

NORTHERN TERRITORY OF AUSTRALIA  
DESERT KNOWLEDGE AUSTRALIA ACT 2003

As in force at 22 September 2003

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## NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 22 September 2003. Any amendments that may come into operation after that date are not included.

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### DESERT KNOWLEDGE AUSTRALIA ACT 2003

**An Act to encourage and facilitate learning, research and sustainable economic and social development relating to deserts and arid lands and to establish Desert Knowledge Australia, and for related purposes**

#### PART 1 – PRELIMINARY

**1. Short title**

This Act may be cited as the *Desert Knowledge Australia Act 2003*. (See back note 1)

**2. Commencement**

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*. (See back note 1)

**3. Objects**

The objects of this Act are –

- (a) to encourage and facilitate education and training, research, commerce and technology that is relevant to the health, well-being, sustainable economic and social development and improved livelihoods of all communities in deserts and arid lands;
- (b) to develop wealth creation activities in deserts and arid lands in a manner that promotes harmony in and between communities in deserts and arid lands while maintaining the economy and environment of deserts and arid lands in an ecologically sustainable manner and the culture and identity of those communities;
- (c) to encourage and facilitate the formation of partnerships, joint ventures, alliances, networks and other cooperative arrangements

for the purpose of achieving the objects specified in paragraphs (a) and (b); and

- (d) to establish a statutory corporation to carry out activities for the purpose of achieving the objects specified in paragraphs (a), (b) and (c).

#### **4. Definitions**

In this Act, unless the contrary intention appears –

"Aboriginal" means a person who is a member of the Aboriginal race of Australia;

"associate" means a person, organisation or authority (whether incorporated or not) who or which has an interest in the activities of DKA and its participants and who or which is a member of a society of associates of DKA set up under section 38;

"Board" means the Board established by section 11;

"Chairperson" means the member who is appointed to be the Chairperson under section 18;

"chief executive" means the chief executive appointed under section 30;

"committee" means a committee of the Board established under section 33;

"Deputy Chairperson" means the member who is appointed to be the Deputy Chairperson under section 18;

"DKA" means Desert Knowledge Australia established by section 5;

"member" means the Chairperson, Deputy Chairperson or other member of the Board appointed under section 13;

"participant" means a person, organisation or authority (whether incorporated or not) who or which is contributing to building a body of knowledge and expertise about deserts and arid lands by means funded or otherwise facilitated, promoted or supported by DKA and who or which is a member of a society of participants set up under section 38;

"precinct" means the Desert Knowledge Australia Precinct declared under section 36;

"staff" means the officers and employees who are appointed, employed or engaged by DKA under Part 3, Division 3.

**PART 2 – DESERT KNOWLEDGE AUSTRALIA**

**5. Establishment**

- (1) Desert Knowledge Australia is established.
- (2) Desert Knowledge Australia –
  - (a) is a body corporate;
  - (b) has a common seal; and
  - (c) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued.

(3) All courts, judges and persons acting judicially must take judicial notice of the common seal of Desert Knowledge Australia affixed to a document and must presume that it was duly affixed.

**6. Functions of DKA**

- (1) The functions of DKA are –
  - (a) to encourage and facilitate the development of a body of knowledge and expertise relevant to deserts and arid lands;
  - (b) to encourage improvements to the economies and livelihoods of communities in deserts and arid lands and further the economic and social development and ecologically sustainable wealth creation of those communities;
  - (c) to establish, develop and manage the Desert Knowledge Australia Precinct as a nationally and internationally renowned centre of knowledge about deserts and arid lands and for its contribution to education and training, research, commerce and technology relevant to the economic and social development of communities in deserts and arid lands;
  - (d) to encourage the provision of high-quality communication and other services to desert areas and arid lands;
  - (e) to undertake, fund, facilitate, promote and support research, study and training that –
    - (i) is relevant to deserts and arid lands;

- (ii) contributes to the health, well-being, sustainable economic and social development and improved livelihoods of communities in deserts and arid lands; and
  - (iii) encourages practices and programs for use in or relevant to deserts and arid lands that are ecologically and culturally sound and sustainable;
- (f) to encourage and facilitate communication and collaboration between persons and communities, and the formation of partnerships, joint ventures, alliances, networks and other cooperative arrangements for the purposes of paragraphs (a) to (e) (inclusive);
- (g) to attract suitable persons, organisations and authorities (whether incorporated or not) to be participants in DKA;
- (h) the prescribed functions, if any; and
- (i) any other functions imposed on it by or under another Act.
- (2) DKA may perform its functions –
- (a) in the Territory; and
  - (b) in other parts of Australia, and in other countries, through partnerships, joint ventures, alliances, networks and other cooperative arrangements.

