183(6) to confirm an emergency environment protection notice – at least 24 hours; or

(b) otherwise – at least 10 business days.

(5) This section does not apply to the issue of an emergency environment protection notice.

182 Emergency environment protection notice issued by CEO

(1) The CEO may issue an emergency environment protection notice to a person if:

(a) an environmental approval has been granted for an action; and

(b) the CEO believes on reasonable grounds that the action is causing significant environmental harm; and

(c) the CEO believes on reasonable grounds that urgent action is required for the protection of the environment and to meet the objects of this Act; and

(d) the CEO believes on reasonable grounds that a ground specified in section 109 for revocation of an environmental approval exists.

(1A) The CEO may issue an emergency environment protection notice to a person if:

(a) an environmental (mining) licence has been granted for a mining activity; and

(b) the CEO believes on reasonable grounds that the mining activity is causing significant environmental harm; and

(c) the CEO believes on reasonable grounds that urgent action is required for the protection of the environment and to meet the objects of this Act; and

(d) the CEO believes on reasonable grounds that a ground specified in section 124ZZB for revocation of an environmental (mining) licence exists.

(2) The emergency environment protection notice may impose any requirements mentioned in section 178(1) that are reasonably required for the protection of the environment.

(3) An application to NTCAT for review of an emergency environment protection notice that imposes a requirement mentioned in section 178(1)(a), (b) or (c) or a requirement prescribed by regulation does not stay the operation of the notice.

(4) An emergency environment protection notice issued to a person under subsection (1) ceases to have effect at the end of 10 business days after it is issued unless before the end of that period:

(a) the Minister commences to amend the environmental approval under section 106; or

(b) a show cause notice is issued to the person under section 111.

(5) If subsection (4)(a) or (b) applies, the emergency environment protection notice continues in effect until:

(a) the process of amendment of the environmental approval under section 106 is completed; or

(b) the show cause process is completed under section 111; or

(c) the CEO revokes the emergency environment protection notice under section 184.

(6) An emergency environment protection notice issued to a person under subsection (1A) ceases to have effect at the end of 10 business days after it is issued unless before the end of that period:

(a) the Minister commences to amend the environmental (mining) licence under section 124ZS; or

(b) a show cause notice is issued to the person under section 124ZZE.

(7) If subsection (6)(a) or (b) applies, the emergency environment protection notice continues in effect until:

(a) the process of amendment of the environmental (mining) licence under section 124ZS is completed; or

(b) the show cause process is completed under section 124ZZE; or

(c) the CEO revokes the emergency environment protection notice under section 184.

182A Further power of CEO to issue emergency environment protection notice

(1) This section does not apply in relation to an action to which section 182 applies.

(2) The CEO may issue an emergency environment protection notice to a person if the CEO believes on reasonable grounds that:

(a) an action is causing material or significant environmental harm; and

(b) urgent action is required for the protection of the environment and to meet the objects of this Act.

(3) The emergency environment protection notice may impose any requirements mentioned in section 178(1) that are reasonably required for the protection of the environment.

(4) An application to NTCAT for review of an emergency environment protection notice under this section that imposes a requirement mentioned in section 178(1)(a), (b) or (c) or a requirement prescribed by regulation does not stay the operation of the notice.

(5) An emergency environment protection notice issued to a person under this section ceases to have effect at the end of 10 business days after it is issued unless it is revoked earlier under section 184.

183 Emergency environment protection notice issued by environmental officer

(1) An environmental officer may issue an emergency environment protection notice to a person if the officer considers that urgent action is required for the protection of the environment.

(2) The emergency environment protection notice may impose any requirements mentioned in section 178(1) that are reasonably required for the protection of the environment.

(3) An emergency environment protection notice may be given to the person orally.

(4) If an emergency environment protection notice is given to a person orally under this section, the person to whom it is issued must be advised immediately of the person's right to apply to NTCAT for review of the notice.

(5) An application to NTCAT for review of an emergency environment protection notice that imposes a requirement mentioned in section 178(1)(a), (b) or (c) or a requirement prescribed by regulation does not stay the operation of the notice.

(6) An emergency environment protection notice issued to a person under this section ceases to have effect at the end of 72 hours from the time it is issued unless the notice is confirmed by written notice issued by the CEO and given to the person.

184 Variation or revocation of environment protection notice

The CEO may vary or revoke an environment protection notice by written notice served on each person bound by the environment protection notice.

185 Copy of environment protection notice may be lodged with Registrar-General

(1) The CEO may lodge with the Registrar-General a copy of any environment protection notice issued or confirmed by the CEO in relation to land.

(2) The CEO must lodge with the copy of the notice any additional information required to identify the land to which the notice relates.

(3) The Registrar-General must record an environment protection notice, a copy of which is lodged under subsection (1), in the land register.

186 Recorded notice applies to owners and occupiers of land

(1) This section applies if an environment protection notice relating to land is recorded under section 185(3).

(2) If the environment protection notice was issued to the owner or occupier of the land to which it applies, the notice is binding on each owner or occupier for the time being of the land.

187 Notice to owners and occupiers of land

(1) This section applies if an environment protection notice relating to land is recorded under section 185(3).

(2) The CEO must, as soon as practicable after the environment protection notice is recorded, take all reasonable steps to give written notice to each owner and occupier of the land who is bound by the environment protection notice of:

(a) the recording of the environment protection notice; and

(b) the obligations of the owner or occupier under sections 188 and 189.

(3) The notice given under subsection (2) must state that the owner or occupier may apply to NTCAT for review of the decision to lodge a copy of the environment protection notice with the Registrar-General under section 185.

(4) If all reasonable steps have been taken under subsection (2) to notify an occupier of land, the notice may be given by addressing it to "the occupier" and posting it to, or leaving it on, the land.

(5) A notice is not required to be given under this section to an owner or occupier of land to whom the environment protection notice was issued under this Division.

188 Notice by owner or occupier to CEO

(1) This section applies if an environment protection notice relating to land is recorded under section 185.

(2) A person who is or was bound by the environment protection notice as the owner or occupier of the land must give written notice to the CEO as soon as practicable after the person ceases to own or occupy the land.

(3) The notice must state the name and address of the new owner or occupier of the land.

189 Offence to contravene notice requirement

(1) A person commits an offence if:

(a) the person is required to give a notice to the CEO under section 188; and

(b) the person contravenes that requirement.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

190 Cancellation of recording of environment protection notice

(1) The CEO may apply to the Registrar-General to cancel the recording of an environment protection notice in relation to land in the land register.

(2) The CEO must apply to the Registrar-General to cancel the recording of an environment protection notice in relation to land in the land register:

(a) on revocation of the notice; or

(b) on full compliance with the requirements of the notice; or

(c) at the direction of NTCAT on an application to review the decision to lodge a copy of the notice with the Registrar-General.

(3) The CEO must lodge with the application any additional information required to identify the land to which the application relates.

(4) On receipt of an application under subsection (1) or (2), the Registrar-General must cancel the recording of the environment protection notice in the land register.

191 Contravention of environment protection notice – environmental offences

(1) A person commits an offence if:

(a) the person is bound by an environment protection notice; and

(b) the person contravenes the notice and is reckless in relation to that result; and

(c) the contravention results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person is bound by an environment protection notice; and

(b) the person contravenes the notice and is reckless in relation to that result; and

(c) the contravention results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person is bound by an environment protection notice; and

(b) the person contravenes the notice; and

(c) the contravention results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person is bound by an environment protection notice; and

(b) the person contravenes the notice.

Penalty: environmental offence level 3.

(5) Strict liability applies to subsections (1)(a) and (2)(a).

(6) An offence against subsection (3) or (4) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

192 Obstruct compliance with notice – environmental offence

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct obstructs compliance by another person with an environment protection notice and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(3) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (2).

Subdivision 2 Powers of persons to enter land

192A Application

This Subdivision applies in relation to an environment protection notice issued to a person if:

(a) the environment protection notice requires the person to enter land or premises in order to comply with the notice; and

(b) the person:

(i) is not the owner or occupier of the land or premises required to be entered; or

(ii) does not have a right of access to the land or premises required to be entered.

192B Power to enter land

(1) The following persons may enter land or premises specified in an environment protection notice to comply with the environment protection notice:

(a) the person to whom the environment protection notice is issued or an employee of that person;

(b) a person engaged by the person to whom the environment protection notice is issued to carry out works on the land or premises (a ***contractor***) or an employee of the contractor.

(2) The following persons may enter land or premises specified in an environment protection notice to monitor the carrying out of the works on the land or premises to which the environment protection notice applies:

(a) a person engaged by the person to whom the environment protection notice is issued to monitor the carrying out of the works (a ***monitor***) or an employee of the monitor;

(b) the CEO.

(3) A person permitted to enter land or premises under this section may only enter:

(a) with the consent of the owner or occupier of the land; or

(b) if the person gives at least 10 business days prior written notice to the owner or occupier of the land; or

(c) in an emergency, if there is a risk of environmental harm if works are not carried out immediately.

(4) A person entering land or premises under subsection (3)(c) must:

(a) if possible, give oral notice of the entry to the owner or occupier of the land as soon as possible before, on or after that entry; and

(b) give written notice of the entry to the owner or occupier within 10 business days after that entry or the giving of the oral notice, whichever occurs first.

(5) The notice under subsection (3)(b) or (4) must inform the owner or occupier of the land of the matters prescribed by regulation.

(6) Despite subsection (3), a person must not enter residential premises under this section without the consent of the owner or occupier of the land.

(7) The power of a person to enter land or premises under this section may be exercised, despite:

(a) the land being, or the premises being on, Aboriginal land*;* and

(b) the person not holding a permit under the *Aboriginal Land Act 1978* to enter or remain on Aboriginal land.

192C Notice to CEO

(1) The person to whom the environment protection notice is issued must give written notice to the CEO of the intention of the person, a contractor or monitor engaged by the person or an employee of any of them, to enter land or premises under section 192B.

(2) The notice must be given at least 10 business days before entry to the land or premises.

(3) Despite subsection (2), if entry to the land or premises is made in an emergency under section 192B(3)(c), the person to whom the environment protection notice is issued must:

(a) give oral notice of the entry to the CEO as soon as possible before, on or after that entry; and

(b) give written notice of the entry to the CEO within 10 business days after that entry or the giving of the oral notice, whichever occurs first.

(4) The notice given by a person under subsection (1) or (3) must inform the CEO of the matters prescribed by regulation.

192D Powers on entry

A person who is authorised under section 192B to enter land or premises may on entry do any of the following to comply with the environment protection notice or to monitor the carrying out of works under that notice:

(a) inspect the land or premises and anything found there;

(b) dig up any land and operate any machinery or equipment on the land;

(c) bring equipment, machinery and materials onto the land or premises and install and maintain any equipment, machinery or materials;

(d) take photographs and make sketches or other records of the land or premises;

(e) measure anything, or take samples of anything, on the land or premises;

(f) take any other action reasonably required to comply with the environment protection notice or monitor the carrying out of works.

192E Duties on entry

A person who is authorised under section 192B to enter land or premises:

(a) must take reasonable steps to minimise disruption to the owner or occupier of the land or premises caused by the entry to the land or premises or the taking of an action specified in section 192D; and

(b) must not remain on the land or premises any longer than is reasonably necessary to comply with the environment protection notice or to monitor the carrying out of works under the environment protection notice.

192F Recovery of costs

(1) A person is entitled to be paid reasonable compensation under this section for loss or damage incurred because of action taken under this Subdivision by:

(a) a person to whom an environment protection notice is issued or an employee of the person; or

(b) a contractor or monitor engaged by a person to whom an environment protection notice is issued or an employee of a contractor or monitor.

(2) The person to whom the environment protection notice is issued is liable to pay the compensation for the loss or damage.

(3) If the environment protection notice is issued to a person who is or was a related person of a high risk entity, this section does not apply to loss or damage incurred by the high risk entity.

(4) No action lies against the Territory for the loss or damage.

192G Offence to obstruct

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct obstructs another person from taking any action that is authorised under this Subdivision to comply with an environment protection notice and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct obstructs another person from carrying out the monitoring of works that is authorised under this Subdivision and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

192H Offence to fail to give notice

(1) A person commits an offence if:

(a) the person is required to give a notice under section 192B or 192C; and

(b) the person contravenes that requirement.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

192J Offence to fail to comply with duty on entry

(1) A person commits an offence if:

(a) the person has a duty under section 192E; and

(b) the person intentionally engages in conduct; and

(c) the conduct results in a contravention of that duty and the person is reckless in relation to that result.

Maximum penalty: 100 penalty units.

(2) Strict liability applies to subsection (1)(a).

(3) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Division 2A Chain of responsibility

Subdivision 1 Preliminary matters

192K Purpose of Division

The purpose of this Division is to enable a compliance notice in relation to a petroleum activity to be issued to a related person of a high risk entity.

192L Definitions

In this Division:

holding entity means:

(a) for a body corporate (other than an Aboriginal and Torres Strait Islander corporation) – a holding company as defined in section 8 of the *Corporations Act 2001* (Cth); and

(b) for an Aboriginal and Torres Strait Islander corporation – a holding body corporate as defined in section 700-1 of the CATSI Act.

original landowner, see section 192U.

prescribed Act means an Act prescribed by regulation for this Division.

prescribed approval means:

(a) an environmental approval; or

(b) an authorisation, or a plan approved, under a prescribed Act that is prescribed by regulation for this Division.

prescribed direction means a direction, notice or order (however described) that:

(a) is made or issued under a prescribed Act; and

(b) either:

(i) relates to compliance with a prescribed approval under the prescribed Act; or

(ii) relates to compliance with, or provides for, a prescribed environmental duty under the prescribed Act; and

(c) is prescribed by regulation for this Division.

prescribed environmental duty means a duty, requirement or obligation under a prescribed Act that is prescribed by regulation for this Division.

relevant commencement means:

(a) except as provided under paragraph (b) – the commencement of section 8 of the *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022*; or

(b) in relation to the issue of, or a decision relating to the issue of, a prescribed direction to a related person of a high risk entity – the commencement of the regulation prescribing the prescribed direction.

relevant decision-maker means:

(a) in relation to an environment protection notice or environmental approval – the CEO; or

(b) in relation to a prescribed direction, prescribed approval or prescribed environmental duty under a prescribed Act – the Chief Executive Officer, office holder or statutory authority responsible for enforcing the prescribed direction, prescribed approval or prescribed environmental duty under the prescribed Act.

192M Meaning of *related person* of high risk entity

(1) A person is a ***related person*** of a high risk entity if:

(a) the relevant decision-maker decides in accordance with section 192N that the person has a relevant connection to the high risk entity; or

(b) the person is a holding entity of the high risk entity; or

(c) the person:

(i) is an associated entity of the high risk entity; and

(ii) is the owner or occupier of land on which the high risk entity carries out or has, in the preceding 3 years, carried out, a petroleum activity.

(2) A person is not a related person of a high risk entity if:

(a) the person is acting in the capacity of liquidator, receiver, receiver and manager or administrator of the high risk entity in accordance with:

(i) the *Corporations Act 2001* (Cth); or

(ii) the CATSI Act; or

(b) the person is acting as a special administrator of the high risk entity under Part 11-2 of the CATSI Act; or

(c) the person is acting in the capacity of small business restructuring practitioner for the high risk entity in accordance with the *Corporations Act 2001* (Cth); or

(d) the person is acting as a trustee in bankruptcy for the high risk entity under the *Bankruptcy Act 1966* (Cth).

(3) The period of 3 years mentioned in subsection (1)(c):

(a) refers to a period ending immediately before the decision whether to issue a compliance notice to the person in accordance with this Division is made; and

(b) may include a period before the relevant commencement.

(4) In this section:

owner, of land, does not include:

(a) for land for which there is a native title holder under the *Native Title Act 1993* (Cth) – the native title holder; or

(b) for Aboriginal land – a traditional Aboriginal owner (as defined in section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)) of the land.

192N Relevant connection to high risk entity

(1) This section applies to the making of a decision by the relevant decision-maker as to whether a person has a relevant connection to a high risk entity.

(2) In making the decision, the relevant decision-maker must consider the extent to which the person is, or was at any time within the preceding 3 years, in a position to influence the high risk entity's conduct in relation to:

(a) the way in which the high risk entity complies with a prescribed approval, prescribed environmental duty or compliance notice; or

(b) the extent to which the high risk entity complies with a prescribed approval, prescribed environmental duty or compliance notice.

(3) In making the decision, the relevant decision-maker must also consider the extent of any financial interest held by the person in the high risk entity, including any financial interest held at any time within the preceding 3 years.

(4) In making the decision, the relevant decision-maker must also consider the following, to the extent the relevant decision-maker considers relevant:

(a) the extent of the person's control of the high risk entity;

(b) whether the person is, or was at any time within the preceding 3 years, an executive officer of:

(i) the high risk entity; or

(ii) a holding entity or other body corporate with a financial interest in the high risk entity;

(c) any agreements or other transactions the person has, or had at any time within the preceding 3 years, with the high risk entity or with a holding entity or other body corporate mentioned in paragraph (b)(ii) other than an agreement for access to land under an enactment prescribed by regulation;

(d) the extent of the dealings the person has, or had at any time within the preceding 3 years, with the high risk entity or with a holding entity or other body corporate mentioned in paragraph (b)(ii);

(e) the extent of the person's cooperation and compliance with an information requirement relevant to the relevant decision-maker making the decision.

(5) A reference in subsection (2) to a person being in a position to influence a high risk entity's conduct includes a person being in that position whether:

(a) by acting alone or jointly with an associated entity of the high risk entity; or

(b) by giving a direction or approval, by making funding available or in another way.

