

NORTHERN TERRITORY OF AUSTRALIA

PARKS AND WILDLIFE COMMISSION ACT

As in force at 11 December 1998

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 11 December 1998

PARKS AND WILDLIFE COMMISSION ACT

An Act to establish a Commission to establish and manage, or assist in the management of, parks, reserves, sanctuaries and other land, to encourage the protection, conservation and sustainable use of wildlife, to establish a land-holding corporation in connection with those purposes, and for related purposes

Part I Preliminary

1 Short title

This Act may be cited as the *Parks and Wildlife Commission Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention appears:

Aboriginal means a person who is a member of the Aboriginal race of Australia.

Aboriginal land has the same meaning as in the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

appointed member means a member of the Commission appointed under section 10(1)(d), and includes the Chairman of the Commission.

Commission means the Parks and Wildlife Commission of the Northern Territory established by this Act.

Corporation means the Conservation Land Corporation established by this Act.

Director means the Director of Parks and Wildlife appointed under or as provided in section 4, and includes a person acting as Director.

member, except in Part IV, means a member of the Commission, and includes an acting member.

wildlife includes both animals and plants.

Part II Director of Parks and Wildlife

4 Director

- (1) If the Commission is and while it remains an Agency within the meaning of the *Public Sector Employment and Management Act*, the Chief Executive Officer of the Commission appointed under that Act (including a person appointed under section 21(1) of that Act to act as Chief Executive Officer) shall be the Director of Parks and Wildlife.
- (2) If the Commission is not an Agency referred to in subsection (1), the Minister may appoint a person to be the Director of Parks and Wildlife.
- (3) The Minister may at any time terminate an appointment made under subsection (2).
- (4) Where the Director is absent from duty or from the Territory, the Minister may appoint a person to act as Director during the absence.

5 Functions of Director

The functions of the Director are:

- (a) to represent the commission;
- (b) to execute the policy decisions of the Commission; and
- (c) such other functions as are conferred on him by this Act or any other Act.

6 Powers of Director

Subject to this Act, the Director has power to do all things that are necessary or convenient to be done for or in connection with, or incidental to, the performance of his functions.

7 Delegation by Director

- (1) The Director may, in writing, delegate to a person (or to the holder from time to time of a particular designation or office) any of the Director's powers and functions under this or any other Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall be deemed to have been exercised or performed by the Director.
- (3) A delegation under this section is revocable at will and does not prevent the exercise of a power or performance of a function by the Director.

8 Direction of the Minister

The Director, in the performance of his functions and the exercise of his powers, is subject to the direction of the Minister.

Part III Parks and Wildlife Commission of the Northern Territory**9 Establishment of Commission**

- (1) There is hereby established a commission by the name of the Parks and Wildlife Commission of the Northern Territory.
- (2) The Commission:
 - (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal; and
 - (c) is capable in its corporate name of suing and being sued.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall assume that it was duly affixed.

10 Membership of Commission

- (1) The Commission shall consist of:
 - (a) the Chairman of the Commission;
 - (b) the Director;

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- (c) the Chief Executive Officer of the Northern Territory Tourist Commission established by the *Northern Territory Tourist Commission Act*, or his or her nominee; and
 - (d) not less than 6 other members appointed by the Minister by notice in the *Gazette*, of whom:
 - (i) not less than 3 shall be Aboriginals domiciled in the Territory chosen by the Minister from persons nominated in accordance with subsection (2); and
 - (ii) not less than 2 shall be appointed because, in the opinion of the Minister, they have scientific expertise relevant to the powers and functions of the Commission.
- (2) Before appointing a member referred to in subsection (1)(d)(i), the Minister shall, in writing, request each Land Council established under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, and such other bodies holding or responsible for the management of land on behalf of Aboriginals who seek the assistance of the Commission in the management of that land, as the Minister thinks fit, to each nominate to the Minister, in writing, one person who is qualified to be a member under subsection (1)(d)(i) and is willing to serve as a member.
- (3) The exercise of a power or the performance of a function of the Commission is not affected by reason only of there being a vacancy in its membership.

12 Term of office of appointed member

- (1) Subject to this Act, an appointed member, holds office until the expiration of such period, not exceeding 3 years, as is specified in his instrument of appointment, but is eligible for reappointment.
- (2) Where a period of appointment is not specified in the instrument of appointment of an appointed member, the member holds office, subject to this Act, for 3 years.