## **7. Powers of DKA**

(1) Subject to this or any other Act or an instrument of a legislative or administrative character made under this or any other Act, DKA 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 its functions.

- (2) In particular, DKA has power to –
- (a) negotiate and enter into contracts, agreements, schemes and arrangements;
  - (b) purchase, lease or otherwise acquire and hold real or personal property and, with the approval of the Treasurer, sell, grant leases of or otherwise dispose of real or personal property;
  - (c) erect buildings;
  - (d) occupy, use, control and manage land or a building owned or leased by DKA;

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- (e) seek, apply for and accept gifts, grants, bequests, devises and assignments made to DKA, whether on trust or otherwise, and act as trustee of money and other property vested in it on trust;
- (f) enter into arrangements with other persons or organisations, whether from Australia or another country, or with the Commonwealth or a State or Territory of the Commonwealth, for the development of DKA;
- (g) create, develop, apply for, obtain and hold intellectual property and enter into agreements or arrangements of a commercial nature in respect of intellectual property on the terms, including terms as to royalties and lump sum payments, that the Board considers appropriate;
- (h) with the approval of the Treasurer, borrow and invest money;
- (i) with the approval of the Treasurer, grant loans to persons carrying on activities related to the operations of DKA on the terms the Board considers appropriate;
- (j) with the approval of the Treasurer, form or establish or participate in the formation or establishment of bodies corporate;
- (k) with the approval of the Treasurer, form partnerships and enter into joint ventures or other arrangements, or create trusts, for sharing profits;
- (l) with the approval of the Treasurer, enter into franchise agreements;
- (m) confer awards and scholarships;
- (n) administer schemes of financial and other assistance;
- (o) establish, manage and control halls of residence and other forms of student and other accommodation;
- (p) employ or engage staff, engage consultants and appoint agents and attorneys;
- (q) charge for work, services, goods and information done, supplied or published by DKA and for admission into the precinct or any part of the precinct;
- (r) call for and evaluate submissions for persons, organisations or authorities to be participants in DKA;
- (s) set up a society or societies of participants in DKA and a society or societies of associates of DKA, provide for their promotion and



development and charge and collect a fee for belonging to the societies; and

- (t) grant rights to produce and publish documents containing material relating to the functions of DKA.

## **8. Conduct of affairs of DKA**

(1) Subject to this Act, the affairs of DKA are to be conducted by the Board.

(2) The Board must conduct the affairs of DKA –

- (a) in a manner that is reasonable and accords with and furthers the objects of this Act;
- (b) in a manner that directs benefits to the Territory;
- (c) within a budget approved by the Minister; and
- (d) to the extent the affairs involve commercial activities, in a commercial manner consistent with the principle of competitive neutrality.

(3) All acts, matters and things done by the Board, or by the Chairperson, a member, a member of a committee, a member of the staff or any other person in the name of or on behalf of DKA with the express or implied authority of the Board, are taken to have been done by DKA.

## **9. Directions of Minister**

(1) In conducting the affairs of DKA, the Board is subject to the written directions of the Minister.

(2) The Minister must lay before the Legislative Assembly a copy of a direction given under subsection (1) within 6 sitting days of the Assembly after giving the direction.

(3) A copy of a direction given under subsection (1) in a financial year is to be included in the Board's report for the year prepared under section 47.

## **10. DKA excluded matter under Corporations Act 2001**

DKA is declared to be an excluded matter for the purposes of section 5F of the Corporations Act 2001 in relation to the whole of the Corporations legislation.

**PART 3 – ADMINISTRATION**

*Division 1 – The Board*

**11. Establishment of Board**

There is a Board of DKA.

**12. Composition of Board**

The Board consists of at least 5 and not more than 11 members.

**13. Appointment of members**

(1) Subject to this Division, the Minister may appoint in writing the members of the Board in accordance with subsection (5).

(2) Half the members are to be persons nominated by participants in accordance with section 14.

(3) A reference in subsection (2) to half the number of members is a reference to the whole number that represents half the number of members or, if half the number of members is represented by a number that is not a whole number, the next lowest whole number.

(4) Of the persons appointed to be members, the Minister must appoint –

(a) if the Board is to be composed of 5 members – 2 persons who are Aboriginals;

(b) if the Board is to be composed of 6, 7 or 8 members – 3 persons who are Aboriginals; or

(c) if the Board is to be composed of 9, 10 or 11 members – 4 persons who are Aboriginals.

(5) In appointing persons as members, the Minister must comply with sections 14, 15 and 16.