(6) The matters the relevant decision-maker may consider for subsection (4)(d) include the following:

(a) how arm's length the dealings were;

(b) whether any transactions were made at market value or not;

(c) whether the dealings were on an independent, commercial footing;

(d) whether the dealings were for providing professional advice;

(e) whether the dealings were for providing finance, including any mortgage, charge or other security in relation to the provision of finance.

(7) Subsections (2) to (6) do not limit the matters the relevant decision-maker may consider in deciding whether a person has a relevant connection to a high risk entity.

(8) The period of 3 years mentioned in this section:

(a) refers to a period ending immediately before the decision to which this section applies is made; and

(b) may include a period before the relevant commencement.

(9) In this section:

control:

(a) in relation to a high risk entity (other than an Aboriginal and Torres Strait Islander corporation) – see section 50AA of the *Corporations Act 2001* (Cth); and

(b) in relation to a high risk entity that is an Aboriginal and Torres Strait Islander corporation – see section 689-25 of the CATSI Act.

financial interest, in a high risk entity, means a direct or indirect legal or equitable interest in:

(a) shares in the high risk entity; or

(b) a mortgage, charge or other security given by the high risk entity; or

(c) income or revenue of the high risk entity.

information requirement means:

(a) a requirement under section 163, 172 or 175 or under another provision of this Act under which information may be required to be provided; or

(b) a provision of a prescribed Act under which information may be required to be provided.

Subdivision 2 Redirection to related persons by issue of compliance notices

192P Purpose of Subdivision

This Subdivision sets out the circumstances in which a compliance notice in relation to a petroleum activity may be issued to a related person of a high risk entity.

192Q Matters to be considered in deciding to issue compliance notice to related person

(1) This section sets out matters for the relevant decision-maker to consider in deciding whether to issue a compliance notice in relation to a petroleum activity to a related person of a high risk entity.

(2) The relevant decision-maker must consider the following:

(a) if the compliance notice is issued under section 176(2) – the objects of this Act;

(b) if the compliance notice is issued under a prescribed Act – the objects (if any) of the prescribed Act;

(c) whether the related person took all reasonable and practical steps to influence the high risk entity's compliance with a prescribed approval, prescribed environmental duty or compliance notice relating to the petroleum activity;

(d) whether the related person took all reasonable and practical steps to influence the high risk entity's financial management of and provision in funding for:

(i) the requirements for compliance with a prescribed approval, prescribed environmental duty or compliance notice relating to the petroleum activity; and

(ii) the remediation and rehabilitation of the environment to address the environmental impacts of the petroleum activity over the lifetime of the activity.

(3) The relevant decision-maker may also consider any financial assurance held under this Act or a prescribed Act in relation to the petroleum activity.

(4) Subsections (2) and (3) do not limit the matters the relevant decision-maker may consider in deciding whether to issue a compliance notice to a related person of a high risk entity.

(5) The relevant decision-maker must not issue a compliance notice to a related person of a high risk entity if a reasonable person would consider the issue of the notice to the related person to be oppressive, unjust or unreasonable in the circumstances.

(6) In this section:

financial assurance includes a bond (including an environment protection bond) and a security.

192R Issue of compliance notice to related person of high risk entity issued with notice

(1) A relevant decision-maker may issue a compliance notice to a related person of a high risk entity if the high risk entity:

(a) was issued with a compliance notice in the preceding 3 years in relation to non-compliance with a prescribed approval, prescribed environmental duty or compliance notice in relation to a petroleum activity; and

(b) failed to comply with that compliance notice.

(2) The period of 3 years mentioned in subsection (1)(a):

(a) refers to a period ending immediately before the issue of the compliance notice to the related person; and

(b) may include a period before the relevant commencement if the relevant decision-maker was not aware of the non-compliance with the prescribed approval, prescribed environmental duty or compliance notice by the high risk entity until on or after the relevant commencement.

192S Issue of compliance notice to related person of high risk entity not issued with notice

(1) A relevant decision-maker may issue a compliance notice to a related person of a high risk entity in relation to non-compliance with a prescribed approval, or prescribed environmental duty in relation to a petroleum activity if:

(a) the high risk entity failed to comply with the prescribed approval or prescribed environmental duty in the preceding 3 years; and

(b) the relevant decision-maker is satisfied the high risk entity has a history of poor compliance or non-compliance with the prescribed approval or prescribed environmental duty, whether or not enforcement action has been taken against the

high risk entity; and

(c) the relevant decision-maker reasonably considers:

(i) the site in relation to which the prescribed approval or prescribed environmental duty applies or applied is not being managed appropriately and there is a risk of material environmental harm or significant environmental harm; and

(ii) the high risk entity has not taken, or is not taking, all reasonable steps to comply with the prescribed approval or prescribed environmental duty; and

(d) the relevant decision-maker reasonably considers:

(i) for a high risk entity that is a body corporate – the high risk entity is in financial difficulty and is likely to become a Chapter 5 body corporate or an administered Aboriginal and Torres Strait Islander corporation; or

(ii) for a high risk entity that is an individual – the high risk entity is in financial difficulty and is likely to become bankrupt or apply to take the benefit of a law for the relief of bankrupt or insolvent debtors or to compound with creditors or make an assignment of remuneration for their benefit; or

(iii) there is a real possibility the Territory will bear the costs of the remediation and rehabilitation of the environment to address the environmental impacts of the petroleum activity.

(2) For subsection (1) it is immaterial whether a compliance notice was issued in the preceding 3 years to the high risk entity in relation to non-compliance with the prescribed approval or prescribed environmental duty.

(3) The period of 3 years mentioned in subsection (1)(a) or (2):

(a) refers to a period ending immediately before the issue of the compliance notice to the related person of the high risk entity; and

(b) may include a period before the relevant commencement if the relevant decision-maker was not aware of the non-compliance with the prescribed approval or prescribed environmental duty by the high risk entity until on or after the relevant commencement.

(4) Nothing in this section prevents the relevant decision-maker from issuing a compliance notice to a high risk entity after issuing a compliance notice to a related person of the high risk entity.

192T Issue of compliance notice after compliance notice issued to related person of high risk entity

(1) A relevant decision-maker may issue a compliance notice to a related person of a high risk entity in relation to compliance with a prescribed approval, prescribed environmental duty or compliance notice if a compliance notice was issued in accordance with section 192R or 192S in the preceding 3 years to another related person of the high risk entity in relation to compliance with the same prescribed approval, prescribed environmental duty or compliance notice.

(2) The period of 3 years mentioned in subsection (1) refers to a period ending immediately before the issue of the compliance notice to the related person in accordance with subsection (1).

192U Issue of compliance notice to previous owner or occupier of land

(1) A relevant decision-maker may issue a compliance notice in accordance with section 192R, 192S or 192T to a person who is a previous owner or occupier (the ***original landholder***) of land on which a petroleum activity is being or was carried out by a high risk entity if:

(a) the ownership or occupancy of the land was transferred from the original landholder to another person within the preceding 3 years; and

(b) the original landholder was the owner or occupier of the land at the time the environmental impact to which the compliance notice relates occurred; and

(c) the original landholder was at any time within the preceding 3 years a related person of the high risk entity.

(2) If a compliance notice is issued to the original landholder in accordance with subsection (1), this Division applies as if the original landholder were a related person of the high risk entity.

(3) If the original landholder is a body corporate, a compliance notice may be issued to the original landholder in accordance with subsection (1) even if the body corporate was wound up within the preceding 3 years or is in the process of being wound up.

(4) The period of 3 years mentioned in subsection (1) or (3):

(a) refers to a period ending immediately before the issue of the compliance notice to the original landholder; and

(b) may include a period before the relevant commencement.

(5) A reference in subsection (3) to the winding up of a body corporate includes the winding up of:

(a) a Chapter 5 body corporate under Chapter 5 of the *Corporations Act 2001* (Cth); and

(b) an Aboriginal and Torres Strait Islander corporation under Chapter 5 of the *Corporations Act 2001* (Cth) (as applied by Part 11-5 of the CATSI Act).

192V Provisions applying to issue of compliance notice

(1) The power in a prescribed Act to issue a prescribed direction includes a power to issue a prescribed direction in accordance with this Division and the provisions of that Act apply to a prescribed direction issued in accordance with this Division, including:

(a) provisions relating to the issue of, compliance with and enforcement of compliance with the prescribed direction; and

(b) provisions relating to any appeal or review relating to the issue of the prescribed direction.

(2) A compliance notice issued in accordance with this Division to a related person of a high risk entity may impose:

(a) any requirement that can be imposed by a compliance notice on the high risk entity; and

(b) conditions that vary from the conditions imposed on any compliance notice issued to the high risk entity.

192W Joint and several liability for compliance

If a compliance notice is issued in accordance with this Division to 2 or more related persons, the related persons are jointly and severally liable for compliance with the notice, including for the costs of compliance.

192X Enforcement of compliance by high risk entity not affected

Nothing in this Subdivision affects any liability of a high risk entity under this Act or a prescribed Act for any failure to comply with:

(a) a compliance notice; or

(b) a prescribed approval or prescribed environmental duty.

Subdivision 3 Corporations legislation displacement and excluded matter

192Y Declarations under section 5F of the *Corporations Act 2001* (Cth)

(1) The regulations may declare any matter relating to compliance notices issued in the circumstances set out in this Division, including any act or omission required by such a compliance notice, to be an excluded matter for section 5F of the *Corporations Act 2001* (Cth) in relation to:

(a) the whole of the Corporations legislation; or

(b) a specified provision of the Corporations legislation; or

(c) the Corporations legislation other than a specified provision; or

(d) the Corporations legislation other than to a specified extent.

(2) In this section:

matter includes act, omission, body, person or thing.

Note for section 192Y

Section 5F of the Corporations Act 2001 (Cth) provides that if a Territory law declares a matter to be an excluded matter for the purposes of that section in relation to all or part of the Corporations legislation of the Commonwealth the provisions that are the subject of the declaration will not apply in relation to that matter in the Territory.

192Z Declarations under section 5G of the *Corporations Act 2001* (Cth)

(1) The regulations may declare any provision of this Act or a prescribed Act relating to compliance notices to be a Corporations legislation displacement provision for section 5G of the *Corporations Act 2001* (Cth), (either generally or specifically in relation to a provision of the Corporations legislation).

Note for subsection (1)

Section 5G of the Corporations Act 2001 (Cth) provides that if a Territory law declares a provision of a Territory law to be a Corporations legislation displacement provision for the purposes of that section, any provision of the Corporations legislation with which the Territory provision would otherwise be inconsistent does not operate to the extent necessary to avoid the inconsistency.

(2) To avoid doubt, a compliance notice issued in the circumstances set out in this Division is intended to provide for how a high risk entity, a related person of a high risk entity or an original landowner is to be wound up or otherwise externally administered if:

(a) the high risk entity, related person of a high risk entity or original landowner is or becomes a Chapter 5 body corporate; and

(b) the compliance notice authorises or requires any act or omission by the high risk entity, related person of a high risk entity or original landowner that affects its property, debts or claims within the meaning of the *Corporations Act 2001* (Cth).

Division 3 Stop work notices

193 Purpose of stop work notice

The purpose of a stop work notice is:

(a) to prevent or minimise the environmental impact of an action; or

(b) to minimise any financial benefit to a proponent of proceeding with an action without an environmental approval.

194 NT EPA may issue stop work notice

(1) The NT EPA may issue a stop work notice to a proponent or approval holder who has referred an action, strategic proposal or significant variation or is required to refer an action, strategic proposal or significant variation, to the NT EPA under Part 4, Division 3.

(1A) The NT EPA may issue a stop work notice to a person other than a proponent or approval holder if the NT EPA believes on reasonable grounds that the person is taking an action that relates to an action, strategic proposal or significant variation that has been referred, or is required to be referred, to the NT EPA under Part 4, Division 3.

(2) The stop work notice may direct the person to whom it is issued to stop taking an action that relates to the action, strategic proposal or significant variation while:

(a) a decision is being made as to whether the action, strategic proposal or significant variation requires an environmental impact assessment; and

(b) if the NT EPA considers it necessary – the environmental impact assessment process and environmental approval process relating to the action, strategic proposal or significant variation is completed.

(3) A stop work notice may be issued at any stage in the environmental impact assessment process and environmental approval process for an action, strategic proposal or significant variation if the action to be stopped by the notice has commenced.

(4) A stop work notice may be issued if the NT EPA has issued a call-in notice to the proponent or approval holder under Part 4, Division 3, Subdivision 3 if the action called-in has commenced.

195 Requirements of stop work notice

A stop work notice may impose any conditions the NT EPA considers necessary:

(a) to prevent or minimise the environmental impact of the action; or

(b) to provide for the remediation of environmental harm or the rehabilitation of the site of the action; or

(c) to minimise any financial benefit to a proponent of proceeding with an action without an environmental approval.

196 Stop work notice where proponent contravenes call-in notice

(1) This section applies to a stop work notice that is issued as a consequence of a proponent or approval holder contravening a call-in notice in relation to an action.

(2) The stop work notice remains in force until:

(a) the last of the following occurs:

(i) the proponent or approval holder provides any information required under the regulations in relation to the call-in notice;

(ii) the NT EPA has made a determination as to whether or not an environmental impact assessment is required;

(iii) if an environmental impact assessment is required – the completion of the environmental impact assessment and environmental approval process; or

(b) the NT EPA revokes the stop work notice.

197 Stop work notice may be issued even if other statutory authorisation issued

The NT EPA may issue a stop work notice in relation to an action even if a relevant statutory decision-maker has issued a statutory authorisation for the action.

198 Contravention of stop work notice – environmental offences

(1) A person commits an offence if:

(a) the person has been issued with a stop work notice; and

(b) the person contravenes the notice and is reckless in relation to that result; and

(c) the contravention results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person has been issued with a stop work notice; and

(b) the person contravenes the notice and is reckless in relation to that result; and

(c) the contravention results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person has been issued with a stop work notice; and

(b) the person contravenes the notice; and

(c) the contravention results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person has been issued with a stop work notice; and

(b) the person contravenes the notice.

Penalty: environmental offence level 3.

(5) Strict liability applies to subsections (1)(a) and (2)(a).

(6) An offence against subsection (3) or (4) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

Division 4 Monitoring and management notices

199 Monitoring and management notice – environmental approval

(1) This section applies to a site to which an environmental approval applies or has applied.

(2) The CEO may issue a monitoring and management notice in relation to the site if the CEO considers, on reasonable grounds, that ongoing investigation, monitoring, management or reporting of the site is or will be required following the expiry or revocation of the environmental approval as a result of anything done or that occurred at the site before the expiry or revocation.

(3) This section does not apply to a site or a part of a site if a closure certificate has been issued in relation to that site or that part of the site.

(4) If the environmental approval is in force, the monitoring and management notice must be issued to the approval holder.

(5) If the environmental approval is no longer in force, the monitoring and management notice must be issued to:

(a) the person who was the approval holder immediately before the environmental approval expired or was revoked; or

(b) the owner or occupier of the site.

199A Monitoring and management notice – protected environmental area or prohibited action

(1) The CEO may issue a monitoring and management notice in relation to a site if:

(a) a prohibited action is being, or has been, carried out at the site; and

(b) the CEO considers, on reasonable grounds, that ongoing investigation, monitoring, management or reporting of the site is or will be required as a result of the prohibited action.

(2) The CEO may issue a monitoring and management notice in relation to a site that is in a protected environmental area if:

(a) an action is being, or has been, carried out at the site; and

(b) the action is not authorised under the declaration of the protected environmental area; and

(c) the CEO considers, on reasonable grounds, that ongoing investigation, monitoring, management or reporting of the site is or will be required as a result of that action.

(3) A monitoring and management notice under this section must be issued to:

(a) the person who is carrying out or has carried out the action; or

(b) the owner or occupier of the site.

199AB Monitoring and management notice – environmental (mining) licence

(1) This section applies to a mining site to which an environmental (mining) licence applies or has applied.

(2) This section does not apply to a legacy mine site or in relation to a legacy mine feature at a mining site except in relation to an obligation under section 124H.

(3) This section does not apply to a mining site if a mining closure certificate has been issued in relation to that site.

(4) The CEO may issue a monitoring and management notice in relation to a mining site if the CEO considers, on reasonable grounds, that ongoing investigation, monitoring, management and reporting of the mining site is or will be required following the expiry, revocation or cancellation of the environmental (mining) licence as a result of anything done or that has occurred at the site in relation to a mining activity before the expiry, revocation or cancellation.

(5) If the environmental (mining) licence is in force, the monitoring and management notice must be issued to the mining operator.

(6) If the environmental (mining) licence is no longer in force, the monitoring and management notice must be issued to:

(a) the person who was the mining operator immediately before the environmental (mining) licence expired or was revoked or cancelled; or

(b) the title holder or occupier of the mining site.

(7) In this section:

occupier, of a mining site, does not include:

(a) for land for which there is a native title holder under the *Native Title Act 1993* (Cth) – any registered native title party in relation to the land; or

(b) for Aboriginal land as defined in the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) – a person who has an obligation in relation to the land only because of a connection to the land; or

(c) a person who occupies the site for a purpose that does not relate to a mining activity or former mining activity.

199B Monitoring and management notice – form and giving of notice

(1) A monitoring and management notice must:

(a) be in writing; and

(b) be given to each person to whom it is issued.

(2) A copy of the monitoring and management notice must be given to each title holder, owner and occupier of the site to which the notice applies unless the notice is issued to that person under section 199(5), 199A(3) or 199AB(5).