13 Resignation of appointed member

An appointed member may resign his office by writing signed by him and delivered to the Minister.

14 Termination of appointment

- (1) The Minister may terminate the appointment of an appointed member for inability, inefficiency, misbehaviour, physical or mental incapacity or failure to comply with section 17.

- (2) If an appointed member:
 - (a) is absent, except on leave granted by the Commission, from 3 consecutive meetings of the Commission; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Minister shall terminate the appointment of the member.

15 Appointment of acting member

- (1) Where an appointed member is or is expected to be absent from duty or the Territory, the Minister may appoint a person to act as a member in the appointed member's place during the absence.
- (2) If an appointment under subsection (1) is to replace a member referred to in section 10(1)(d)(i), the person appointed shall be an Aboriginal domiciled in the Territory.
- (3) The Minister may, at any time, terminate an appointment made under this section.
- (4) The validity of a decision of the Commission shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

16 Chairman and Deputy Chairman

- (1) The Minister shall, by notice in the *Gazette*, appoint a person to be the Chairman of the Commission.
- (2) In the absence of the Chairman from a meeting of the Commission the members present shall elect one of their number as Deputy Chairman to preside at the meeting and while so presiding the Deputy Chairman has all of the powers, and may perform all of the functions, of the Chairman.

17 Member not to act where interested

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which he is not a director, shall, as soon as possible after the relevant facts have come to his knowledge,

disclose the nature of his interest at a meeting of the Commission.

- (2) A disclosure under subsection (1) shall be recorded in the minutes of the Commission and, if the Commission constituted by the other members present so resolves, the member:
- (a) shall not, while he has that interest, take part after the disclosure in any deliberation or decision of the Commission in relation to that matter; and
 - (b) shall be disregarded for the purpose of constituting a quorum of the Commission in relation to that matter.

17A Member shall not disclose information

A member shall not disclose information obtained in the course of the member's duties as a member unless:

- (a) the disclosure is made in the course of those duties; or
- (b) the information is already in the public domain.

Penalty: \$3,000 or imprisonment for 3 months.

18 Meetings of Commission

- (1) The Chairman shall call such meetings of the Commission as are necessary for the exercise of its powers and the performance of its functions, but so that there are not less than 4 meetings of the Commission in each calendar year.
- (2) The Chairman shall, within 7 days after he receives a request to do so from not less than 3 members, call a meeting of the Commission.
- (3) The Minister may, at any time, direct the Chairman to convene a meeting of the Commission and the Chairman shall convene a meeting accordingly.
- (4) At a meeting of the Commission:
 - (a) 4 members constitute a quorum;
 - (b) questions arising shall be determined by a majority of the votes of the members present and voting;
 - (c) the Chairman has a deliberative vote and, in the event of an equality of votes, also has a casting vote; and
 - (d) subject to this Act, the Commission shall determine the procedure to be followed at or in connection with the meeting.

- (5) The Commission shall keep records of its meetings.

19 Functions of Commission

The functions of the Commission are:

- (a) to promote the conservation and protection of the natural environment of the Territory:
- (i) by managing or participating in the management of:
 - (A) parks, reserves and sanctuaries established under the *Territory Parks and Wildlife Conservation Act* or any other Act of the Territory or the Commonwealth; and
 - (B) other land by agreement with the owners or occupiers of that land; and
 - (ii) by the promotion, and the enforcement where necessary, of the protection, conservation and sustainable use of wildlife, whether on such parks, reserves or sanctuaries or elsewhere in the Territory; and
- (b) the management, for a purpose approved by the Minister, of other land,

and such other functions as are conferred on it by or under this or any other Act.

20 Power of Commission

- (1) Subject to section 22, the Commission has power to do all things necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.
- (2) Without limiting the generality of subsection (1), the Commission may, for the purpose of carrying out its functions and exercising its powers, including the powers conferred on it elsewhere in this Act:
- (a) enter into contracts;
 - (b) erect buildings and structures and carry out works;
 - (c) acquire, hold and dispose of personal property or an interest in personal property;

- (d) accept gifts and bequests made to the Commission whether in trust or otherwise and act as trustees of moneys and other property vested in the Commission upon trust; and
- (e) occupy, use, manage and control any land or building owned or leased by the Territory, or the Corporation continued in existence by the *Northern Territory Land Corporation Act*, and made available to the Commission.