**14. Nominations by participants**

(1) The Minister must invite the participants, and the societies of participants set up under section 38, to nominate for appointment as members persons who hold suitable qualifications or have suitable knowledge and experience relating to the objects of this Act and the powers and functions of DKA.

(2) The Minister must consult and make inquiries about the suitability of each person nominated under subsection (1) and, having done so, appoint from

those persons nominated the number of members required by section 13(2) to be nominated by participants.

**15. Other nominations**

To assist the Minister in appointing persons who are not referred to in section 14(2), the Minister may invite the Australian Prime Minister, a Premier of a State of the Commonwealth or any other person the Minister considers appropriate to nominate a person who is suitable for appointment.

**16. Qualifications etc. of persons appointed**

(1) The Minister must not appoint a person unless he or she is satisfied that the person holds suitable qualifications or has suitable knowledge and experience relating to the objects of this Act and the powers and functions of DKA.

(2) The Minister must appoint only persons who, in his or her opinion –

(a) represent the interests of –

(i) communities in deserts and arid lands;

(ii) the indigenous people of deserts and arid lands;

(iii) persons with a special expertise or interest relevant to deserts and arid lands; and

(iv) the different levels of Government,

in the proportion the Minister considers appropriate for the conduct of the affairs of DKA; and

(b) are collectively capable of conducting the affairs of DKA so that it carries out activities and achieves outcomes that accord with and further the objects of this Act.

**17. Term of office of members**

(1) A member holds office for –

(a) 4 years; or

(b) if a shorter period is specified in the instrument of appointment of the member – the shorter period.

(2) A person may be re-appointed as a member.

(3) Despite subsection (1), unless a member sooner vacates his or her office or is removed from office under section 20, on the expiration of the term of office of the member, the member continues to hold office until a successor is appointed.

#### **18. Appointment of Chairperson and Deputy Chairperson**

(1) The Minister must appoint in writing a member to be the Chairperson and another member to be the Deputy Chairperson.

(2) The Minister must appoint a member from amongst the members who are Aboriginals to be either the Chairperson or Deputy Chairperson.

(3) Subject to subsection (4), the term of office of the Chairperson or Deputy Chairperson is the term specified by the Minister in the instrument of appointment.

(4) The Chairperson or Deputy Chairperson holds office until –

(a) the expiry of his or her term of office as Chairperson or Deputy Chairperson;

(b) he or she resigns the office of Chairperson or Deputy Chairperson by writing signed by him or her and delivered to the Minister; or

(c) a vacancy occurs in his or her office as member.

(5) A member may be re-appointed as the Chairperson or Deputy Chairperson.

(6) If, for any reason, the Chairperson is unable to exercise his or her powers or perform his or her functions or there is a vacancy in the office of Chairperson, the Deputy Chairperson must act in the office of Chairperson.

#### **19. Vacation of office of member**

(1) A member vacates the member's office if –

(a) the member's term of office expires; or

(b) the member resigns the member's office by writing signed by the member and delivered to the Chairperson.

(2) If a member resigns, the Chairperson must inform the Minister of the member's resignation within 5 days after receiving it.

#### **20. Termination of appointment of member**

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

- (2) The Minister must terminate the appointment of a member if the member –
- (a) is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board; or
  - (b) knowingly contravenes or fails to comply with section 22 or 23.
- (3) A member's appointment terminates if the member –
- (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of the member's remuneration for their benefit; or
  - (b) is found guilty by a court in the Territory of an offence punishable by imprisonment for 12 months or more or is found guilty by a court outside the Territory of an offence which, if committed against a law in force in the Territory, would be an offence punishable by imprisonment for 12 months or more.
- (4) The termination of an appointment under subsection (1) or (2) is to be in writing and a copy is to be given to the member.

## **21. Leave of absence**

- (1) The Board may grant a member leave of absence.
- (2) In granting a member leave of absence, the Board must specify the period of leave granted.
- (3) The Board must inform the Minister of a member's leave (including the period of leave granted) as soon as practicable after granting the leave.

## **22. Disclosure of interests**

- (1) At the first meeting of the Board after a person becomes a member, he or she must disclose –
- (a) the name and a description of any body corporate, association, society or other body of which he or she is a member or an officer or by which he or she is employed;
  - (b) the name and a description of any partnership of which he or she is a partner or by which he or she is employed;
  - (c) any other interest he or she has in relation to a person or body that is likely to give rise to a conflict with his or her duties as member; and

(d) any other information prescribed by the Regulations.

(2) The disclosure is to be made in the manner determined by the Board.