200 Contents of monitoring and management notice

(1) A monitoring and management notice may require any person bound by the notice to do any one or more of the following in relation to the site to which the notice applies:

(a) take specified investigation and monitoring action;

(b) prepare a management plan;

(c) take specified management action;

(d) report on specified matters in a specified form at specified times;

(e) arrange for:

(i) an environmental audit of the site to be carried out by a qualified person; and

(ii) a report to be given to the CEO on the findings of the audit;

(f) appoint or engage a person in a specified class of qualified person to undertake an activity mentioned in paragraphs (a) to (d).

(2) A monitoring and management notice must specify the following:

(a) the name and address of the person to whom it is issued;

(b) the reason for which it is issued;

(c) a description of the site and the location of the site sufficient to identify both;

(d) the things mentioned in subsection (1) that are required to be done;

(e) if applicable – the time within which the things are to be done.

201 Effect of monitoring and management notice

A monitoring and management notice binds each person to whom it is issued.

202 Copy of monitoring and management notice may be lodged with Registrar-General

(1) The CEO may lodge with the Registrar-General a copy of any monitoring and management notice issued in relation to land.

(2) The CEO must lodge with the copy of the monitoring and management notice any additional information required to identify the land to which the notice relates.

(3) The Registrar-General must record a monitoring and management notice, a copy of which is lodged under subsection (1), in the land register.

203 Recorded notice applies to owners and occupiers of land

(1) This section applies if a monitoring and management notice relating to land is recorded under section 202(3).

(2) If the monitoring and management notice was issued to the owner or occupier of the land to which it applies, the notice is binding on each owner or occupier for the time being of the land.

204 Notice to owners and occupiers of land

(1) This section applies if a monitoring and management notice relating to land is recorded under section 202(3).

(2) The CEO must, as soon as practicable after the monitoring and management notice is recorded, take all reasonable steps to give written notice to each owner and occupier of the land who is bound by the monitoring and management notice of:

(a) the recording of the monitoring and management notice; and

(b) the obligations of the owner or occupier under sections 205 and 206.

(3) The written notice given under subsection (2) must state that the owner or occupier may apply to NTCAT for review of the decision to lodge a copy of the monitoring and management notice with the Registrar-General under section 202.

(4) If all reasonable steps have been taken under subsection (2) to notify an occupier of land, the written notice may be given by addressing it to "the occupier" and posting it to, or leaving it on, the land.

(5) A written notice is not required to be given under this section to an owner or occupier of land to whom the monitoring and management notice was issued under section 199, 199A or 199AB.

205 Notice by owner or occupier to CEO

(1) This section applies if a monitoring and management notice relating to land is recorded under section 202(3).

(2) A person who is or was bound by the monitoring and management notice as the owner or occupier of the land must give written notice to the CEO as soon as practicable after the person ceases to own or occupy the land.

(3) The written notice must state the name and address of the new owner or occupier of the land.

206 Offence to contravene notice requirement

(1) A person commits an offence if:

(a) the person is required to give a notice to the CEO under section 205; and

(b) the person contravenes that requirement.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

207 Cancellation of recording of monitoring and management notice

(1) The CEO may apply to the Registrar-General to cancel the recording of a monitoring and management notice in relation to land in the land register.

(2) The CEO must apply to the Registrar-General to cancel the recording of a monitoring and management notice in relation to land in the land register:

(a) on revocation of the notice; or

(b) on full compliance with the requirements of the notice; or

(c) at the direction of NTCAT on an application for review of the decision to lodge a copy of the notice with the Registrar-General.

(3) The CEO must lodge with the application any additional information required to identify the land to which the application relates.

(4) On receipt of an application under subsection (1) or (2), the Registrar-General must cancel the recording of the monitoring and management notice in the land register.

208 Contravention of monitoring and management notice – environmental offence

(1) A person commits an offence if:

(a) the person is bound by a monitoring and management notice; and

(b) the person contravenes the notice.

Penalty: environmental offence level 3.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

209 Obstruct compliance with monitoring and management notice – environmental offence

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct obstructs compliance by another person with a monitoring and management notice and the person is reckless in relation to that result.

Penalty: environmental offence level 4.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(3) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (2).

210 Monitoring and management notice not complied with

If an action required by a monitoring and management notice has not been taken, the CEO may:

(a) cause that action to be taken; and

(b) recover the cost of taking that action from any person bound by the notice in any court of competent jurisdiction as a debt due to the Territory.

Division 5 Closure certificates

Subdivision 1 Closure certificates – environmental approvals

210A Application of Subdivision

This Subdivision applies to an approval holder in relation to an action.

211 Criteria for action closure certificate

(1) The Minister may, by *Gazette* notice, determine criteria to be met by an approval holder before an action closure certificate can be issued in relation to an action.

(2) The Minister may determine different criteria for different classes of action.

(3) This section does not prevent the Minister from imposing different or additional criteria in relation to a particular action closure certificate.

212 Application for action closure certificate

(1) An approval holder of an environmental approval for an action may apply to the Minister for an action closure certificate for the action if the approval holder:

(a) has completed the rehabilitation and remediation requirements of the environmental approval; and

(b) has completed the closure requirements of the environmental approval; and

(c) intends to:

(i) sell the land; or

(ii) transfer the land to another person; or

(iii) return the land to the owner of the land; or

(iv) transfer the land to the Territory or a local government of the Territory.

(2) An application must:

(a) be in the form approved by the Minister; and

(b) contain the information prescribed by regulation.

(3) The Minister may require an applicant to provide any further information required by the Minister to determine the application.

(4) An application may be made for the issue of an action closure certificate in relation to an action even if a determination has not been made under section 211 in relation to that class of action.

213 Issue of action closure certificate

The Minister may issue the action closure certificate to the approval holder if the Minister is satisfied that:

(a) all rehabilitation and remediation requirements in relation to the action have been completed in accordance with this Act and the environmental approval; and

(b) the approval holder has completed the closure requirements of the environmental approval; and

(c) the approval holder has complied with any requirements of section 212.

214 Effect of action closure certificate

If an action closure certificate is issued:

(a) the approval holder ceases to be liable for any future environmental impact associated with the former use of the land; and

(b) the liability for the future environmental impact associated with the former use of the land becomes a liability of the Territory.

Subdivision 2 Mining closure certificates

214A Application of Subdivision

(1) This Subdivision applies to a mining operator who holds or has held an environmental (mining) licence for a mining site.

(2) This Subdivision does not apply in relation to a legacy mine site or in relation to a legacy mine feature at a mining site.

214B Criteria for mining closure certificate

(1) The Minister may, by *Gazette* notice, determine criteria to be met by a mining operator before a mining closure certificate can be issued in relation to a mining site.

(2) The Minister may determine different criteria for different classes of mining sites.

(3) This section does not prevent the Minister from imposing different or additional criteria in relation to a particular mining closure certificate.

214C Application for mining closure certificate

(1) A mining operator may apply to the Minister for a mining closure certificate for all or part of a mining site if the mining operator has completed the requirements set out in section 214D(1)(a).

(2) An application must:

(a) be in the approved form; and

(b) be accompanied by the information required by the Minister.

(3) The Minister may require specified information to be included in the application to be prepared or reviewed by a qualified person in accordance with Part 13, Division 3A.

(4) The Minister may require the mining operator to provide any further information required by the Minister to determine the application.

(5) An application may be made for the issue of a mining closure certificate in relation to a mining site even if a determination has not been made under section 214B in relation to that class of mining site.

214D Issue of mining closure certificate

(1) The Minister may issue the mining closure certificate to the mining operator if the Minister is satisfied that:

(a) the following have been completed in accordance with this Act and the environmental (mining) licence:

(i) in the case of an environmental (mining) licence for an exploration activity – the rehabilitation requirements of

the environmental (mining) licence for any area of the mining site that is not required for an extractive operation or a mining operation;

(ii) in the case of an environmental (mining) licence for an extractive operation or a mining operation – the remediation and rehabilitation requirements of the environmental (mining) licence for that mining site or part of a mining site;

(iii) the post-closure monitoring, management and reporting requirements of the environmental (mining) licence relating to the mining site or the part of the mining site;

(iv) the closure requirements of the environmental (mining) licence relating to the mining site or the part of the mining site; and

(b) the mining operator has complied with any requirements of section 214C.

(2) The Minister must not issue a mining closure certificate for a mining site or part of a mining site if:

(a) a monitoring and management notice under section 199AB applies to the mining site; or

(b) the mining site is subject to an environment protection notice, a stop work notice or an enforceable undertaking; or

(c) the mining site is the subject of proceedings under this Act against the mining operator.

(3) The Minister must give a copy of the mining closure certificate to the title holder for the mining site.

214E Effect of mining closure certificate

(1) If a mining closure certificate is issued for a mining site or a part of a mining site:

(a) the mining operator ceases to be liable for any future environmental impact associated with the former use of the mining site or the part of the mining site; and

(b) the liability for the future environmental impact associated with the former use of the mining site or the part of the mining site becomes a liability of the Territory; and

(c) the environmental (mining) licence ceases to be in force in relation to the mining site or the part of the mining site.

(2) Subsection (1)(a) and (b) do not apply to a mining closure certificate for the Ranger Project Area.

Division 6 Enforceable undertakings

214F Definition *specified person*

In this Division:

specified person means any of the following:

(a) a proponent of an action or strategic proposal;

(b) an approval holder;

(c) a mining operator;

(d) a related person of a high risk entity.

215 CEO may accept enforceable undertaking

(1) The CEO may accept an enforceable undertaking made by a proponent of an action, an approval holder or a mining operator:

(a) to carry out specified remediation or rehabilitation work to rectify environmental harm resulting from an action taken by the proponent, the approval holder or the mining operator that is allegedly in contravention of this Act or an environmental approval or an environmental (mining) licence; or

(b) to do any other specified act or thing approved by the CEO.

(1A) The CEO may accept an enforceable undertaking made by a related person of a high risk entity to do any specified act or thing approved by the CEO if an environment protection notice was issued to the related person in accordance with Part 9, Division 2A.

(2) An enforceable undertaking must be in writing and signed by the CEO and the specified person.

(3) An enforceable undertaking may require the specified person to publish notice of the alleged contravention or non-compliance and any act or thing done by the specified person.

(4) Without limiting subsection (1), the CEO may accept an enforceable undertaking when any criminal or civil proceedings under this Act are completed (including any appeal).

216 Enforcement orders

(1) The CEO may apply to the court for an enforcement order if the CEO considers that a specified person has contravened an enforceable undertaking accepted by the CEO.

(2) The court may make any of the following enforcement orders if the court is satisfied that the specified person has contravened an enforceable undertaking:

(a) an order directing the specified person to comply with the undertaking;

(b) an order directing the specified person to do any specified act or thing for the purpose of complying with the enforceable undertaking;

(c) an order directing the specified person to do any specified act or thing to minimise environmental harm resulting from the contravention of the enforceable undertaking;

(d) an order that the specified person pay an amount to the CEO for any costs reasonably incurred by the CEO in taking action to minimise environmental harm resulting from the contravention of the enforceable undertaking, including any investigation, legal or court costs;

(e) an order that the specified person pay an amount in compensation to any other person who has suffered loss or damage as a result of the contravention of the enforceable undertaking;

(f) an order revoking the enforceable undertaking;

(g) any other order the court considers appropriate in the circumstances.

217 CEO may do specified acts or things

(1) The CEO may do any act or thing specified in an enforcement order if the specified person contravenes the order.

(2) The CEO must not do the specified act or thing unless:

(a) the CEO gives the specified person written notice that the CEO intends to do the specified act or thing; and

(b) the CEO invites the specified person to provide either of the following within the specified response period:

(i) proof that satisfies the CEO that the specified person has done the specified act or thing;

(ii) reasons that satisfy the CEO that the specified person will do the specified act or thing within the specified action period; and

(c) the specified person does not within the specified response period:

(i) provide the required proof; or

(ii) satisfy the CEO that the specified person will do the specified act or thing within the specified action period.

(3) In doing a specified act or thing, the CEO may:

(a) do anything that is necessary or expedient to be done for that purpose; and

(b) publish notice that the specified person has contravened the enforcement order.

(4) The CEO may recover any costs reasonably incurred in doing a specified act or thing under this section from the specified person in a court of competent jurisdiction as a debt due to the Territory.

(5) The CEO may, in writing, authorise another person to exercise a power or perform a function under subsections (1) to (4) on the CEO's behalf.

(6) If a person is authorised to exercise a power or perform a function under subsection (5), anything done by the person in the exercise of the power or the performance of the function has the same effect as if it had been done by the CEO.

(7) In this section:

specified action period, in relation to a notice under subsection (2), means the period (being not less than 10 business days) specified as the action period in the notice.

specified response period, in relation to a notice under subsection (2), means the period (being not less than 10 business days) specified as the response period in the notice.

218 Withdrawal or variation of enforceable undertaking

(1) A specified person may withdraw or vary an enforceable undertaking accepted by the CEO with the consent of the CEO.

(2) An enforceable undertaking is revoked on the withdrawal of the undertaking.

219 Withdrawal of acceptance by CEO of enforceable undertaking

(1) The CEO may withdraw the CEO's acceptance of an enforceable undertaking if the CEO considers it is no longer in the interests of the Territory to accept the undertaking.

(2) The CEO must not withdraw the acceptance of an enforceable undertaking unless the CEO:

(a) gives notice to the specified person of the intention to withdraw the acceptance; and

(b) gives the specified person the opportunity to make submissions to the CEO within the time (being not less than 10 business days) specified in the notice; and

(c) considers any submissions made by the specified person within the time specified in the notice.

(3) An enforceable undertaking is revoked on the withdrawal of the CEO's acceptance.

220 No criminal proceedings while enforceable undertaking is in force

If the CEO accepts an enforceable undertaking in relation to an alleged contravention of this Act or an environmental approval or environmental (mining) licence, the CEO must not commence a criminal proceeding for an offence that is constituted by the alleged contravention while the enforceable undertaking is in force.

221 Proceedings following revocation of enforceable undertaking

If an enforceable undertaking in relation to an alleged contravention of this Act is revoked under this Division before the CEO is satisfied that the enforceable undertaking has been complied with, the CEO may commence a criminal proceeding for an offence that is constituted by the alleged contravention.

222 No further proceedings if enforceable undertaking complied with

If the CEO is satisfied that an enforceable undertaking in relation to an alleged contravention of this Act has been complied with, the CEO must not commence a criminal proceeding for an offence that is constituted by the alleged contravention.

Division 7 Emergency authorisations

223 Emergency authorisations

(1) The CEO may, by written notice, issue an emergency authorisation to a person to authorise an act or omission that might otherwise constitute a contravention of this Act or an environmental approval or environmental (mining) licence if the CEO is satisfied that:

(a) urgent circumstances exist; and

(b) the act or omission is justified:

(i) by the need to protect the environment; or

(ii) by the need to protect critical public infrastructure; or

(iii) otherwise in the circumstances; and

(c) unless the CEO waives this requirement – the person has paid the fee prescribed by regulation.

(2) In determining whether urgent circumstances exist, the CEO may take into account whether the circumstances arose because the person contravened the duties and obligations placed on the person under this Act or the environmental approval or environmental (mining) licence.

(3) An emergency authorisation may be issued subject to any conditions that the CEO considers appropriate and specifies in the authorisation.

(4) A person is not liable for an offence against this Act relating to an act or omission that is authorised under this section.

(5) A person who would, but for an emergency authorisation, have contravened a provision of this Act is, despite the authorisation, taken to have contravened that provision for:

(a) any proceedings under Part 10 in relation to the contravention; and

(b) the issuing or enforcement of an environment protection notice in relation to the contravention.

(6) In this section:

critical public infrastructure means infrastructure for the public or for use by the public including roads, dams and bridges.

Division 8 Duty to notify incidents

Subdivision 1 Preliminary matters

224 Definitions

In this Division:

notifiable incident means:

(a) an incident that causes or threatens material environmental harm or significant environmental harm and that occurs at a site at which:

(i) an action is being carried out under an environmental approval; or

(ii) a proposed action or strategic proposal is undergoing environmental impact assessment; or

(iii) a mining activity is being carried out under an environmental (mining) licence; or

(b) an incident prescribed by regulation to be a notifiable incident.

operator, in relation to a site at which a recordable incident occurs, means:

(a) the approval holder for the action; or

(b) the proponent of the proposed action or strategic proposal; or

(c) the mining operator who holds the environmental (mining) licence to carry out the mining activity.

recordable incident means an incident, other than a notifiable incident, that:

(a) occurs at a site at which:

(i) an action is being carried out under an environmental approval; or

(ii) a proposed action or strategic proposal is undergoing environmental impact assessment; or

(iii) a mining activity is being carried out under an environmental (mining) licence; and

(b) causes or threatens environmental harm.

Subdivision 2 Notification of notifiable incidents

225 Duty to notify CEO of notifiable incidents

(1) A specified person who observes or becomes aware of a notifiable incident must notify the CEO of the incident and all prescribed information about the incident:

(a) as soon as practicable (and in any case within 24 hours) after the person observes or becomes aware of the incident; and

(b) in accordance with section 226.

(2) In this section:

specified person means any of the following:

(a) the approval holder for the action;

(ab) the mining operator who holds the environmental (mining) licence to carry out the mining activity;

(b) a qualified person who is carrying out an environmental audit of the site;

(ba) a qualified person preparing or reviewing information or a report in relation to the site under Part 13, Division 3A;

(c) an owner of the site;

(d) an occupier of the site.

226 Manner and form of notice

A notice of a notifiable incident given under this Subdivision must comply with the requirements prescribed by regulation.