21 Commission not to acquire real property

The Commission shall not acquire or hold any estate or interest in real property.

22 Direction of the Minister

The Commission, in the performance of its functions and the exercise of its powers, is subject to the direction of the Minister.

23 Delegation by Commission

- (1) The Commission may, from time to time by resolution, delegate to a member of the Commission or to an employee of the Commission (or to the holder from time to time of a particular designation or office in the Commission) any of the Commission's powers and functions under this or any other Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall be deemed to have been exercised or performed by the Commission.
- (3) A delegation under this section is revocable at will and does not prevent the exercise of a power or performance of a function by the Commission.

24 Employment by Commission

In addition to employees employed under the *Public Sector Employment and Management Act* by the Commission, the Commission may employ, on such terms and conditions as it thinks fit, persons it thinks necessary for the purposes of the Commission.

25 Consultants to Commission

The Commission may engage consultants and may make arrangements to be provided with such advice relating to its functions as it thinks fit.

Part IV Conservation Land Corporation

26 Definition of *member*

In this Part, ***member*** means a person appointed under section 30(2) to be a member of the Corporation.

27 Establishment of Corporation

- (1) There is hereby established a body corporate by the name of the Conservation Land Corporation.
- (2) The Corporation is:
 - (a) a body corporate with perpetual succession and a common seal; and
 - (b) capable, in its corporate name, of:
 - (i) subject to this Act, acquiring, holding and disposing of real and personal property; and
 - (ii) suing and being sued.

28 Judicial notice of seal

All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Corporation affixed to a document and shall presume that it was duly affixed.

29 Corporation not authority

- (1) The Corporation is not an authority or instrumentality of the Crown and is not, for the purposes of the *Interpretation Act*, a statutory corporation.
- (2) The Corporation is not subject to the control and direction of the Minister or the Crown.
- (3) The Corporation is not, and is not capable of being, an Agency within the meaning and for the purposes of the *Financial Management Act*.

30 Membership of Corporation

- (1) The Corporation shall consist of not less than 2 members.
- (2) The Minister may, by notice in the *Gazette*, appoint a person to be a member.

- (3) The exercise of a power or the performance of a function of the Corporation is not affected by reason only of there being a vacancy in its membership.

31 Resignation of member

A member may resign his office by writing signed by him and delivered to the Minister.

32 Termination of appointment

- (1) The Minister may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity.

- (2) If a member:

- (a) is absent, except on leave granted by the Corporation, from 3 consecutive meetings of the Corporation;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (c) fails to comply with section 37,

the Minister shall terminate the appointment of the member.

33 Chairman

The Minister may, by notice in the *Gazette*, appoint a person to be the Chairman of the Corporation.

34 Date of appointment

An appointment under section 33 shall take effect from:

- (a) the date of publication of the notification; or
- (b) if there is a later date specified in the notification – that later date.

35 Member not personally liable

A member or person acting with the authority of the Corporation is not personally liable in respect of any matter or thing done, or contract entered into:

- (a) by the Corporation; or
- (b) by that person,

if the matter or thing was done, or the contract was entered into, in good faith for the purpose of executing this Act or any other Act conferring or imposing functions on the Corporation.

36 Member shall not disclose information

A member shall not disclose any information obtained in the course of his duties as such a member unless that disclosure is made in the course of his duty as such a member.

Penalty: \$3,000 or imprisonment for 3 months.

37 Member not to act where interested

- (1) If a member has a direct or indirect interest in any matter:
 - (a) which is the subject of consideration at a meeting of the Corporation; or
 - (b) in which the Corporation is concerned,

he shall, as soon as possible after he knows that he has the interest and that the Corporation is considering the matter, disclose his interest to the Corporation.

- (2) The Corporation may direct a member who has disclosed an interest in a matter under subsection (1) to refrain from taking part in the deliberations of the Corporation in relation to that matter, and the member shall comply with the direction.

Penalty: \$1,000.

38 Procedure

The Corporation may, subject to this Act, determine its own procedures.