(3) On a member making a disclosure in accordance with subsections (1) and (2), the member is taken to have given sufficient disclosure of any direct or indirect pecuniary interest of the member in relation to any matter that might be considered at a meeting of the Board or any thing that might be done by the Board after the disclosure.

(4) If there is a change to information disclosed by the member or the member acquires new interests likely to give rise to a conflict with his or her duties as member, the member must vary his or her disclosure accordingly, in the manner determined by the Board –

(a) at the first meeting of the Board after the change or acquisition; or

(b) where the Board does not meet within 30 days after the change or acquisition – within that 30 day period.

(5) A disclosure (as varied) remains effective during the member's term of office and any successive term of office held by the member.

(6) The Board must –

(a) keep a record of the particulars of all disclosures and variations of disclosures made under this section; and

(b) make the record available at all reasonable times for inspection on payment of the fee (if any) determined by the Board for that purpose.

**23. Obligation to disclose interest on becoming aware of conflict of interest**

(1) In this section –

"Board" includes a committee;

"member" includes a member of a committee.

(2) Despite section 22, if a member becomes aware that he or she has or may have a direct or indirect pecuniary interest in –

(a) a matter being considered or about to be considered by the Board;  
or

(b) a thing being done or about to be done by the Board,

the member must as soon as possible disclose the nature of the interest or possible interest at a meeting of the Board.

(3) Subject to a resolution of the Board to the contrary, a member who discloses a pecuniary interest in a matter or thing in accordance with subsection (2) –

- (a) may be present during deliberations by the Board but must not take part in the making of the decisions of the Board in relation to that matter or thing; and
- (b) must not perform a function under this Act in relation to that matter or thing.

(4) The resolution of the Board to the contrary is to be deliberated and voted on in the absence of the member.

### ***Division 2 – Procedures of Board***

#### **24. Convening of Board**

(1) Subject to subsection (2), the Board must meet as often as is necessary for the exercise of its powers and the performance of its functions.

(2) The Board must meet at least 4 times in each year.

(3) The Minister may give a direction to the Board under section 9 requiring the Board to meet.

(4) The Chairperson must make the arrangements that enable the Board to meet.

#### **25. Meetings of Board**

(1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson or, in the absence of both the Chairperson and the Deputy Chairperson, the member elected by the members present from amongst their number must preside at a meeting of the Board.

(2) Subject to subsection (3), each member present at a meeting (including the member presiding over the meeting) has one vote.

(3) Questions arising at a meeting of the Board are to be determined by a majority of the votes of the members present and, in the event of an equality of votes, the person presiding over the meeting has a casting vote.

- (4) At a meeting of the Board –
  - (a) one member appointed on nomination under section 14 and one member who was not appointed on nomination under that section must be present; and
  - (b) the number of members equal to half the number of members holding the office of member plus one constitutes a quorum.

(5) A reference in subsection (4)(b) to half of the number of members holding office is a reference to the whole number that represents half the number of members or, if half the number of members is represented by a number that is not a whole number, the next lowest whole number.

(6) Subject to a resolution of the Board to the contrary, the chief executive must attend all meetings of the Board to inform and advise the Board on matters before it.

## **26. Procedure of Board**

(1) Unless otherwise prescribed, the procedures of the Board are to be determined by the Board.

(2) The Board must keep a record of all its meetings and other proceedings and all its decisions made during the course of its meetings and other proceedings.

## **27. Delegation**

(1) The Board may delegate in writing to a person or a committee or other body any of the Board's powers and functions under this Act, other than this power of delegation and the power to make by-laws.

(2) If the Board delegates a power or function to a committee or other body and there is a change in the membership of the committee or body, the delegation continues in force as a delegation of the power or function to the committee or body as newly constituted unless the Board expressly revokes or varies the instrument of delegation.

## **28. Validity of proceedings and actions of Board etc.**

A proceeding of the Board or a committee or act or thing done by the Board, a committee, the Chairperson, the Deputy Chairperson, the chief executive, a member of the Board or a committee or a delegate of the Board is not invalid by reason only of one or more of the following:

- (a) a defect in the appointment of a member;



- (b) a defect in the appointment of a member as the Chairperson or Deputy Chairperson;
- (c) a defect in the appointment of a member of a committee;
- (d) a defect in the appointment of the chief executive;
- (e) a defect in a delegation by the Board;
- (f) a defect in the convening or conduct of a meeting of the Board or a committee;
- (g) there being a vacancy in the membership of the Board or a committee;
- (h) the fact that a person who purported to be a member of the Board or a committee, or to be the Chairperson, Deputy Chairperson or chief executive, was not a member of the Board or committee or was not the Chairperson, Deputy Chairperson or chief executive;
- (i) a contravention of or failure to comply with section 22 or 23.