227 Notifiable incidents not required to be reported

(1) A specified person mentioned in section 225 is not required to notify a notifiable incident under this Subdivision if the person is aware that the incident has already come to the notice of the CEO.

(2) A person is not required to notify a notifiable incident under this Subdivision if the incident is an ordinary result of:

(a) an action required to be taken to comply with an environmental approval; or

(b) an action required to be taken to comply with an environmental (mining) licence; or

(c) another requirement of this Act.

228 Failure to notify notifiable incident – environmental offences

(1) A person commits an offence if:

(a) a notifiable incident occurs in the course of carrying out an action or a mining activity; and

(b) the person:

(i) is an approval holder for the action; or

(ii) is the mining operator for the mining activity; or

(iii) is carrying out an environmental audit of a site at which the notifiable incident is occurring or has occurred; or

(iv) is a qualified person preparing or reviewing information or a report in relation to the site under Part 13, Division 3A; and

(c) the person intentionally fails to notify the CEO of the notifiable incident; and

(d) the failure to notify the CEO of the notifiable incident contravenes section 225 and the person is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

(a) a notifiable incident occurs in the course of carrying out an action or mining activity; and

(b) the person:

(i) is an approval holder for the action; or

(ii) is the mining operator for the mining activity; or

(iii) is carrying out an environmental audit of the site at which the notifiable incident is occurring or has occurred; or

(iv) is an owner or occupier of the site at which the notifiable incident occurred; or

(v) is a qualified person preparing or reviewing information in relation to the site under Part 13, Division 3A; and

(c) the person fails to notify the CEO of the notifiable incident; and

(d) the failure to notify the CEO of the notifiable incident contravenes section 225.

Penalty: environmental offence level 3.

(3) Strict liability applies to subsection (1)(a) and (b).

(4) An offence against subsection (2) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

228A Offence to interfere with place of notifiable incident

(1) A person commits an offence if:

(a) a notifiable incident occurs at a place; and

(b) the person intentionally alters the place where the incident occurred; and

(c) the person does not have the permission of the CEO or an environmental officer to make that alteration.

Maximum penalty: 200 penalty units.

(2) Strict liability applies to subsection (1)(a) and (c).

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) It is a defence to a prosecution for an offence against subsection (1) if the alteration was made to prevent or minimise environmental harm resulting from the incident.

(5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3) or (4).

229 Incriminating information

(1) A person is required to notify a notifiable incident under this Subdivision even if to do so might incriminate the person or make the person liable to a penalty.

(2) Any information that is given by a person in a notice under this Subdivision is not admissible in evidence against the person for an offence or for the imposition of a penalty.

(3) Subsection (2) does not prevent the use of information given by a person in a notice under this Subdivision to locate or identify further evidence that may be used in evidence against the person in a proceeding for an offence or the imposition of a penalty.

(4) Subsection (2) does not apply in relation to:

(a) an offence relating to the provision of false or misleading information; or

(b) an offence against section 228.

Subdivision 3 Recording and reporting of incidents

229A Record of notifiable incidents

(1) An approval holder or mining operator must record all notifiable incidents required to be notified by the approval holder or mining operator under Subdivision 2 as soon as practicable after the incident occurs.

(2) The record must comply with the requirements prescribed by regulation.

(3) An approval holder or mining operator who is required to make a record under subsection (1) must make the record of notifiable incidents available at the activity site for inspection by an environmental officer.

229B Report of notifiable incidents

(1) The CEO may direct an approval holder or mining operator to prepare a report of all notifiable incidents required to be notified by the approval holder or mining operator under Subdivision 2.

(2) The report must, to the extent required in the direction of the CEO, include the information required to be recorded under section 229A.

(3) The approval holder or mining operator must give the report to the CEO in accordance with the direction of the CEO.

229C Record of recordable incidents

(1) An operator of a site at which a recordable incident occurs must record the recordable incident as soon as practicable after the incident occurs.

(2) The record must comply with the requirements prescribed by regulation.

(3) An operator of a site who is required to make a record under subsection (1) must make the record of recordable incidents available at the site for inspection by an environmental officer.

229D Report of recordable incidents

(1) At the written direction of the CEO, the operator of a site must prepare a report of all recordable incidents required to be recorded by the operator under section 229C.

(2) The report must, to the extent required in the direction of the CEO, include the information required to be recorded under section 229C.

(3) The operator must give the report to the CEO in accordance with the direction of the CEO.

229E Failure to keep required record

(1) A person commits an offence if the person fails to keep a record in accordance with section 229A.

Maximum penalty: 200 penalty units

(2) A person commits an offence if the person fails to keep a record in accordance with section 229C.

Maximum penalty: 100 penalty units.

(3) An offence against subsection (1) or (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

229F Contravention of direction – environmental offence

(1) A person commits an offence if:

(a) the person is given a direction under section 229B(1) or 229D(1); and

(b) the person contravenes that direction.

Penalty: environmental offence level 3.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Part 10 Civil proceedings

Division 1 Injunctions and other orders

230 Who may bring proceeding

A person who is affected by an alleged act or omission that contravenes or may contravene this Act may apply to the court for an injunction or another order under this Division.

231 Prohibitory injunctions

(1) If a person has engaged, is engaging or is proposing to engage in conduct constituting a contravention of this Act, the court may grant an injunction restraining the person from engaging in the conduct.

(2) If the court grants an injunction restraining a person from engaging in conduct and in the opinion of the court it is desirable to do so, the court may make an order requiring the person to do a specified act or thing.

232 Mandatory injunctions

If a person has refused or failed, or is refusing or failing, or is proposing to refuse or fail to do an act or thing, and the refusal or failure did, does or would constitute a contravention of this Act, the court may grant an injunction requiring the person to do the act or thing.

233 Interim injunctions

(1) Before deciding an application for an injunction under this Division, the court may grant an interim injunction:

(a) restraining a person from engaging in conduct; or

(b) requiring a person to do an act or thing.

(2) The court must not require an applicant for an injunction to give an undertaking as to damages as a condition of granting an interim injunction.

234 Certain considerations for granting injunctions not relevant

(1) The court may grant an injunction restraining a person from engaging in conduct:

(a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and

(b) whether or not the person has previously engaged in conduct of that kind; and

(c) whether or not there is imminent danger of environmental harm if the person engages, or continues to engage, in conduct of that kind.

(2) The court may grant an injunction requiring a person to do a particular act or thing:

(a) whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and

(b) whether or not the person has previously refused or failed to do that act or thing; and

(c) whether or not there is an imminent danger of environmental harm if the person refuses or fails to do that act or thing.

235 Discharge of injunctions

On application, the court may discharge or vary an injunction.

236 Other orders

On an application by the Minister, the CEO or a person mentioned in section 230, the court may make the following orders in relation to a contravention of this Act:

(a) if the contravention of this Act has resulted in environmental harm – an order requiring the person who committed the contravention to:

(i) do a specified act or thing to remediate or rehabilitate any specified environmental harm; and

(ii) if appropriate, do a specified act or thing to prevent or mitigate further environmental harm;

(b) if the Minister or the CEO has incurred costs or expenses in doing an act or thing to prevent or mitigate environmental harm resulting from the contravention of this Act or to remediate or rehabilitate the environment as a result of environmental harm – an order against the person who committed the contravention for payment of the reasonable costs and expenses incurred in doing the act or thing;

(c) if a person has suffered injury or loss or damage to property as a result of the contravention of this Act, or incurred costs and expenses in doing an act or thing to prevent or mitigate that injury, loss or damage – an order against the person who committed the contravention:

(i) for payment of compensation for the injury, loss or damage; or

(ii) for the payment of the reasonable costs and expenses incurred in doing the act or thing.

237 Court may vary or revoke order

The court may, if it considers it appropriate to do so, either on its own initiative or on the application of a party, vary or revoke an order made under section 236.

238 Security and undertakings

(1) Subject to section 239(2), the court may order an applicant in a proceeding under this Division:

(a) to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed; and

(b) to give an undertaking as to the payment of any amount of damages that may be awarded under section 240.

(2) Without limiting its discretion under subsection (1), the court may determine not to require a security or undertaking if the court considers that the proceeding is in the public interest.

239 Orders as to costs

(1) In any proceeding under this Division, the court may make any order as to costs that it considers just and reasonable.

(2) Without limiting its discretion under subsection (1), the court may determine not to require an applicant to pay costs if the court considers that the proceeding is in the public interest.

240 Orders as to damages on application of respondent

(1) The court may make an order under this section if, in a proceeding under this Division in relation to an alleged contravention of this Act, the court determines:

(a) that the respondent has not contravened this Act; and

(b) that the respondent has suffered loss or damage as a result of the actions of the applicant; and

(c) that in the circumstances it is appropriate to make an order under this section.

(2) The court may, on the application of the respondent, and in addition to any order as to costs, require the applicant to pay to the respondent the amount determined by the court to compensate the respondent for the loss or damage suffered by the respondent.

241 Time for commencing proceedings under this Division

(1) A proceeding under this Division may be commenced at any time within 90 business days after the date of the alleged act or omission that contravenes or may contravene this Act.

(2) The court may, on application, extend the time specified in subsection (1).

(3) An application under subsection (2) may be commenced before or after the end of the time specified in subsection (1).

(4) In considering an application under subsection (2), the court must consider the following if the information is available:

(a) when the alleged contravention occurred;

(b) whether the impact of the alleged contravention ought to have been discovered by the applicant if the applicant had exercised due diligence in finding the impact and whether the applicant exercised that due diligence;

(c) whether extending the time would prejudice the proposed respondent's ability to maintain a defence to the proceeding on the merits;

(d) any other criteria the court considers relevant.

242 Powers conferred are in addition to other powers of court

The powers conferred on the court under this Division are in addition to any other powers of the court.

Division 2 Civil penalty orders, other civil orders and directions

243 Purpose of Division

The purpose of this Division is to enable the CEO to:

(a) give directions to remediate environmental harm or rehabilitate the environment; and

(b) to bring a proceeding for:

(i) a civil penalty order; or

(ii) another civil order.

244 CEO may give certain directions

(1) The CEO may give a direction under this section to a person if the CEO is satisfied that the person has contravened a provision of this Act that is an offence of strict liability.

(2) The CEO may direct the person to take specified steps to remediate environmental harm or to rehabilitate the environment.

(3) The CEO may direct a person to publicise in a specified manner the contravention and the environmental impact resulting from the contravention.

(4) The direction may be given as an alternative to a criminal proceeding.

244A Contravention of direction – environmental offence

(1) A person commits an offence if:

(a) the person is given a direction under section 244; and

(b) the person contravenes that direction.

Penalty: environmental offence level 3.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

245 Application for civil orders

The CEO may apply to a court of competent jurisdiction for a civil order if the CEO is satisfied that a person has contravened a provision of this Act that is an offence of strict liability.

246 CEO to consider certain matters

In determining whether to commence a proceeding or to give a direction under this Division in relation to a contravention of a provision of this Act that is an offence of strict liability, the CEO must consider:

(a) the seriousness of the contravention; and

(b) the previous record of the offender in complying with this Act; and

(c) any other relevant matters.

247 Notice of proposed application to court

(1) The CEO must not apply to a court for a civil order under this Division against a person in relation to a contravention of a provision of this Act that is an offence of strict liability unless the CEO has served on the person a notice of the CEO's intention to make that application.

(2) The notice must:

(a) be in the approved form; and

(b) for an application for a civil penalty order – specify the maximum amount that the person may be ordered to pay as a civil penalty; and

(c) include a statement advising the person that the person may elect to be prosecuted for the contravention by written notice given to the CEO within the time specified in the notice.

(3) The time specified in the notice must not be less than 21 business days.

(4) The CEO must not apply to a court for a civil order in relation to a contravention if the person serves a written notice within the specified time on the CEO electing to be prosecuted for the contravention.

248 Civil orders

(1) On the application of the CEO, the court may make the following orders against a person if the court is satisfied on the balance of probabilities that the person has contravened a provision of this Act that is an offence of strict liability:

(a) an order that the person pay to the Territory a pecuniary amount as a civil penalty (a ***civil penalty order***);

(b) an order mentioned in section 250;

(c) any other order that the court considers appropriate.

(2) The amount of a civil penalty ordered under this section to be paid in relation to a contravention of a provision that is an offence of strict liability must not exceed the amount specified by this Act as the maximum penalty for the offence.

249 Court to consider certain matters

In determining the amount to be paid by a person as a civil penalty, the court must consider:

(a) the nature and extent of the contravention; and

(b) any environmental harm resulting from the contravention; and

(c) any financial saving or benefit the person stood to gain by committing the contravention; and

(d) whether the person has previously been found, in a proceeding under this Act, to have engaged in any similar conduct; and

(e) any other matter the court considers relevant.

250 Civil orders under section 248(1)(b)

Any of the following orders may be made against a person under section 248(1)(b):

(a) an order that the person must take specified measures within a specified time:

(i) to prevent the contravention occurring again; or

(ii) to remediate any environmental harm resulting from the contravention; or

(iii) to rehabilitate the environment as a result of any environmental harm resulting from the contravention; or

(iv) to enhance the environment in an area for public benefit;

(b) an order requiring the person to compensate the CEO for the costs of taking any remedial or preventive action that was made necessary as a result of the act or omission that constituted the contravention;

(c) an order directing the person to pay to the CEO an amount that the court estimates will not exceed the financial, monetary or economic benefit that the person or a person associated with the person has gained or can reasonably be expected to gain as a result of the contravention;

(d) an order directing the person to pay an amount in compensation to any person who has suffered loss or damage as a result of the contravention;

(e) an order requiring the person to publicise the contravention and the environmental impact of the contravention in a specified manner.

251 CEO may take measures if order not complied with

(1) If a person fails to take any measures specified by an order mentioned in section 250(a), the CEO may take those measures.

(2) The CEO may recover the reasonable costs of taking any measures under subsection (1) from the person in a court of competent jurisdiction as a debt due to the Territory.

(3) A debt mentioned in subsection (2) may be recorded under the *Land Title Act 2000* as a charge on any land owned by the offender.

(4) The CEO may, in writing, authorise another person to exercise a power or perform a function under subsection (1) or (2) on the CEO's behalf.

(5) If a person is authorised to exercise a power or perform a function under subsection (4), anything done by the person in the exercise of the power or the performance of the function has the same effect as if it had been done by the CEO.

252 Jurisdiction is civil jurisdiction

The jurisdiction conferred by this Division is part of the civil jurisdiction of the court.

253 Contravention of 2 or more provisions

If the conduct of a person constitutes a contravention of 2 or more provisions of this Act that are offences of strict liability, an amount of civil penalty may be ordered to be paid by the person under this Division in relation to the contravention of any one or more of the provisions but the person is not liable to pay more than one amount as a civil penalty in relation to the same conduct.

254 Proceeding to be stayed if criminal proceedings commenced

(1) This section applies to a proceeding for:

(a) a civil order in relation to a contravention of this Act; or

(b) enforcement of a civil order mentioned in paragraph (a).

(2) The proceeding is stayed if a criminal proceeding is commenced or has already commenced against the person for an offence constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.

(3) The stayed proceeding may only be resumed if the criminal proceeding does not result in a formal finding of guilt being made against the person.

(4) This section does not prevent an application or order from being made under Division 1 if a criminal proceeding has commenced.

255 Evidence not admissible in criminal proceedings

(1) Evidence of information given or evidence of the production of documents by a person is not admissible in a criminal proceeding against the person if:

(a) the person gave the evidence or produced the documents in the course of a proceeding under this Division for the recovery of an amount as a civil penalty in relation to a contravention of this Act; and

(b) the conduct alleged to constitute the offence is substantially the same as the conduct that was alleged to constitute the contravention.

(2) Subsection (1) does not prevent the use of information given by a person to locate or identify further evidence that may be used in evidence against the person in a proceeding for an offence or the imposition of a penalty.

(3) Subsection (1) does not apply to a criminal proceeding in relation to the provision of false or misleading information or documents.

256 Orders as to costs

In a proceeding under this Division, the court may make any order as to costs that it considers just and reasonable, including an order requiring the reimbursement of the costs and expenses incurred by the CEO in investigating the alleged offence.

257 Recovery of amounts ordered to be paid to Territory

Any amount ordered by a court under this Division to be paid to the Territory may be recovered by the Territory as a judgment debt.

258 Time for bringing proceedings under this Division

A proceeding for an order under this Division may be commenced at any time within 3 years after the date of the alleged contravention.

259 Civil proceedings not to affect environment protection notices

A proceeding for a civil order against a person does not affect any existing environment protection notice issued to the person or the issue of an environment protection notice to the person during or after the end of the proceeding.

Part 11 Offences, penalties and criminal proceedings

Division 1AA General environmental harm offence

259A Offence to cause environmental harm – environmental offences

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and

(c) the conduct is not authorised under this Act; and

(d) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and

(c) the conduct is not authorised under this Act; and

(d) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) the conduct is not authorised under this Act; and

(d) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) the conduct is not authorised under this Act; and

(d) the conduct results in material environmental harm.

Penalty: environmental offence level 3.

(5) A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct is part of carrying out an action; and

(c) the conduct is not authorised under this Act; and

(d) the conduct results in environmental harm.

Penalty: environmental offence level 4.

(6) Strict liability applies to subsections (1)(c) and (2)(c).

(7) An offence against subsection (3), (4) or (5) is an offence of strict liability.