39 Function of Corporation

- (1) The function of the Corporation is to acquire, hold and dispose of real property (including any estate or interest in real property) in accordance with this Act and it may acquire and hold such property, notwithstanding any other law in force in the Territory which would restrict or otherwise limit the capacity of the Corporation to acquire and hold such property.
- (2) The Corporation has power to do all things necessary or convenient to be done for or in connection with or incidental to the carrying out of its function.

- (3) Any moneys payable by the Corporation for or incidental to the acquisition of any estate or interest in real property may be advanced by the Commission on such terms and conditions as the Commission thinks fit.
- (4) Any moneys payable to the Corporation in respect of any estate or interest in real property held or disposed of by the Corporation shall be paid to the Commission, whose receipt shall be a sufficient discharge therefor, and any moneys payable by the Corporation in respect of any estate or interest in real property held by the Corporation may be paid by the Commission.
- (5) Notwithstanding anything contained in the *Stamp Duty Act*, no stamp duty shall be payable on any instrument by which any property or interest is granted or assured to or vested in the Corporation.
- (6) The Commission has the care, control and management of all land (including an interest in land) acquired or held by the Corporation.

Part V Miscellaneous

41 Annual report

The Commission shall forward to the Minister as soon as practicable after 30 June in each year a report on the operation of the Commission during the preceding year.

42 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Conservation Commission Act 1980 (Act No. 13, 1980)***

Assent date	13 March 1980
Commenced	28 March 1980 (<i>Gaz G13</i> , 28 March 1980, p 7)

Public Service and Statutory Authorities Amendment Act 1985 (Act No. 28, 1985)

Assent date	26 June 1985
Commenced	26 June 1985

Conservation Commission Amendment Act 1985 (Act No. 69, 1985)

Assent date	24 December 1985
Commenced	24 February 1988 (<i>Gaz G8</i> , 24 February 1988, p 5)

Conservation Commission Amendment Act 1986 (Act No. 54, 1986)

Assent date	19 December 1986
Commenced	24 December 1986 (s 2, s 2 <i>Northern Territory Land Corporation Act 1986</i> (Act No. 53, 1986) and <i>Gaz S90</i> , 24 December 1986)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and <i>Gaz S53</i> , 29 June 1993)

Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)

Assent date	21 March 1995
Commenced	1 April 1995 (s 2, s 2 <i>Financial Management Act 1992</i> (Act No. 4, 1995) and <i>Gaz S13</i> , 31 March 1995)

Conservation Commission Amendment Act 1995 (Act No. 43, 1995)

Assent date	15 November 1995
Commenced	29 November 1995 (<i>Gaz S42</i> , 29 November 1995)

Statute Law Revision Act (No. 2) 1998 (Act No. 92, 1998,)

Assent date 11 December 1998
Commenced 11 December 1998

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 24 Conservation Commission Amendment Act 1995 (Act No. 43, 1995)

4 LIST OF AMENDMENTS

It amd No. 43, 1995, s 5
s 1 amd No. 43, 1995, s 6
s 3 amd No. 28, 1993, s 3; No. 43, 1995, s 7
pt II hdg amd No. 43, 1995, s 8
s 4 amd No. 28, 1985, s 9; No. 28, 1993, s 3
sub No. 43, 1995, s 9
s 7 sub No. 43, 1995, s 10
pt III hdg amd No. 43, 1995, s 11
s 9 amd No. 43, 1995, s 12
s 10 amd No. 69, 1985, s 4
sub No. 43, 1995, s 13
s 11 rep No. 43, 1995, s 13
s 12 amd No. 43, 1995, s 14
s 13 amd No. 43, 1995, s 15
s 14 amd No. 28, 1985, s 9; No. 43, 1995, s 16
s 15 amd No. 43, 1995, s 17
s 16 sub No. 43, 1995, s 18
s 17 amd No. 43, 1995, s 19
s 17A ins No. 69, 1985, s 5
sub No. 43, 1995, s 20
s 18 amd No. 69, 1985, s 6; No. 43, 1995, s 21
s 19 sub No. 43, 1995, s 22
s 20 amd No. 54, 1986, s 4
s 23 sub No. 43, 1995, s 23
s 24 amd No. 28, 1993, s 3
s 29 amd No. 92, 1998, s 13
s 39 amd No. 54, 1986, s 5
s 40 rep No. 5, 1995, s 19