***Division 3 – Staff etc.***

**29. Appointment of staff**

(1) The Board may appoint the officers and employ or engage the employees it considers necessary for the purposes of DKA.

(2) The terms and conditions of appointment, employment or engagement of the staff are to be determined by the Board.

**30. Appointment and responsibilities of chief executive**

(1) The Board must appoint in writing a person to be the chief executive of DKA.

- (2) The chief executive –
  - (a) is responsible to the Board for the management and administration of DKA; and
  - (b) must perform the functions imposed on him or her under this Act or another Act.
- (3) In performing his or her functions and exercising his or her powers, the chief executive –
  - (a) must act in accordance with the decisions of the Board; and

(b) is subject to the directions of the Board.

**31. Powers of chief executive**

The chief executive has power to do all things that are necessary or convenient to be done for or incidental to the proper management and administration of DKA and the proper performance of his or her functions.

**32. Consultants may be engaged**

The Board may engage consultants and make arrangements for the provision of advice and services as it considers necessary for the purposes of DKA.

*Division 4 – Committees*

**33. Committees of Board**

The Board may establish the committees it considers necessary to perform its functions and exercise its powers.

**34. Composition of committees**

(1) A committee is to be composed of at least 3 persons appointed by the Board.

(2) The Board is not required to appoint any of its members or a member of the staff to be a member of a committee.

**35. Procedure of committees**

(1) Unless otherwise prescribed, the procedures of a committee are to be determined by the committee.

(2) A committee must keep a record of its proceedings and all its decisions made during the course of its proceedings.

*Division 5 – Desert Knowledge Australia Precinct*

**36. Declaration of precinct**

(1) The Minister may, by notice in the *Gazette*, declare an area, or 2 or more non-contiguous areas, in the Territory to be the Desert Knowledge Australia Precinct.

(2) The notice must include a description of the area or areas declared to be the precinct.

**37. Purpose of precinct**

The precinct is the principal place where the affairs and operations of DKA are to be located, managed and conducted.

*Division 6 – Societies of participants and associates*

**38. Setting up of societies**

The Board must –

- (a) set up a society or societies of participants and a society or societies of associates; and
- (b) do all things it considers appropriate to promote the societies and attract members to the societies.

**39. Fees**

The Board may charge and collect an annual fee for membership of a society of participants or associates as it considers appropriate.

**PART 4 – FINANCE, PROPERTY, REPORTS AND AUDIT**

**40. Money of DKA**

The money of DKA consists of –

- (a) money that is appropriated for its purposes;
- (b) dividends on shares owned by DKA;
- (c) interest on the investment of money of DKA;
- (d) proceeds from the sale or other disposition of property and investments of DKA;
- (e) money received as grants; and
- (f) any other money that from time to time becomes available for use by DKA.

**41. Application of money**

The money of DKA is only to be applied –

- (a) by or with the authority of the Board; and
- (b) for the purposes of DKA.

**42. ADI accounts**

DKA must open and maintain an account or accounts with one or more ADIs as it considers necessary for the conduct of its affairs.

**43. Proper accounts to be kept etc.**

- (1) The Board must ensure –
  - (a) proper accounts and records of the transactions and affairs of DKA are kept;
  - (b) there are adequate controls over the incurring of liabilities by DKA;
  - (c) all payments out of the money of DKA are correctly made and properly authorised; and
  - (d) adequate control is maintained over the property of or in the custody, control and management of DKA.

(2) In keeping its accounts and records and making reports under this Act, DKA must, to the extent necessary, comply with the accounting standards within the meaning of the Corporations Act 2001 as if it were a company within the meaning of that Act.

**44. Gifts etc. and trust funds**

(1) DKA may agree to and carry out the conditions of a gift, grant, bequest, devise, purchase or any other means of conveyance or transfer by which it acquires, holds and uses property for its purposes.

(2) DKA may create and administer a trust fund or trust funds for any purpose relating to the performance of its functions that it considers appropriate, including acquiring or holding property.

**45. Investment**

(1) Subject to this section and the approval of the Treasurer, the Board may invest the money of DKA or other money held by or in the custody, management or control of DKA.

(2) The money of DKA (including money held on trust or subject to a condition) is not to be invested by the Board unless invested in a class of investments approved by the Treasurer.

- (3) The Board must not invest money if doing so would –
  - (a) be inconsistent with a trust; or

- (b) constitute a breach of a condition under which the money was acquired.