(8) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

Division 1 Offences

260 Offence to provide false or misleading information

(1) A person commits an offence if:

(a) the person intentionally gives information to another person; and

(b) the other person is a relevant person; and

(c) the information is false or misleading information and the person has knowledge of that circumstance; and

(d) the relevant person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) A person commits an offence if:

(a) the person intentionally gives a document to another person; and

(b) the other person is a relevant person; and

(c) the document contains false or misleading information and the person has knowledge of that circumstance; and

(d) the relevant person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) It is a defence to a prosecution for an offence against subsection (2) if the person, when giving the document:

(a) draws the misleading aspect of the document to the relevant person's attention; and

(b) to the extent to which the person can reasonably do so – gives the relevant person the information necessary to remedy the misleading aspect of the document.

(5) For this section a qualified person is acting in an official capacity when carrying out:

(a) an environmental audit directed under Part 8, Division 2; or

(b) a requirement under section 178; or

(ba) a function under Part 13, Division 3A; or

(c) a function required to be carried out by a qualified person under the regulations.

(6) In this section:

relevant person means:

(a) the Minister; or

(b) the CEO; or

(c) the NT EPA; or

(d) an environmental officer; or

(e) a qualified person.

261 Contravention of court order under section 216 or 236 – environmental offence

(1) A person commits an offence if:

(a) the person is subject to an order under section 216; and

(b) the person contravenes the order.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

(a) the person is subject to an order under section 236; and

(b) the person contravenes the order.

Penalty: environmental offence level 2.

(3) An offence against this section is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

262 Continuing offences

(1) This section applies if a court has found a person guilty of a specified environmental offence.

(2) The court may, in addition to any penalty imposed for the offence, impose a penalty of not more than one-tenth of the maximum penalty prescribed for that offence for each day during which the offence continues after the day the offence is charged.

(3) If the offence continues after the person is found guilty, the court may:

(a) find the person guilty of a further offence; and

(b) in addition to any penalty imposed for the further offence, impose a penalty of not more than one-tenth of the maximum penalty prescribed for that offence for each day during which the offence continues after the day the person was first found guilty.

(4) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains to be done after the end of the period for compliance with the requirement.

263 Liability of occupier

(1) An occupier of land must take reasonable steps and exercise due diligence, having regard to the nature and extent of the occupation, to prevent a specified environmental offence occurring on the land.

(2) An occupier of land is taken to have committed a specified environmental offence if:

(a) a person (the ***offender***) commits a specified environmental offence; and

(b) the offence occurs wholly or partly on the land or part of the land.

(3) It is a defence to a prosecution for an offence taken to have been committed by subsection (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

(5) This section does not affect the liability of the offender.

(6) This section applies whether or not the offender is prosecuted for, or found guilty of, the specified environmental offence.

264 Liability of owner

(1) For section 263, an owner of land (other than the owner of land that is subject to a mineral interest) is taken to be an occupier of the land unless the owner proves that at the time the offence was committed:

(a) the owner was not the occupier of the land; and

(b) the owner was not an associated person of the occupier.

(2) The defendant has the legal burden of proof in relation to a matter mentioned in subsection (1).

(3) In this section:

associated person means an employee, agent, licensee, contractor or subcontractor.

264A Liability of title holder or mining operator of mining site

(1) A title holder or mining operator of a mining site must take reasonable steps and exercise due diligence to prevent a specified environmental offence occurring on the mining site.

(2) A title holder or mining operator of a mining site is taken to have committed a specified environmental offence if:

(a) a person (the ***offender***) commits a specified environmental offence; and

(b) the offence occurs wholly or partly on the mining site or part of the mining site.

(3) It is a defence to a prosecution for an offence taken to have been committed by subsection (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

(5) This section does not affect the liability of the offender.

(6) This section applies whether or not the offender is prosecuted for, or found guilty of, the specified environmental offence.

265 Criminal liability of executive officer of body corporate

(1) An executive officer of a body corporate commits an offence if:

(a) the body corporate commits a relevant offence and the officer was reckless about whether the relevant offence would be committed; and

(b) the officer was in a position to influence the conduct of the body corporate in relation to the commission of the relevant offence; and

(c) the officer recklessly failed to take reasonable steps to prevent the commission of the relevant offence.

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

(2) Strict liability applies to subsection (1)(b).

(3) In deciding whether the executive officer took, or failed to take, reasonable steps to prevent the commission of the offence, a court must consider the following:

(a) any action the officer took directed towards ensuring the following (to the extent the action is relevant to the commission of the offence):

(i) the body corporate arranged regular professional assessments of the body corporate's compliance with the provision to which the relevant offence relates;

(ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);

(iii) the body corporate's employees, agents and contractors had a reasonable knowledge and understanding of the requirement to comply with the provision to which the relevant offence relates;

(b) any action the officer took when the officer became aware that the relevant offence was, or could be, about to be committed.

(4) Subsection (3) does not limit the matters the court may consider.

(5) This section does not affect the liability of the body corporate.

(6) This section applies whether or not the body corporate is prosecuted for, or convicted of, the relevant offence.

(7) Subsection (1) does not apply if the body corporate would have a defence to a prosecution for the relevant offence.

Note for subsection (7)

The defendant has an evidential burden in relation to the matters in subsection (7) (see section 43BU of the Criminal Code).

(8) In this section:

relevant offence means:

(a) a specified environmental offence; or

(b) an offence against a provision of the regulations prescribed by regulation.

266 Liability of partners and unincorporated associations

(1) If a partner (the ***offende***r) commits an offence against this Act, every other partner in the partnership is taken to have committed the same offence.

(2) If a person (the ***offender***) commits an offence against this Act while engaging in conduct on behalf of an unincorporated association, each member of the committee of management of the association is taken to have committed the same offence.

(3) This section applies whether or not the offender is prosecuted for, or convicted of, the offence.

(4) This section does not apply if the offender would have a defence to a prosecution for the offence.

(5) It is a defence to a prosecution for an offence committed because of subsection (1) or (2) if:

(a) the act or omission that constituted the offence took place without the defendant's authority, permission or consent; or

(b) the defendant did not know, and ought not reasonably be expected to have known, the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence; or

(c) the defendant could not by the exercise of reasonable diligence have prevented the commission of the offence by the person who committed the offence.

(6) The defendant has the legal burden of proof in relation to a matter mentioned in subsection (5).

(7) Despite anything in this Act or the *Environmental Offences and Penalties Act 1996*, a person is not liable to be punished by imprisonment for an offence if the person would not have been found guilty of the offence except for subsection (1) or (2).

(8) For this section, a reference to engaging in conduct includes a reference to failing or refusing to engage in conduct.

267 Liability for employees and agents

(1) For a prosecution for an offence against this Act, conduct engaged in on behalf of a person other than a body corporate (the ***employer***) by an employee or agent of the employer within the scope of the employee or agent's actual or apparent authority is taken to have been engaged in also by the employer.

(2) This section applies whether or not the employee or agent is prosecuted for, or convicted of, the offence.

(3) This section does not apply if the employee or agent would have a defence to a prosecution for the offence.

(4) It is a defence to a prosecution for an offence committed because of subsection (1) if:

(a) the act or omission that constituted the offence took place without the defendant's authority, permission or consent; or

(b) the defendant did not know, and ought not reasonably be expected to have known, the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence; or

(c) the defendant could not by the exercise of reasonable diligence have prevented the commission of the offence by the person who committed the offence.

(5) The defendant has the legal burden of proof in relation to a matter mentioned in subsection (4).

(6) Despite anything in this Act or the *Environmental Offences and Penalties Act 1996*, a person is not liable to be punished by imprisonment for an offence if the person would not have been found guilty of the offence except for subsection (1).

(7) For this section, a reference to engaging in conduct includes a reference to failing or refusing to engage in conduct.

268 Court may order reimbursement of investigation costs

(1) This section applies if a person is found guilty of an offence against this Act.

(2) The court may, in addition to any other order it may make under this Act or the *Sentencing Act 1995*, make an order requiring the offender to reimburse the costs and expenses incurred by the CEO in investigating the offence.

269 Alternative verdicts

(1) This section applies if, in a proceeding against a person charged with an offence against a provision mentioned in the following Table (the ***prosecuted offence***), the trier of fact:

(a) is not satisfied beyond reasonable doubt that the person committed the prosecuted offence; but

(b) is satisfied beyond reasonable doubt that the person committed an offence against a provision specified in the Table as the alternative offence for the prosecuted offence.

(2) The trier of fact may find the person not guilty of the prosecuted offence but guilty of the alternative offence.

Table Alternative offences

Prosecuted offence	Alternative offence
section 34(1)	section 34(2), (3), (4) or (5)
section 34(2)	section 34(4) or (5)
section 34(3)	section 34(4) or (5)
section 34(4)	section 34(5)
section 40(1)	section 40(2), (3) or (4)
section 40(2)	section 40(4)
section 40(3)	section 40(4)
section 41(1)	section 41(2), (3) or (4)

Prosecuted offence	Alternative offence
section 41(2)	section 41(4)
section 41(3)	section 41(4)
section 89(1)	section 89(2), (3) or (4)
section 89(2)	section 89(4)
section 89(3)	section 89(4)
section 117(1)	section 117(2), (3) or (4)
section 117(2)	section 117(4)
section 117(3)	section 117(4)
section 124J(1)	section 124J(2), (3), (4) or (5)
section 124J(2)	section 124J(3), (4) or (5)
section 124J(3)	section 124J(4) or (5)
section 124J(4)	section 124J(5)
section 124ZZW(1)	section 124ZZW(2), (3) or (4)
section 124ZZW(2)	section 124ZZW(3) or (4)
section 124ZZW(3)	section 124ZZW(4)
section 124ZZX(1)	section 124ZZX(2), (3) or (4)
section 124ZZX(2)	section 124ZZX(3) or (4)
section 124ZZX(3)	section 124ZZX(4)
section 124ZZY(1)	section 124ZZY(2)
section 124ZZZA(1)	section 124ZZZA(2), (3), (4) or (5)
section 124ZZZA(2)	section 124ZZZA(3), (4) or (5)
section 124ZZZA(3)	section 124ZZZA(4),or (5)
section 124ZZZA(4)	section 124ZZZA(5)
section 124ZZZM(1)	section 124ZZZM(2), (3), (4) or (5)
section 124ZZZM(2)	section 124ZZZM(3), (4) or (5)
section 124ZZZM(3)	section 124ZZZM(4) or (5)
section 124ZZZM(4)	section 124ZZZM(5)
section 151(1)	section 151(2)
section 154(1)	section 154(2)
section 191(1)	section 191(2), (3) or (4)
section 191(2)	section 191(4)

Prosecuted offence	Alternative offence
section 191(3)	section 191(4)
section 198(1)	section 198(2), (3) or (4)
section 198(2)	section 198(4)
section 198(3)	section 198(4)
section 228(1)	section 228(2)
section 283H(1)	section 283H(2)
section 259A(1)	section 259A(2), (3), (4) or (5)
section 259A(2)	section 259A(3), (4) or (5)
section 259A(3)	section 259A(4) or (5)
section 259A(4)	section 259A(5)

Division 2 Specified environmental offences

270 Principles to be applied in imposing penalty for specified environmental offences

When imposing a penalty on a person (the ***offender***) for a specified environmental offence, the court must consider the following to the extent that they are relevant:

(a) any benefit or likely benefit obtained by the offender in committing the offence and the desirability of fixing a penalty that outweighs the benefit or potential benefit of the conduct;

(b) the extent of the environmental harm caused, including whether the harm is long-term, irreversible or cumulative;

(c) whether there is a need to deter cumulative impacts of conduct of this kind by the offender and others;

(d) the extent of any efforts by the offender to minimise or remediate the environmental harm;

(e) the extent to which the offender made efforts to comply with the environmental approval;

(f) any history of non-compliance by the offender with this Act;

(g) whether there was deliberate concealment of the conduct or of the illegal nature of the conduct;

(h) any other matters the court considers relevant.

271 Additional court orders where specified environmental offence proved

(1) If a person (the ***offender***) is found guilty of a specified environmental offence, the court may, having regard to the nature of the offence and the circumstances of the offence, make any orders it considers appropriate including the following:

(a) an order that the offender must take specified measures within a specified time:

(i) to prevent the offence occurring again; or

(ii) to remediate any environmental harm resulting from the offence; or

(iii) to rehabilitate the environment as a result of any environmental harm resulting from the offence; or

(iv) to enhance the environment in an area for public benefit;

(b) an order requiring the offender to compensate the CEO for the costs of taking any remedial or preventive action that was made necessary as a result of the act or omission that constituted the offence;

(c) an order directing the offender to pay to the CEO an amount that the court estimates will not exceed the financial, monetary or economic benefit that the offender or a person associated with the offender has gained or can reasonably be expected to gain as a result of the commission of the offence;

(d) an order directing the offender to pay an amount in compensation to any person who has suffered loss or damage as a result of the commission of the offence;

(e) an order requiring the offender to publicise the offence and the environmental consequences in a specified manner.

(2) An order under this section is in addition to any other order that the court may make under this Act or the *Sentencing Act 1995*.

272 CEO may take measures if order not complied with

(1) If the offender fails to take any measures specified by an order under section 271(1)(a), the CEO may take those measures.

(2) The CEO may recover the reasonable costs of taking any measures under subsection (1) in a court of competent jurisdiction as a debt due to the Territory.

(3) A debt mentioned in subsection (2) may be recorded under the *Land Title Act 2000* as a charge on any land owned by the offender.

(4) The CEO may, in writing, authorise another person to exercise a power or perform a function under subsection (1) or (2) on the CEO's behalf.

(5) If a person is authorised to exercise a power or perform a function under subsection (4), anything done by the person in the exercise of the power or the performance of the function has the same effect as if it had been done by the CEO.

Division 3 Criminal proceedings

273 Who can commence proceedings

(1) A proceeding for an offence against this Act may be brought by:

(a) the CEO or a person authorised by the CEO; or

(b) an environmental officer.

(2) An environmental officer other than a police officer must obtain the consent of the following before commencing the proceeding:

(a) the NT EPA in relation to an offence against any of the following provisions:

(i) section 34;

(ii) section 54;

(iii) if the request was made by the NT EPA – section 151;

(iv) section 198;

(v) if the relevant person is the NT EPA – section 260;

(vi) if the relevant offence is an offence mentioned in subparagraphs (i) to (v) – section 265;

(b) otherwise – the CEO.

274 Time for commencing prosecution

A prosecution for an offence against this Act must be commenced not more than 3 years after the later of:

(a) the date on which the offence was committed; or

(b) the date on which evidence of the offence first came to the attention of the CEO or the NT EPA, as the case requires.

274A Notice of defence must be given

A person charged with an offence who intends to rely on a defence specified by or under this Act must give written notice of the intention to the prosecutor at least 10 business days before the charge is heard.

274B Statements of fact

(1) This section applies to a proceeding under this Act.

(2) A statement purporting to be signed by a relevant person specifying any of the following matters is evidence of the matter specified in the statement:

(a) that, at a specified time, a specified person was, or was not, an approval holder;

(b) that, at a specified time, a specified environmental approval had been granted, varied, suspended or revoked;

(c) that, at a specified time, a specified place was a mining site or a place where specified mining activities were being carried out;

(d) that, at a specified time, a specified person was:

(i) the mining operator for a specified mining site; or

(ii) the title holder of a specified mining site; or

(iii) an employer of workers at a specified mining site; or

(iv) a worker at a specified mining site;

(e) that, at a specified time, a mining operator was, or was not, the holder of an environmental (mining) licence;

(f) that, at a specified time, a specified environmental (mining) licence had been granted, amended, suspended, revoked or cancelled;

(g) that, at a specified time, a specified substance was a contaminant, waste or greenhouse gas.

(3) A statement purporting to be signed by a relevant person specifying any of the following matters is evidence of the matter specified in the statement:

(a) that, at a specified time, a specified environmental approval, a copy of which is attached to the statement, contained specified conditions;

(ab) that, at a specified time, a specified environmental (mining) licence, a copy of which is attached to the statement, contained specified conditions;

(b) that, at a specified time, a direction, instruction or notice, a copy of which is attached to the statement, had been given or imposed or had not been given or imposed under this Act;

(c) that, at a specified time, a specified declaration under this Act, a copy of which is attached to the statement, was in force;

(d) that, at a specified time, a document, a copy of which is attached to the statement, is a document mentioned in an environmental approval, an environmental (mining) licence or a statutory instrument under this Act.

(4) A statement purporting to be signed by the CEO specifying any of the following matters is evidence of the matter specified in the statement:

(a) that, at a specified time, a specified person was an environmental officer; or

(b) that, at a specified time, a specified person was:

(i) a registered environmental auditor; or

(ii) a registered environmental practitioner; or

(iii) a qualified person appointed by the CEO to conduct an environmental audit.

(5) An instrument, equipment or installation prescribed by regulation that is used by an environmental officer in accordance with the manufacturer's instructions is taken to be accurate and precise in the absence of evidence to the contrary.

(6) In this section:

relevant person means:

(a) the CEO; or

(b) a person appointed or authorised as an environmental officer under section 159.

274C Reports of analysis

(1) This section applies to a proceeding under this Act.

(2) The production in a proceeding of a signed analyst's report specifying any of the following matters is evidence of those matters:

(a) the analyst took, or received from a specified person, the sample mentioned in the report;

(b) the analyst analysed the sample on a specified day, or during a specified period, and at a specified place;

(c) the results of the analysis.

(3) A defendant in a proceeding who intends to produce a signed analyst's report in the proceeding must send a copy of the report to the prosecutor at least 5 business days before the day set down for the hearing.