**46. Provision of financial information to Treasurer**

(1) The Treasurer may at any time request the chief executive to provide the Treasurer with the information that the Treasurer considers will enable him or her to accurately assess the financial affairs of DKA.

(2) Information to be provided to the Treasurer under subsection (1) includes information about the following:

- (a) financial investments by DKA in bodies corporate, trusts, partnerships and joint ventures;
  - (b) contingent liabilities of DKA;
  - (c) guarantees given by DKA.
- (3) The chief executive must comply with the Treasurer's request.

**47. Annual report and audit of report**

(1) At the end of each financial year, the Board must prepare a report on the operations and performance of DKA during the financial year.

(2) The report is to include –

- (a) a financial statement in respect of the financial year prepared in the form approved by the Treasurer;
- (b) the information specified in section 46(2); and
- (c) any other information requested by the Treasurer.

(3) The Board must forward a copy of the report to the Minister and to the Auditor-General by 30 September following the end of the financial year.

(4) By 30 November following the end of the financial year –

- (a) the Auditor-General must audit the financial statement contained in the report received under subsection (3) and report on the statement to the Minister; and
- (b) the Minister must lay before the Legislative Assembly a copy of the report received under subsection (3) and the report of the Auditor-General received under paragraph (a).

## **PART 5 – BY-LAWS**

### **48. Definitions**

In this Part –

"motor vehicle" has the same meaning as in the *Motor Vehicles Act*;

"site" means –

- (a) land, a building or a part of land or a building in the precinct; or
- (b) land, a building or a part of land or a building outside the precinct (but in the Territory) that is under the control or management of DKA;

"vehicle" means any means of transport whether self-propelled or not and whether used on land or sea or in the air.

### **49. Power to make by-laws**

(1) The Board may make by-laws relating to the management of the precinct and land and buildings of or under the control or management of DKA that is or are outside the precinct (but only in respect of land or a building in the Territory or a matter that is connected with the Territory).

(2) The Board may not make a by-law that is inconsistent with this Act, or any other Act or any regulations, or that is unlawful.

### **50. Subject matter of by-laws**

- (1) The By-laws may provide for any of the following:
  - (a) the establishment, management or control of cultural centres, libraries or museums on a site;
  - (b) the establishment, management or control of halls of residence or other accommodation on a site;
  - (c) the regulation or prohibition of access to or use of a site;
  - (d) the regulation or prohibition of the conduct of persons on a site;
  - (e) the regulation or prohibition of the presence or use of vehicles and animals on a site;
  - (f) speed limits for riding or driving vehicles on a site;

- (g) the removal impounding or disposal of vehicles or animals referred to in paragraph (e);
- (h) offences in relation to the use of motor vehicles, including offences for –
  - (i) bringing a vehicle onto or parking or standing a vehicle on a site in breach of a by-law;
  - (ii) driving a vehicle on a site in breach of a by-law;
  - (iii) driving a vehicle on a site at a speed in excess of a speed fixed by a by-law;
  - (iv) driving a vehicle on a site contrary to a direction, whether given by a traffic control device on the site or by a person authorised by a by-law to do so; and
  - (v) doing any other prescribed act on a site;
- (i) penalties not exceeding 2 penalty units for an offence against the By-laws.

(2) A by-law may provide for matters of regulation or prohibition, either absolutely or conditionally or in relation to a class of acts, matters or things or a situation or other circumstance.

- (3) A by-law may –
  - (a) authorise a member of the staff or a committee to do an act or thing; or
  - (b) provide that an act or thing is to be done with the approval, or at the direction, of a member of the staff or a committee.

## **51. Application of by-laws**

- (1) A by-law may be limited in its application –
  - (a) to a specified site; or
  - (b) in relation to a specified class of persons or circumstances.
- (2) The Board may, in the manner prescribed by the Regulations, suspend the application of a by-law –
  - (a) for a specified period;
  - (b) to a specified site; or

- (c) in relation to a specified class of persons or circumstances.

**52. Liability of owner of motor vehicle**

(1) Subject to this section, if an offence against the By-laws relating to a motor vehicle is allegedly committed and the name of the offender is not ascertained, the owner of the motor vehicle at the time the offence occurs is, whether or not the owner in fact committed the offence –

- (a) taken to have committed the offence; and
- (b) if a notice of infringement is issued in relation to the commission of the offence – to be issued the notice of infringement.