275 Enforcement agency for *Fines and Penalties (Recovery) Act 2001*

(1) The CEO is an enforcement agency for the *Fines and Penalties (Recovery) Act 2001*.

(2) The NT EPA is an enforcement agency for the *Fines and Penalties (Recovery) Act 2001*.

Part 12 Review of decisions

276 Standing for judicial review

(1) A person may seek judicial review of a decision of the Minister, the CEO, the NT EPA or an environmental officer under this Act if the person is:

(a) a proponent of an action to which the decision relates; or

(b) an applicant for the decision; or

(c) a person directly affected by the decision; or

(d) a person who has made a genuine and valid submission during an environmental impact assessment process or environmental approval process under this Act to which the decision relates; or

(e) a person who has made a genuine and valid submission during an environmental (mining) licence process under this Act to which the decision relates.

(2) For subsection (1)(d), a genuine and valid submission by a person does not include:

(a) a submission by the person in the form of a form response or petition prepared by another body or organisation; or

(b) a submission made after the end of the submission period, unless the court considers that in the circumstances it should be considered a genuine and valid submission.

277 Review by NTCAT

(1) NTCAT has jurisdiction to review a decision (a ***reviewable decision***) specified in the Schedule.

(2) An ***affected person***, for a reviewable decision, is a person specified in the Schedule for that decision.

(3) An affected person for a reviewable decision may apply to NTCAT for review of the decision.

Note for section 277

The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to NTCAT for review and other relevant matters in relation to reviews.

Part 13 General matters

Division 1 Delegation

278 Delegation by Minister

(1) The Minister may delegate any of the Minister's powers and functions under this Act to the CEO or a person other than the NT EPA or a member of the NT EPA.

(2) The Minister may delegate to the NT EPA or a member of the NT EPA any power of the Minister relating to the amendment of an environmental approval.

279 Delegation by CEO

The CEO may delegate any of the CEO's powers and functions under this Act to a person.

Division 2 Service

280 Service

(1) A document required to be given to a person under this Act may be given:

(a) by serving it on the recipient as authorised by section 25 of the *Interpretation Act 1978*; or

(b) by sending it to the recipient's email address as an attachment to an email.

(2) Subject to evidence to the contrary, a document sent as mentioned in subsection (1)(b) is taken to be given to the recipient when it is sent to the recipient's email address.

Note for section 280

See section 25(2) to (4) of the Interpretation Act 1978 for when notices, directions or requests served as mentioned in subsection (1)(a) are taken to be served.

Division 2A Protection from liability

280A Protection from liability

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:

(a) the CEO;

(b) a person who is appointed or authorised as an environmental officer under section 159(1);

(c) a person who is authorised under section 163(1)(r) to provide assistance to an environmental officer;

(d) a person who is authorised under section 251(4) to exercise a power or perform a function under section 251(1) or (2) on the CEO's behalf;

(e) a person who is authorised under section 272(4) to exercise a power or perform a function under section 272(1) or (2) on the CEO's behalf.

(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

(3) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.

Division 3 Confidentiality of information

281 Confidential information

(1) This section applies if a specified person is required under this Act or the regulations to provide information to a decision-maker in relation to:

(a) a referred action; or

(b) a referred strategic proposal; or

(c) the environmental impact assessment process; or

(d) the approval of an action or strategic proposal; or

(e) a significant variation of an action or strategic proposal; or

(f) the amendment of an environmental approval; or

(g) the suspension or revocation of an environmental approval; or

(h) the transfer of an environmental approval; or

(ha) an application for an environmental (mining) licence; or

(hb) the granting of an environmental (mining) licence; or

(hc) the variation of the conditions of an environmental (mining) licence; or

(hd) the suspension, cancellation or revocation of an environmental (mining) licence; or

(he) the transfer of an environmental (mining) licence; or

(i) a circumstance prescribed by regulation.

(2) At the time of providing the information, the specified person may request that identified information provided not be made public on the basis that the information is:

(a) commercial-in-confidence, which may include:

(i) commercial contractual information; or

(ii) confidential agreements with third parties if these are required not to be disclosed; or

(b) cultural-in-confidence; or

(c) subject to legal professional privilege; or

(d) otherwise required by law to be withheld from publication; or

(e) information that is in the public interest to withhold.

(2A) The decision-maker may suspend an environmental impact assessment process or environmental approval process or an environmental (mining) licence process while considering a request under this section that relates to that process.

(2B) The decision-maker must recommence the suspended process as soon as practicable and not more than 5 business days after the decision is made on the request.

(2C) The required time for making any decision under a suspended process ceases to run during the period of the suspension.

(3) An application must be made in accordance with the regulations.

(4) In this section:

specified person means any of the following:

(a) a proponent;

(b) an approval holder;

(c) a mining operator.

282 Decision of Minister or NT EPA

(1) After considering a request under section 281, the Minister or the NT EPA may decide that specified information provided to the Minister or the NT EPA (as the case requires) is not required to be published under this Act if satisfied that:

(a) the information is of a kind mentioned in section 281(2); and

(b) it is appropriate to withhold it from publication.

(2) The Minister or NT EPA must not decide that information is commercial-in-confidence unless satisfied that:

(a) release of the information would cause competitive detriment to the applicant; and

(b) the information is not in the public domain; and

(c) the information is not readily discoverable.

283 Effect of decision

(1) This section applies if the Minister or the NT EPA decides under section 282 that information may be withheld from publication.

(2) The proponent or approval holder is not required to publish the information under this Act.

(3) The proponent or approval holder is still required to provide the information to the Minister or the NT EPA under this Act.

(4) The Minister or the NT EPA must not publish information that it has decided may be withheld from publication under this Act unless required to do so by another Act or law.

Division 3A Independent preparation or review of information

283A Application of Division

This Division applies in relation to information or reports to be provided to the Minister if Part 5A or Part 9, Division 5, Subdivision 2 enables the Minister to require the specified information or specified report to be prepared or reviewed by a qualified person under this Division.

283B Independent review of information

The Minister may:

(a) require a mining operator:

(i) to give to the Minister a report prepared by a qualified person reviewing that specified information or specified report; or

(ii) to meet the reasonable costs of the Minister in obtaining a report prepared by a qualified person reviewing that specified information or specified report; or

(b) require the specified information or specified report to be prepared by a qualified person.

283C Offence relating to conflict of interest

(1) A person commits an offence if the person:

(a) is a qualified person; and

(b) intentionally prepares or reviews specified information or a specified report for this Division; and

(c) has a conflict of interest and is reckless in relation to that circumstance; and

(d) does not have the authorisation of the Minister to engage in the conduct despite the conflict of interest.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(2) Strict liability applies to subsection (1)(a) and (d).

283D Authorisation of conduct despite conflict

The Minister may authorise a qualified person to prepare or review specified information or a specified report despite a conflict of interest if the Minister considers it appropriate to do so in the particular circumstances of the case.

283E Nature of conflict of interest

(1) For sections 283C and 283D, a person has a ***conflict of interest*** if the person:

(a) is an associate of another person who owns or occupies any part of the site to which the specified information or specified report relates; or

(b) has a direct or indirect pecuniary or personal interest in:

(i) any part of the site to which the specified information or specified report relates; or

(ii) any action carried out or proposed to be carried out on the site or part of the site to which the specified information or specified report relates; or

(c) has been involved in, or is an associate of another person who has been involved in, an assessment or remediation under this Act of the site to which the specified information or specified report relates.

(2) For this section, a person is an ***associate*** of another person if:

(a) they are partners; or

(b) one is a spouse, de facto partner, parent, step-parent, child or stepchild of the other; or

(c) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or

(d) one is a body corporate or other entity (whether inside or outside Australia) and the other is a director or member of the governing body of the body corporate or other entity; or

(e) one is a body corporate or other entity (whether inside or outside Australia) and the other is a person who has a legal or equitable interest in 5% or more of the share capital of the body corporate or other entity; or

(f) they are related bodies corporate; or

(g) a relationship of a kind prescribed by regulation exists between them; or

(h) a chain of relationships can be traced between them under any one or more of paragraphs (a) to (g).

(3) In this section:

beneficiary, of a trust, includes an object of a discretionary trust.

related body corporate, see section 9 of the *Corporations Act 2001* (Cth).

283F Qualified person may direct information to be provided

A qualified person preparing or reviewing specified information or a specified report under section 283B may direct the mining operator, or another person, to provide all relevant information to the qualified person to carry out the preparation or review of the specified information or specified report.

283G Declarations in relation to information prepared or reviewed by qualified person

If specified information or a specified report given to the Minister has been prepared or reviewed by a qualified person as required by the Minister, the information or report given to the Minister must be accompanied by:

(a) a declaration signed by the person stating that the person:

(i) has not knowingly given any false or misleading information to the qualified person; and

(ii) has given all relevant information to the qualified person; and

(b) a declaration signed by the qualified person certifying that:

(i) the information or report prepared by the qualified person or the report of the review by the qualified person is accurate; and

(ii) the qualified person has not knowingly included any false or misleading information in the prepared information or report or the report of the review or failed to include any relevant information in the prepared information or report or the report of the review.

283H Contravention of direction to provide relevant information – environmental offences

(1) A person commits an offence if:

(a) the person is given a direction under section 283F; and

(b) the person contravenes that direction and is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

(a) the person is given a direction under section 283F; and

(b) the person contravenes that direction.

Penalty: environmental offence level 3.

(3) Strict liability applies to subsection (1)(a).

(4) An offence against subsection (2) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

283J Offence if false or misleading information in report or missing information

(1) A qualified person commits an offence if:

(a) the qualified person intentionally signs a declaration under section 283G(b) in relation to specified information or a specified report prepared by the qualified person; and

(b) the information or report contains false or misleading information or does not contain all relevant information and the qualified person is reckless in relation to that circumstance.

Maximum penalty: 500 penalty units or imprisonment for 2 years.

(2) Subsection (1) does not apply if the qualified person when giving the information or report:

(a) draws the false or misleading aspect of the information or report to the Minister's attention; and

(b) to the extent to which the qualified person can reasonably do so – gives the Minister or CEO the information necessary to remedy the false or misleading aspect of the information or report.

Division 4 Public register

284 Public register

(1) The CEO must keep a public register to provide a public record of prescribed activities, obligations, decisions and enforcement actions under this Act.

(2) The public register must be kept in a form determined by the CEO.

(3) The CEO must include in the public register the information required by regulation.

Division 4A Failure by decision-maker to meet specified time or publish decision or statement of reasons

284A Failure of decision-maker to make decision or do thing within specified time

(1) A failure of a decision-maker to make a decision or do a thing under this Act within a specified time does not invalidate the decision or thing done.

(2) Subsection (1) does not affect the operation of section 74(2).

284B Failure to publish decision or statement of reasons

(1) The failure of a decision-maker to publish a decision or a statement of reasons for a decision under this Act does not affect the validity of the decision.

(2) A decision-maker may publish a decision or statement of reasons even if the required time for that publication has expired.

Division 5 Directions to provide information

285 Direction notice

(1) The Minister may, by *Gazette* notice, direct proponents or approval holders to provide information for the following purposes:

(a) to assist the environmental impact assessment process;

(b) to assist the environmental approval process;

(c) to assist the monitoring of actions;

(d) to assist in identifying and understanding the current quality of the environment;

(e) to assist in identifying changes to the quality of the environment over time;

(f) to assist in identifying and monitoring impacts on the environment.

(2) The notice must specify:

(a) the time or times for providing the information; and

(b) the periods to which the information must relate; and

(c) the required methodology for collecting the information; and

(d) the required methods for reporting the information and the methodology used; and

(e) the person to whom the information must be provided; and

(f) the prescribed matters.

(3) The notice may make different directions for:

(a) different classes of proponents or approval holders; or

(b) different classes of actions; or

(c) different parts of the Territory.

286 Methodologies

(1) The CEO or the NT EPA may specify methodologies to be used for section 285.

(2) A methodology may refer to a published standard.

(3) The CEO or NT EPA must publish a methodology specified under this section.

287 Proponent or approval holder to provide information

(1) A proponent or an approval holder commits an offence if the proponent or the approval holder contravenes a notice under section 285.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

(5) Subsection (1) does not apply to a proponent or an approval holder in relation to information if an exemption is granted under section 288 in relation to that information.

288 Proponent or approval holder may seek exemption

(1) A proponent or an approval holder may, in writing, apply to the Minister for an exemption from compliance with a notice under section 285 on the ground that it would be unreasonable for the proponent or approval holder to provide the required information.

(2) The Minister may grant or refuse an application under subsection (1).

(3) The Minister must refuse an application under subsection (1) unless the Minister is satisfied that granting the exemption will not undermine the objects of this Act.

(4) The Minister must publish a decision under subsection (2) and the reasons for the decision as soon as practicable after the decision is made.

289 Publication of information

The Minister or the CEO may publish any information provided by a proponent or an approval holder under this Division.

Division 6 Report by CEO

290 CEO to report on enforcement and compliance

(1) The CEO must publish a report on all enforcement measures and compliance measures taken under this Act at least once in each year.

(2) The CEO may determine the form of the report which may include:

(a) a separate published report; or

(b) a report recorded on the public register; or

(c) a report included in the annual report of the Agency.

Division 7 Guidance and procedural documents

291 Guidance documents

(1) The Minister, the CEO and the NT EPA may publish guidance documents in relation to any requirements or processes under this Act.

(2) The purpose of a guidance document is to provide advice on the operation of this Act.

(3) A guidance document must not be inconsistent with this Act.

(4) A guidance document may refer to or adopt a published standard as in force from time to time.

292 Approved forms

The CEO may approve forms for this Act.

Division 7A Analysts

292A Meaning of *analyst*

(1) ***Analyst*** means a person who:

(a) is appointed as an analyst under subsection (2); or

(b) holds a kind of accreditation, in relation to analysts, prescribed by regulation; or

(c) is in a class of analysts prescribed by regulation.

(2) The CEO may appoint a person who, in the CEO's opinion, is appropriately qualified, to be an analyst.

(3) The regulations may prescribe:

(a) kinds of accreditation in relation to analysts; or

(b) classes of persons to be analysts.

Division 8 Regulations

293 Regulations

(1) The Administrator may make regulations under this Act.

Note for subsection (1)

See section 65 of the Interpretation Act 1978.

(2) The regulations may deal with the following:

(a) prescribe fees payable under this Act;

(b) provide for the recovery of costs and expenses incurred by the Minister, the CEO or the NT EPA under or for this Act;

(c) provide for an offence against a regulation to be an offence of strict or absolute liability;

(d) for an offence against a regulation other than an offence of strict liability or absolute liability – prescribe:

(i) a fine not exceeding 200 penalty units; or

(ii) an environmental penalty not exceeding environmental penalty level 3;

(e) for an offence against a regulation that is an offence of strict liability or absolute liability – prescribe:

(i) a fine not exceeding 100 penalty units; or

(ii) an environmental penalty not exceeding environmental penalty level 3;

(f) apply, adopt or incorporate (with or without changes) the whole or part of a document as in force or existing at a particular time or from time to time;

(g) make different provision for different cases or class of case.

Part 14 Repeals and transitional matters

Division 1 Acts repealed

294 Acts repealed

The following Acts are repealed**:**

(a) *Environmental Assessment Act 1982* (Act No. 65 of 1982);

(b) *Environmental Assessment Amendment Act 1994* (Act No. 73 of 1994).

Division 2 Transitional matters

295 Definitions

In this Division:

commencement means the commencement of section 294.

former Act means the *Environmental Assessment Act 1982*.

former procedures means the *Environmental Assessment Administrative Procedures 1984*.

prescribed Act means:

(aa) *Energy Pipelines Act 1981*; or

(a) *Mining Management Act 2001*; or

(b) *Petroleum Act 1984*; or

(c) *Planning Act 1999*; or

(d) *Waste Management and Pollution Control Act 1998*.

296 Saving of existing assessments commenced but not completed

(1) Subject to this Division, if an assessment of a proposed action commenced under the former Act but an assessment report was not completed before the commencement, the former Act continues to apply to that assessment as if section 294 had not commenced.

(2) For subsection (1), the former procedures continue to apply to the proposal as if:

(a) section 294 had not commenced; and

(b) any reference in the former procedures to "days" were a reference to "business days"; and

(c) after clause 10A(1) there were inserted:

"(1A) Clauses 9 and 10 apply (with any necessary changes) in relation to a supplement prepared under subclause (2) as if:

(a) the supplement were a report; and

(b) any reference in clause 9(2)(b) to 28 days were a reference to 15 business days"; and

(d) after clause 11(1) there were inserted:

"(1A) If a supplement is prepared after the commencement of section 294 of the *Environment Protection Act 2019*, the reference in subclause (1) to the period specified in the notice mentioned in clause 9(2)(b)(i) is a reference to that period as specified in relation to the supplement."; and

(e) in clause 11(3)(a) after "clause 9" there were inserted "(including any comments relating to a supplement)".

297 Termination of assessment under former Act

(1) This section applies if:

(a) an assessment process commenced in relation to a proposed action under the former Act before the commencement; and

(b) the proponent had taken no steps or only limited steps in the assessment process before the commencement.

(2) The NT EPA may terminate the assessment process under the former Act if the NT EPA considers that continuing the assessment process is no longer appropriate because of the passage of time since the assessment process commenced.

(3) Before making a decision under subsection (2), the NT EPA must give the proponent:

(a) written notice of the proposed termination; and

(b) an opportunity to make a submission in relation to the proposed termination.

(4) If an assessment process is terminated under this section, this Act applies to the environmental impact assessment of the proposed action.

(5) The NT EPA must give written notice to the Minister and to the responsible Minister, as defined in section 3 of the former Act. of the termination of an assessment process under this section.