(2) The owner of a motor vehicle is not taken to have committed an offence if –

- (a) the motor vehicle was, at the time of the offence, stolen or unlawfully used without the owner's consent;
- (b) the motor vehicle is registered under the *Motor Vehicles Act* and at the time of the offence –
  - (i) the owner had sold or disposed of the motor vehicle but the registration of the motor vehicle had not been transferred to the new owner; and
  - (ii) the owner had provided the Registrar, within the meaning of the *Motor Vehicles Act*, with a notice of disposal in respect of the motor vehicle as required by section 20 of that Act; or

(c) within 14 days after the owner is, in relation to the alleged offence, served or issued with –

- (i) a notice of infringement;
- (ii) a summons; or
- (iii) any other document dealing with the recovery or enforcement of a penalty for an offence that may be served or issued under an Act,

the owner delivers to the Board a statutory declaration made by the owner –

- (iv) stating that some other person was in control of the motor vehicle at the time the offence was allegedly committed and setting out the name and address of that other person and



any other information known to the owner that may assist in identifying or locating that other person;

- (v) stating that the motor vehicle was sold before the offence was allegedly committed and setting out the date of the sale, the name and address of the person to whom it was sold and, if the sale was made through an agent, the name and address of the agent; or
- (vi) stating that at the time when the offence was allegedly committed the motor vehicle had been stolen or was being used unlawfully without the owner's consent.

(3) If the owner of the motor vehicle is a body corporate, a director, secretary or manager of the body corporate may make a statutory declaration for the purposes of subsection (2).

(4) If the owner of the motor vehicle is the Territory, the Commonwealth, a State or another Territory of the Commonwealth or a statutory corporation, a person authorised, or apparently authorised, for the purpose may make a statutory declaration for the purposes of subsection (2).

(5) A person named in a statutory declaration as being in control of a motor vehicle at the time of an alleged offence cannot be found guilty of the offence unless a copy of the statutory declaration is affixed to the summons for the offence at the time the summons is served on the person.

(6) If a person is specified as the new owner of a motor vehicle in a notice of disposal referred to in subsection (2)(b)(ii) –

- (a) the person is taken to be the owner of the motor vehicle at the time of the offence for the purposes of this section (other than subsection (2)(b)); and
- (b) this section applies as if a reference to the owner of the motor vehicle (other than in subsection (2)(b)) were a reference to the person.

(7) A statutory declaration referred to in subsection (2)(c) –

- (a) is admissible in evidence in a prosecution against the person in relation to the offence; and
- (b) is evidence that the person was the driver of the motor vehicle at the time of the offence.

(8) Subject to subsection (9), this section does not affect the liability of an actual offender who is not the owner of the motor vehicle.

(9) If a penalty has been imposed on a person in relation to an offence referred to in this section –

- (a) another person cannot be charged with the same offence; and
- (b) a further penalty cannot be imposed on or recovered from another person in relation to the same offence.

**53. Evidence of ownership of motor vehicle**

In a prosecution for an offence against the By-laws, a certificate that is issued by a person authorised to issue the certificate under an Act (including an Act of the Commonwealth or a State or another Territory of the Commonwealth) and that states –

- (a) that a specified person was the registered owner of a specified motor vehicle on a specified date;
- (b) that a specified person was recorded as the new owner of a specified motor vehicle on and from a specified date in a record of a notice of disposal in respect of the motor vehicle; or
- (c) if the specified motor vehicle is not registered at the time of issuing the certificate – that a specified person was the last registered owner of the motor vehicle to and including a specified date,

is evidence of the matters set out in the certificate and a court must assume that the certificate was duly issued.

**54. Recovery of penalties imposed under By-laws**

(1) If a penalty is imposed on a person as a result of a prosecution for an offence committed against a by-law, or an amount is payable by a person instead of a penalty that may otherwise be imposed for an offence committed against a by-law, the penalty or amount may be recovered as a debt due and payable to DKA by the person.

(2) Subsection (1) does not affect the application of the *Fines and Penalties (Recovery) Act*.

**55. Section 57 of Interpretation Act does not apply to By-laws**

Section 57 of the *Interpretation Act* does not apply to the By-laws.

**PART 6 – MISCELLANEOUS**

**56. Protection from liability**

- (1) This section applies to a person who is or has been –
  - (a) a member;
  - (b) a member of a committee; or
  - (c) a member of the staff.

(2) The 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 or purported exercise of a power, or the performance or purported performance of a function, under this Act.

(3) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by DKA, the Board or a committee in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

(4) Subsections (2) and (3) do not affect any liability the Territory or DKA would, apart from those subsections, have for an act or omission.

**57. Form and execution of documents by DKA**

(1) A deed, instrument, contract or agreement relating to any property or matter that, if made or executed by an individual, would by law be required to be in writing under seal may be made on behalf of DKA in writing under its common seal.