298 Environmental audit

Part 8, Divisions 1 and 2 and Part 9, Divisions 1 and 3 apply (with any necessary changes) in relation to:

(a) an action assessed under the former Act before the commencement as if it were an action referred under this Act; and

(b) a proposed action that continues to be assessed under the former Act after the commencement as if it were a proposed action referred under this Act.

299 Assessment report

(1) An assessment report prepared under the former Act before or after the commencement is taken to be an assessment report for this Act.

(2) In subsection (1), an assessment report includes a report (however described) prepared under the former Act on the completion of an assessment under that Act.

300 Assessment report completed under former Act before commencement

(1) This section applies if:

(a) an assessment report for a proposed action was completed under the former Act before the commencement; and

(b) either:

(i) a statutory authorisation is required under a prescribed Act to permit the action; or

(ii) an environmental (mining) licence is required under this Act to permit the action.

(2) The proponent must notify the NT EPA under section 51(1) of a significant variation to the proposed action.

(3) Sections 8A and 8B of the former Act continue to apply in relation to the assessment report.

300A Assessment report completed under former Act and action commenced before commencement

(1) This section applies if:

(a) an assessment report for a proposed action was completed under the former Act before the commencement; and

(b) the proposed action had commenced before the commencement; and

(c) a statutory authorisation is not required under a prescribed Act to permit the proposed action.

(2) The proponent must notify the NT EPA under section 51(1) of a significant variation to the proposed action.

301 Assessment report completed under former Act after commencement

(1) This section applies if an assessment report for a proposed action is completed under the former Act after the commencement.

(2) An environmental approval is required under this Act for the proposed action.

301A Assessment report completed under former Act before, and action commenced after, commencement

(1) This section applies if:

(a) an assessment report for a proposed action was completed under the former Act before the commencement; and

(b) the proposed action had not commenced before the commencement; and

(c) a statutory authorisation is not required under a prescribed Act to permit the action.

(2) An environmental approval is required to be obtained under this Act before commencing the proposed action.

302 Process for environmental approval

(1) For sections 301(2) and 301A(2), the NT EPA must:

(a) provide the assessment report to the Minister; and

(b) prepare a draft environmental approval for the proposed action in accordance with the regulations; and

(c) provide the draft environmental approval to the Minister together with the assessment report in accordance with Part 5.

(2) Subsection (1)(b) does not apply if the NT EPA:

(a) prepares a statement of unacceptable impact in accordance with the regulations; and

(b) provides that statement to the Minister together with the assessment report in accordance with Part 5.

Part 15 Transitional matters for Environment Protection Legislation Amendment Act 2023

Division 1 Preliminary matters

303 Definitions

In this Part:

amending Act means the *Environment Protection Legislation Amendment Act 2023*.

commencement means the day on which Part 4 of the amending Act commences.

deemed mining licence means an environmental (mining) licence created under section 304(1) or 308(4) and if that licence is varied under section 304(2) or 308(6) that licence as so varied.

existing mining authorisation means an Authorisation granted under Part 4 Division 2 of the former Mining Management Act that is in existence immediately before the commencement.

existing mining management plan means a mining management plan approved under Part 4, Division 2 of the former Mining Management Act that is in existence immediately before the commencement.

former Mining Management Act means the *Mining Management Act 2001* as in force before the commencement.

mining waste means waste that comes into contact with water, or water that is polluted, in the course of carrying out a mining activity.

replacement environmental (mining) licence means a replacement environmental (mining) licence granted under section 313.

transition period, in relation to a deemed mining licence, means the period of operation of the licence set out in section 305.

Division 2 Mining Management Act 2001

Subdivision 1 Deemed mining licence

304 Existing mining authorisation and existing mining management plan taken to be environmental (mining) licence

(1) An existing mining authorisation and an existing mining management plan relating to that authorisation are together taken on and from the commencement to be an environmental (mining) licence under this Act for the mining activity to which the authorisation and plan relate.

(2) If a deemed mining licence requires the submission or provision by the mining operator of a revision of a document, report or plan or security amount, the deemed mining licence is taken to be varied in accordance with the revised document, report, plan or security.

305 Duration of deemed mining licence

(1) Subject to this section, a deemed mining licence has effect for a period of 4 years from the commencement.

(2) A deemed mining licence ceases to have effect before the end of the 4 year period if:

(a) it is cancelled or revoked; or

(b) a replacement environmental (mining) licence is granted.

(3) If an application for a replacement environmental (mining) licence is made under this Division before the end of the 4 year period, the deemed mining licence continues to have effect until the replacement environmental (mining) licence is granted.

(4) If the Minister commences a process under section 312(3) before the end of the 4 year period for the grant of a replacement environmental (mining) licence, the deemed mining licence continues to have effect until the replacement environmental (mining) licence is granted.

306 Prohibition of variation of deemed mining licence

Except as provided in section 304(2) or 308, a deemed mining licence cannot be varied so as to:

(a) include a new mining activity; or

(b) amend an existing mining activity so as to substantially alter the environmental impacts, risks, location or extent of the mining activity.

307 Prohibition of transfer of deemed mining licence

A deemed mining licence cannot be transferred.

308 Pending applications for Authorisation

(1) This section applies to an application under the former Mining Management Act made but not determined before the commencement for the following:

(a) the grant of an Authorisation;

(b) the approval of a mining management plan;

(c) the variation or revocation of an Authorisation;

(d) the approval of an amendment to a mining management plan.

(2) Subject to this section, the application must be determined as if the former Mining Management Act had not been repealed.

(3) For the determination of an application referred to in subsection (2):

(a) the former Mining Management Act applies as if any reference to the Minister were a reference to the Minister administering the *Environment Protection Act 2019*; and

(b) the Minister administering the *Environment Protection Act 2019* may have regard to, continue and complete any thing done by the Minister administering the former Mining Management Act in relation to the application before the commencement.

(4) The application must be determined within 2 years after the commencement.

(5) If an application mentioned in subsection (1)(a) is granted, the Authorisation is taken to be a deemed mining licence.

(6) If an application mentioned in subsection (1)(b) is approved, the approved mining management plan is taken to be part of the deemed mining licence to which it applies.

(7) If an application for variation of an Authorisation mentioned in subsection (1)(c) is granted, the deemed mining licence is taken to be varied in accordance with that variation.

(8) If an application for revocation of an Authorisation mentioned in subsection (1)(c) is granted, the deemed mining licence is revoked.

(9) If an application mentioned in subsection (1)(d) is approved, the mining management plan in the deemed mining licence is taken to be amended in accordance with that approval.

309 Existing security

Any security held under the former Mining Management Act immediately before the commencement in respect of an existing mining authorisation is taken on and after the commencement:

(a) to be a mining security held under Part 7, Division 1A in relation to:

(i) the deemed mining licence corresponding to that authorisation; and

(ii) an environmental (mining) licence granted after the commencement for the mining activity to which the deemed mining licence relates; and

(b) to form part of the mining security account kept under that Division; and

(c) in the case of a security in the form of a bank guarantee – to be an agreement entered into on behalf of the Territory for the purposes of section 37(a) of the *Interpretation Act 1978*.

310 Publication of deemed mining licences

(1) The Minister must publish the following details of each deemed mining licence:

(a) details of the mining site to which the deemed mining licence applies;

(b) the name of the mining operator;

(c) a summary of the mining activities authorised under the deemed mining licence unless the existing management plan is published or notified under subsection (2) or (3);

(d) the amount of mining security held in relation to the mining activities authorised under the deemed mining licence.

(2) If an existing mining management plan that forms part of a deemed mining licence was published before the commencement, the

Minister must publish the existing mining management plan or publish information about where the existing mining management plan may be viewed.

(3) If an existing mining management plan that forms part of a deemed mining licence was not published before the commencement, the Minister may, at the Minister's discretion:

(a) publish the existing mining management plan; or

(b) direct a mining operator to publish the existing mining management plan.

311 Cancellation of deemed mining licence

(1) A mining operator may apply to the Minister during the transition period to cancel a deemed mining licence.

(2) An application must be in the approved form.

. (3) The Minister may direct the mining operator to give the Minister, within a specified period, any additional information the Minister considers reasonably necessary to assess the proposed cancellation of the deemed mining licence to meet the objects of this Act.

(4) The Minister may consider the application and decide:

(a) to cancel the deemed licence; or

(b) to refuse to cancel the deemed licence.

(5) Before deciding to cancel a deemed mining licence, the Minister must be satisfied that:

(a) any environmental risks and impacts at the mining site have been appropriately avoided, mitigated and managed in accordance with the licence; and

(b) all necessary remediation and rehabilitation actions have been undertaken at the mining site to comply with the licence; and

(c) the cancellation will not undermine the objects of this Act.

Subdivision 2 Replacement environmental (mining) licence

312 Replacement of deemed mining licence

(1) A mining operator may apply to the Minister within the transition period to grant an environmental (mining) licence for a mining activity in place of the deemed mining licence applying to that mining activity.

(2) An application must be in the approved form.

(3) The Minister may, on the Minister's own initiative, commence a process, within the transition period, to grant an environmental (mining) licence for a mining activity in place of the deemed mining licence applying to that mining activity.

(4) The Minister must give written notice to the mining operator of the Minister's intention to commence a process to grant an environmental (mining) licence in place of the deemed mining licence.

(5) On an application under subsection (1) or the completion of a process referred to in subsection (3), the Minister must grant the mining operator a replacement environmental (mining) licence in accordance with this Subdivision.

(6) A replacement environmental (mining) licence may be for a mining activity relating to all or any of the following:

(a) an exploration activity as set out in section 124M;

(b) mining operations as set out in section 124N;

(c) extractive operations as set out in section 124P.

313 Grant of replacement environmental (mining) licence

(1) The Minister may grant a standard condition licence to the mining operator in place of a deemed mining licence if:

(a) the Minister reasonably considers the mining activity meets the risk criteria and that the mining operator is able to comply with the standard conditions associated with the mining activity for which the licence is to be granted; and

(b) the mining operator consents to the grant of a standard condition licence.

(2) The Minister may grant a modified condition licence in place of a deemed mining licence if:

(a) the Minister reasonably considers the mining activity meets the risk criteria and that the mining operator is able to comply with the standard conditions as modified for the mining activity; and

(b) the mining operator consents to the grant of a modified condition licence.

(3) In any other case, subject to section 314, the Minister may grant a tailored condition licence in place of a deemed mining licence on substantially the same terms and conditions and requirements that applied to the deemed mining licence.

(4) In granting a replacement environmental (mining) licence under this section, the Minister is not required to consider:

(a) Part 2; or

(b) the objects of this Act; or

(c) whether the mining operator is a fit and proper person to hold an environmental (mining) licence.

(5) The Minister is not required to:

(a) publish an application under section 312 for a replacement environmental (mining) licence; or

(b) publish a notice of a proposal under section 312 to grant a replacement environmental (mining) licence; or

(c) publish an application under section 314 for a condition to be included in a replacement environmental (mining) licence.

314 Amendment of conditions for replacement environmental (mining) licence

(1) A mining operator may apply to the Minister to grant a modified condition licence or tailored condition licence under section 313 with amended conditions.

(2) The amended conditions may include conditions of a kind and to the same effect as a condition mentioned in sections 124X to 124ZC.

(3) The Minister may grant the modified condition licence or tailored condition licence with the amendments sought in the application.

(4) The Minister may, on the Minister's own initiative, include in a modified condition licence or a tailored condition licence a condition requiring monitoring and reporting of specified matters and the publication of the results of the monitoring and reports.

(5) After consulting with the mining operator, the Minister may, on the Minister's own initiative, include in a modified condition licence or a tailored condition licence a condition referred to in section 124Z that:

(a) relates to a matter to which a permit, licence or other authorisation under a prescribed enactment under section 124Z applied immediately before the grant of the modified condition licence or tailored condition licence; and

(b) that imposes substantially the same requirements as that permit, licence or authorisation.

Division 3 Waste Management and Pollution Control Act 1998

315 Compliance plans approved before commencement

(1) This section applies to a compliance plan that:

(a) is approved under section 61 of the *Waste Management and Pollution Control Act 1998*; and

(b) is in force immediately before the commencement; and

(c) relates to a mining operator and a mining activity.

(2) The compliance plan has effect on and after the commencement as if:

(a) the plan were an enforceable undertaking; and

(b) any reference in the plan to the NT EPA were a reference to the CEO.

316 Performance agreements

(1) This section applies to a performance agreement that:

(a) is entered into with a mining operator under section 66 of the *Waste Management and Pollution Control Act 1998*; and

(b) is in force immediately before the commencement; and

(c) relates to a mining activity.

(2) The performance agreement has effect on and after the commencement as if:

(a) the agreement were an enforceable undertaking; and

(b) any reference in the agreement to the NT EPA were a reference to the CEO.

317 Pollution abatement notice

(1) This section applies to a pollution abatement notice that:

(a) is issued to a mining operator under section 77 or 78 of the *Waste Management and Pollution Control Act 1998*; and

(b) is in force immediately before the commencement; and

(c) relates to a mining activity.

(2) The pollution abatement notice has effect on and after the commencement as if the notice were an environment protection notice issued under this Act.

Division 4 Water Act 1992

318 Written notice by Controller of Water Resources in relation to environmental matter

(1) This section applies if a written notice served on a person by the Controller of Water Resources under section 20(5) of the *Water Act 1992*:

(a) is in force immediately before the commencement; and

(b) relates to a mining activity; and

(c) relates to a kind of matter for which a direction can be given by an environmental officer under section 172 of this Act.

(2) The written notice is taken on or after the commencement to be a direction by an environmental officer under section 172 to the person in relation to the environmental matter.

319 Saving of existing waste discharge licences under section 74

(1) This section applies to a waste discharge licence granted under section 74(1) of the *Water Act 1992* that:

(a) relates to mining waste; and

(b) is in force immediately before the commencement.

(2) Without limiting section 121 of the *Water Act 1992* and subject to subsection (3), the waste discharge licence continues in force and may be renewed or a new waste discharge licence may be granted in its place as if section 230 of the amending Act had not commenced.

(3) The waste discharge licence or a new waste discharge licence granted in its place ceases to have effect when the first of the following occurs:

(a) the waste discharge licence expires without being renewed or a new waste discharge licence being granted in its place;

(b) a deemed mining licence applying to the mining activity ceases to have effect;

(c) an environmental (mining) licence is granted for the mining activity under Part 5A or section 313 of this Act.

(4) Nothing in this section prevents an application for, and the granting of, an environmental (mining) licence under Part 5A or section 313 of this Act before the expiry of the waste discharge licence.

320 Waste discharge licences issued under section 74 after commencement

(1) Without limiting section 121 of the *Water Act 1992*, a waste discharge licence may be granted under section 74(1) of that Act after the commencement in relation to mining waste that relates to a mining activity to which a deemed mining licence applies as if section 230 of the amending Act had not commenced.

(2) A waste discharge licence may be granted under section 74(1) of that Act after the commencement in relation to mining waste that relates to a mining activity for which an application to which section 308 applies is still pending as if section 230 of the amending Act had not commenced.

(3) Subject to subsection (4), a waste discharge licence referred to in subsection (1) or (2) is in force and may be renewed or a new waste discharge licence may be granted in its place as if section 230 of the amending Act had not commenced.

(4) A waste discharge licence referred to in subsection (1) or (2) or a new waste discharge licence granted in its place ceases to have effect when the first of the following occurs:

(a) the waste discharge licence expires without being renewed or a new waste discharge licence being granted in its place;

(b) a deemed mining licence applying to the mining activity ceases to have effect;

(c) an environmental (mining) licence is granted for the mining activity under Part 5A or section 313 of this Act.

(5) Nothing in this section prevents an application for, and the granting of, an environmental (mining) licence under Part 5A or section 313 of this Act before the expiry of the waste discharge licence.

Schedule Reviewable decisions and affected persons

section 277

Item	Reviewable decision	Affected person
1	A decision of the CEO to give a direction to carry out an environmental audit under section 142	The person to whom the direction is given
2	A decision of an environmental officer to issue a direction under section 172	The person to whom the direction is given
3	A decision of the CEO to issue an environment protection notice under section 176(1) or (2) or an emergency environment protection notice under section 182 or 182A	The person to whom the notice is issued
4	A decision of an environmental officer to issue an emergency environment protection notice under section 183	The person to whom the notice is issued
5	A decision to lodge a copy of an environment protection notice with the Registrar-General under section 185	An owner or occupier of the land
6	A decision of the CEO to issue a monitoring and management notice under section 199, 199A or 199AB	The person to whom the notice is issued
7	A decision to lodge a copy of a monitoring and management notice with the Registrar-General under section 202	An owner or occupier of the land
8	A decision of the CEO to impose a condition on an emergency authorisation issued under section 223	The person to whom the emergency authorisation is issued
9	A decision of the CEO to refuse to issue an emergency authorisation under section 223	The applicant for the authorisation
10	A decision of the CEO to give a direction under section 244	The person to whom the direction is given

Item	Reviewable decision	Affected person
11	A decision under this Act prescribed by regulation	A person prescribed by regulation in relation to that decision

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Environment Protection Act 2019* (Act No. 31, 2019)**
Assent date 9 October 2019
Commenced 28 June 2020 (*Gaz* G17, 29 April 2020, p 2)

***Statute Law Revision and Repeals Act 2019* (Act No. 33, 2019)**
Assent date 6 November 2019
Commenced pts 2 and 3: 11 December 2019 (*Gaz* G50, 11 December 2019, p 2); rem: 7 November 2019 (s 2)

***Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022* (Act No. 32, 2022)**
Assent date 16 December 2022
Commenced 1 March 2024 (*Gaz* G4, 15 February 2024, p 1)

Amending Legislation

***Environment Protection Legislation Amendment Act 2023* (Act No. 34, 2023)**
Assent date 6 December 2023
Commenced pt 1, pt 3, div 1, ss 207 and 219 and pt 5: 7 December 2023 (s 2(1)); pt 3, div 2: 1 March 2024 (s 2(2), s 2 *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022* (Act No. 32, 2022) and (*Gaz* G4, 15 February 2024, p 1); pt 4: 1 July 2024 (*Gaz* G4, 15 February 2024, p 2); rem: 1 March 2024 (*Gaz* G4, 15 February 2024, p 2)

Environment Protection Legislation Amendment Act 2023 **(Act No. 34, 2023)**

Assent date	6 December 2023
Commenced	pt 1, pt 3, div 1, ss 207 and 219 and pt 5: 7 December 2023 (s 2(1)); pt 3, div 2: 1 March 2024 (s 2(2), s 2 *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022* (Act No. 32, 2022) and (*Gaz* G4, 15 February 2024, p 1); pt 4: 1 July 2024 (*Gaz* G4, 15 February 2024, p 2); rem: 1 March 2024 (*Gaz* G4, 15 February 2024, p 2)

Statute Law Revision and Repeals Act 2026 **(Act No. 3, 2026)**

Assent date	9 February 2026
Commenced	10 February 2026 (s 2)

Mineral Titles Legislation Amendment Act 2026 **(Act No. 16, 2026)**

Assent date	4 June 2026
Commenced	5 June 2026 (s 2)

Environment Legislation Amendment (Safe Air) Act 2026 **(Act No. 32, 2026)**

Assent date	6 November 2026
Commenced	pts 3 and 4: 1 January 2027 (s 2(2)); rem: 7 November 2026 (s 2(1))

3 LIST OF AMENDMENTS

s 3	amd No. 34, 2023, s 133
s 4	amd No. 32, 2022, s 4; No. 34, 2023, ss 4 and 134; No. 3, 2026, s 64; No. 16, 2026, s 94
s 7	amd No. 34, 2023, s 135
s 12	amd No. 34, 2023, s 5
s 13A	ins No. 34, 2023, s 136 amd No. 16, 2026, s 95
s 18A	ins No. 34, 2023, s 6
s 32	amd No. 34, 2023, s 93
s 40	amd No. 34, 2023, s 7
pt 3	
div 3 hdg	ins No. 34, 2023, s 8
s 41A	ins No. 34, 2023, s 8
s 43	amd No. 34, 2023, s 9
s 44	amd No. 34, 2023, s 10
s 45	amd No. 34, 2023, s 11
s 46	amd No. 34, 2023, s 12
s 47	amd No. 34, 2023, s 13
s 50	amd No. 34, 2023, s 14
s 51	amd No. 34, 2023, s 15
s 51A	ins No. 34, 2023, s 16
s 52	amd No. 34, 2023, s 17
s 53	amd No. 34, 2023, s 18
s 55	amd No. 34, 2023, s 19
s 56	amd No. 34, 2023, s 20
s 58	amd No. 34, 2023, s 21
s 59	amd No. 34, 2023, s 22
s 59A	ins No. 34, 2023, s 23
s 61	amd No. 34, 2023, s 24
s 62	amd No. 34, 2023, s 25
s 62A	ins No. 34, 2023, s 26
s 63	amd No. 34, 2023, s 27
s 64	amd No. 34, 2023, s 28

s 66	amd No. 34, 2023, s 29
s 67	amd No. 34, 2023, s 30
s 73	amd No. 34, 2023, s 31
s 74	amd No. 34, 2023, s 32
s 76	amd No. 34, 2023, s 33
s 84	amd No. 34, 2023, s 34
s 85	amd No. 34, 2023, s 35
s 86	amd No. 34, 2023, s 36
s 88	amd No. 34, 2023, s 37
s 94	amd No. 34, 2023, s 38
pt 5	
div 7A hdg	ins No. 34, 2023, s 39
ss 95A – 95B	ins No. 34, 2023, s 39
s 97A	ins No. 34, 2023, s 40
s 101	amd No. 34, 2023, s 41
s 102A	ins No. 34, 2023, s 42
s 105A	ins No. 34, 2023, s 43
s 106	amd No. 34, 2023, s 44
s 107	amd No. 34, 2023, s 45
s 113	amd No. 34, 2023, s 46
s 121	amd No. 34, 2023, s 47
s 123	amd No. 34, 2023, s 48
s 124	amd No. 34, 2023, s 49
pt 5A hdg	ins No. 34, 2023, s 137
pt 5A	
div 1 hdg	ins No. 34, 2023, s 137
ss 124A – 124C	ins No. 34, 2023, s 137
pt 5A	
div 2 hdg	ins No. 34, 2023, s 137
ss 124D – 124E	ins No. 34, 2023, s 137
pt 5A	
div 3 hdg	ins No. 34, 2023, s 137
s 124F	ins No. 34, 2023, s 137
s 124G	ins No. 34, 2023, s 137
	amd No. 16, 2026, s 96
ss 124H – 124J	ins No. 34, 2023, s 137
pt 5A	
div 4 hdg	ins No. 34, 2023, s 137
pt 5A	
div 4	
sdiv 1 hdg	ins No. 34, 2023, s 137
s 124K	ins No. 34, 2023, s 137
s 124L	ins No. 34, 2023, s 137
	amd No. 16, 2026, s 97
s 124LA	ins No. 16, 2026, s 98
ss 124M – 124S	ins No. 34, 2023, s 137
pt 5A	
div 4	
sdiv 2 hdg	ins No. 34, 2023, s 137
ss 124T – 124ZA	ins No. 34, 2023, s 137
s 124ZB	ins No. 34, 2023, s 137
	amd No. 16, 2026, s 99
s 124ZC	ins No. 34, 2023, s 137

	amd No. 16, 2026, s 100
pt 5A	
div 4	
sdiv 3 hdg	ins No. 34, 2023, s 137
ss 124ZD –	
124ZI	ins No. 34, 2023, s 137
s 124ZJ	ins No. 34, 2023, s 137
	amd No. 16, 2026, s 101
ss 124ZK –	
124ZL	ins No. 34, 2023, s 137
s 124ZM	ins No. 34, 2023, s 137
	amd No. 16, 2026, s 102
ss 124ZN –	
124ZS	ins No. 34, 2023, s 137
pt 5A	
div 4	
sdiv 4 hdg	ins No. 34, 2023, s 137
ss 124ZT –	
124ZZA	ins No. 34, 2023, s 137
pt 5A	
div 4	
sdiv 5 hdg	ins No. 34, 2023, s 137
ss 124ZZB –	
124ZZG	ins No. 34, 2023, s 137
pt 5A	
div 4	
sdiv 6 hdg	ins No. 34, 2023, s 137
ss 124ZZH –	
124ZZM	ins No. 34, 2023, s 137
pt 5A	
div 4	
sdiv 7 hdg	ins No. 34, 2023, s 137
ss 124ZZN –	
124ZZV	ins No. 34, 2023, s 137
pt 5A	
div 5 hdg	ins No. 34, 2023, s 137
ss 124ZZW –	
124ZZY	ins No. 34, 2023, s 137
pt 5A	
div 6 hdg	ins No. 34, 2023, s 137
ss 124ZZZ –	
124ZZZA	ins No. 34, 2023, s 137
pt 5A	
div 7 hdg	ins No. 34, 2023, s 137
pt 5A	
div 7	
sdiv 1 hdg	ins No. 34, 2023, s 137
ss 124ZZZB –	
124ZZZC	ins No. 34, 2023, s 137
pt 5A	
div 7	
sdiv 2 hdg	ins No. 34, 2023, s 137
ss 124ZZZD –	
124ZZZE	ins No. 34, 2023, s 137
pt 5B hdg	ins No. 34, 2023, s 137
pt 5B	
div 1 hdg	ins No. 34, 2023, s 137
s 124ZZZF	ins No. 34, 2023, s 137

pt 5B	
div 2 hdg	ins No. 34, 2023, s 137
ss 124ZZZG – 124ZZZM	ins No. 34, 2023, s 137
pt 5C hdg	ins No. 34, 2023, s 137
ss 124ZZZN – 124ZZZV	ins No. 34, 2023, s 137
s 125	amd No. 34, 2023, s 50
pt 6A hdg	ins No. 32, 2026, s 4
ss 126A – 126B	ins No. 32, 2026, s 4
s 128	amd No. 34, 2023, s 51
s 129	amd No. 34, 2023, ss 52 and 138
s 131	amd No. 34, 2023, s 53; No. 16, 2026, s 103
s 132	amd No. 34, 2023, s 54
pt 7	
div 1A hdg	ins No. 34, 2023, s 139
s 132A	ins No. 34, 2023, s 139
s 132B	ins No. 34, 2023, s 139
	amd No. 16, 2026, s 104
s 132BA	ins No. 16, 2026, s 105
ss 132C – 132D	ins No. 34, 2023, s 139
s 132E	ins No. 34, 2023, s 139
	amd No. 16, 2026, s 106
s 132F	ins No. 34, 2023, s 139
	amd No. 16, 2026, s 107
s 140	amd No. 34, 2023, s 140
s 141	amd No. 34, 2023, s 141
s 142	amd No. 34, 2023, ss 55 and 142
s 148	amd No. 34, 2023, s 143
s 149	amd No. 34, 2023, s 144
s 150	amd No. 34, 2023, s 56
s 153	amd No. 34, 2023, s 57
s 163	amd No. 34, 2023, s 145
pt 9	
div 2	
sdiv 1 hdg	ins No. 32, 2022, s 5
s 176	amd No. 32, 2022, s 6; No. 34, 2023, s 146
s 177	amd No. 34, 2023, s 147
s 178	amd No. 34, 2023, s 58
s 181	amd No. 34, 2023, s 59
s 182	amd No. 34, 2023, s 148
s 182A	ins No. 34, 2023, s 60
s 183	amd No. 32, 2022, s 7
pt 9	
div 2	
sdiv 2 hdg	ins No. 32, 2022, s 8
ss 192A – 192J	ins No. 32, 2022, s 8
pt 9	
div 2A hdg	ins No. 32, 2022, s 8
pt 9	
div 2A	
sdiv 1 hdg	ins No. 32, 2022, s 8
s 192K	ins No. 32, 2022, s 8
s 192L	ins No. 32, 2022, s 8 as amended by No. 34, 2023, s 128

ss 192M – 192N	ins No. 32, 2022, s 8
pt 9 div 2A sdiv 2 hdg	ins No. 32, 2022, s 8
ss 192P – 192X	ins No. 32, 2022, s 8
pt 9 div 2A sdiv 3 hdg	ins No. 32, 2022, s 8
ss 192Y – 192Z	ins No. 32, 2022, s 8 as amended by No. 34, 2023, s 128
s 194	amd No. 34, 2023, s 61
pt 9 div 4 hdg	sub No. 34, 2023, s 62
s 199	sub No. 34, 2023, s 62
s 199A	ins No. 34, 2023, s 62
s 199AB	ins No. 34, 2023, s 149
s 199B	ins No. 34, 2023, s 62 amd No. 34, 2023, s 150
s 200	amd No. 34, 2023, s 63
s 201	amd No. 34, 2023, s 64
s 202	amd No. 34, 2023, s 65
s 203	amd No. 34, 2023, s 66
s 204	amd No. 34, 2023, ss 67 and 151
s 205	amd No. 34, 2023, s 68
s 207	amd No. 34, 2023, s 69
s 208	amd No. 34, 2023, s 70
s 209	amd No. 34, 2023, s 71
s 210	amd No. 34, 2023, s 72
pt 9 div 5 sdiv 1 hdg	ins No. 34, 2023, s 152
s 210A	ins No. 34, 2023, s 152
s 211	amd No. 34, 2023, s 153
s 212	amd No. 34, 2023, s 154
s 213	amd No. 34, 2023, s 155
s 214	amd No. 34, 2023, s 156
pt 9 div 5 sdiv 2 hdg	ins No. 34, 2023, s 157
ss 214A – 214D	ins No. 34, 2023, s 157
s 214E	ins No. 34, 2023, s 157 amd No. 16, 2026, s 108
s 214F	ins No. 34, 2023, s 158
s 215	amd No. 32, 2022, s 9; No. 34, 2023, s 159
s 216	amd No. 32, 2022, s 10; No. 34, 2023, s 160
s 217	amd No. 32, 2022, s 11; No. 34, 2023, s 161
s 218	amd No. 32, 2022, s 12; No. 34, 2023, s 162
s 219	amd No. 32, 2022, s 13; No. 34, 2023, s 163
s 220	amd No. 34, 2023, s 164
s 223	amd No. 34, 2023, s 165
pt 9 div 8 sdiv 1 hdg	ins No. 34, 2023, s 166
s 224	sub No. 34, 2023, s 166

pt 9	
div 8	
sdiv 2 hdg	ins No. 34, 2023, s 166
s 225	amd No. 34, 2023, s 167
s 226	amd No. 34, 2023, s 168
s 227	amd No. 34, 2023, s 169
s 228	sub No. 34, 2023, s 170
s 228A	ins No. 34, 2023, s 170
s 229	amd No. 34, 2023, s 171
pt 9	
div 8	
sdiv 3 hdg	ins No. 34, 2023, s 172
ss 229A – 229F	ins No. 34, 2023, s 172
s 244A	ins No. 34, 2023, s 73
s 246	amd No. 34, 2023, s 74
s 249	amd No. 34, 2023, s 75
s 254	amd No. 34, 2023, s 76
pt 11	
div 1AA hdg	ins No. 34, 2023, s 77
s 259A	ins No. 34, 2023, s 77
s 260	amd No. 34, 2023, s 173
s 264	amd No. 34, 2023, s 174
s 264A	ins No. 34, 2023, s 175
s 265	amd No. 32, 2022, s 14; No. 34, 2023, s 78
s 269	amd No. 34, 2023, ss 79 and 176
s 270	amd No. 34, 2023, s 80
s 274A	ins No. 34, 2023, s 81
s 274B	ins No. 34, 2023, s 81 amd No. 34, 2023, s 177
s 274C	ins No. 34, 2023, s 81
s 276	amd No. 34, 2023, s 178
pt 13	
div 2A hdg	ins No. 34, 2023, s 82
s 280A	ins No. 34, 2023, s 82
s 281	amd No. 34, 2023, ss 83 and 179
pt 13	
div 3A hdg	ins No. 34, 2023, s 180
ss 283A – 283J	ins No. 34, 2023, s 180
pt 13	
div 4A hdg	ins No. 34, 2023, s 84
ss 284A – 284B	ins No. 34, 2023, s 84
pt 13	
div 7A hdg	ins No. 34, 2023, s 85
s 292A	ins No. 34, 2023, s 85
s 293	amd No. 34, 2023, s 93
s 295	amd No. 34, 2023, s 86
s 299	amd No. 34, 2023, s 87
s 300	amd No. 34, 2023, ss 88 and 181
s 300A	ins No. 34, 2023, s 89
s 301A	ins No. 34, 2023, s 90
s 302	amd No. 34, 2023, s 91
pt 15 hdg	exp No. 31, 2019, s 342 ins No. 34, 2023, s 182

pt 15	
div 1 hdg	exp No. 31, 2019, s 342
	ins No. 34, 2023, s 182
s 303	rep No. 31, 2019, s 303(5)
	ins No. 34, 2023, s 182
pt 15	
div 2 hdg	exp No. 31, 2019, s 342
pt 15	
div 2	
sdiv 1 hdg	ins No. 34, 2023, s 182
ss 304 – 311	exp No. 31, 2019, s 342
	ins No. 34, 2023, s 182
pt 15	
div 2	
sdiv 1 hdg	ins No. 34, 2023, s 182
ss 312 – 314	exp No. 31, 2019, s 342
	ins No. 34, 2023, s 182
pt 15	
div 3 hdg	exp No. 31, 2019, s 342
	ins No. 34, 2023, s 182
ss 315 – 317	exp No. 31, 2019, s 342
	ins No. 34, 2023, s 182
pt 15	
div 4 hdg	exp No. 31, 2019, s 342
	ins No. 34, 2023, s 182
ss 318 – 319	exp No. 31, 2019, s 342
	ins No. 34, 2023, s 182
pt 15	
div 5 hdg	exp No. 31, 2019, s 342
pt 15	
div 6 hdg	exp No. 31, 2019, s 342
ss 320 – 326	exp No. 31, 2019, s 342
pt 15	
div 7 hdg	exp No. 31, 2019, s 342
ss 327 – 329	exp No. 31, 2019, s 342
pt 15	
div 8 hdg	exp No. 31, 2019, s 342
ss 330 – 331	exp No. 31, 2019, s 342
pt 15	
div 9 hdg	exp No. 31, 2019, s 342
ss 332 – 333	exp No. 31, 2019, s 342
pt 15	
div 10 hdg	exp No. 31, 2019, s 342
ss 334 – 335	exp No. 31, 2019, s 342
pt 15	
div 11 hdg	exp No. 31, 2019, s 342
ss 336 – 340	exp No. 31, 2019, s 342
s 341	amd No. 33, 2019, s 50
	exp No. 31, 2019, s 342
pt 15	
div 12 hdg	exp No. 31, 2019, s 342
s 342	exp No. 31, 2019, s 342
sch	amd No. 32, 2022, s 15; No. 34, 2023, s 92
	sub No. 34, 2023, s 183