(2) An instrument, contract or agreement relating to any property or matter that, if made by or between individuals, would be required to be in writing signed by the parties to it may be made or entered into on behalf of DKA in writing by a person acting under the authority, express or implied, of the Board.

(3) A contract relating to any property or matter that, if made between individuals, would by law be valid although made or entered into by parole only and not reduced to writing may be made on behalf of DKA by a person acting under the authority, express or implied, of the Board.

(4) A contract entered into or an instrument, contract or agreement signed in relation to any property or obligation of DKA is taken to have been entered into or signed with the express authority of the Board if it is entered into or signed in accordance with a resolution of the Board.

**58. Proof of resolutions of Board etc.**

(1) The minutes of a meeting of the Board, or a document purporting to be a true copy of or an extract from the minutes of a meeting of the Board and signed by the Chairperson, may be received in a court or a tribunal or by a person acting judicially as evidence of the particulars contained in the minutes without further proof.

- (2) In any proceedings, the production of –
- (a) a copy of a by-law purporting to be certified as a true copy of the by-law and signed by the Chairperson;
  - (b) the minutes of the meeting of the Board at which the Board made the by-law or a copy of a document purporting to be a true copy of or an extract from the minutes of that meeting and signed by the Chairperson; and
  - (c) the *Gazette* in which notification of the making of the by-law is published,

is conclusive evidence of the by-law having been made and the contents of the by-law.

(3) In any proceedings, the production of the following is conclusive evidence of the suspension of the application of a by-law under section 51(2):

- (a) the minutes of the meeting of the Board at which the application of the by-law was suspended or a copy of a document purporting to be a true copy of or an extract from the minutes of that meeting and signed by the Chairperson;
- (b) a copy of a notice (if any) required by the Regulations to be given of the suspension.

**59. Regulations**

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Regulations may provide for any of the following:

- (a) the use or custody of the common seal of DKA;

- (b) the manner of holding or adjourning meetings of the Board;
- (c) the quorum, procedures, powers or functions of committees;
- (d) the manner in which the Board may suspend the application of a by-law;
- (e) review of or appeal against decisions made under the By-laws;
- (f) penalties not exceeding 100 penalty units or, where offences are committed by bodies corporate, 500 penalty units for offences against the Regulations;
- (g) the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against the By-laws or the Regulations and for the service of a notice relating to payment of the amount on a person alleged to have committed the offence and the particulars to be included in the notice;
- (h) the designation of an offence against the By-laws or the Regulations as a regulatory offence.

## **PART 7 – INTERIM BOARD**

### **60. Definitions**

In this Part –

"Chairperson" means the Chairperson of the Interim Board appointed under section 63;

"Interim Board" means the Board established by section 62;

"member" means a member of the Interim Board appointed under section 62;

"this Act" does not include Part 5 or this Part but includes the Regulations.

### **61. No Board while this Part in force**

The Minister must not constitute the Board before the expiry of this Part.

### **62. Establishment and membership of Interim Board**

- (1) There is an Interim Board.
- (2) The Interim Board consists of 3 members.
- (3) The Minister must appoint in writing the persons he or she considers appropriate to be the members of the Interim Board.

(4) The Minister must not appoint a person to be a member unless he or she is satisfied that the person holds suitable qualifications or has suitable knowledge and experience relating to the objects of this Act and the powers and functions of the Interim Board.

**63. Chairperson of Interim Board**

The Minister must appoint in writing a member to be the Chairperson of the Interim Board.

**64. Purpose of Interim Board**

The purpose of the Interim Board is to –

- (a) commence setting up and organising the precinct;
- (b) set up a society or societies of participants and attract participants to contribute to DKA and join the society or societies; and
- (c) carry out any other activities for the purpose of the objects of this Act as directed by the Minister.

**65. Application of Act to Interim Board**

(1) To the extent necessary, this Act applies to the Interim Board as if it were the Board.

(2) For the purposes of subsection (1) –

- (a) a reference in this Act to the Board includes a reference to the Interim Board; and
- (b) in the event of an inconsistency between a provision of this Part and a provision of this Act, the provision of this Part prevails to the extent of the inconsistency.

**66. Convening of Interim Board**

(1) The Interim Board must meet as often as is necessary for the exercise of its powers and the performance of its functions.

(2) The Chairperson must make the arrangements that enable the Interim Board to meet.

**67. Meetings and procedures of Interim Board**

(1) The procedures of the Interim Board are as determined by the Interim Board.

(2) At a meeting of the Interim Board –

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- (a) all members must attend;
- (b) the Chairperson presides;
- (c) each member has one vote; and
- (d) questions arising are to be determined by a majority of the votes of the members.

(3) The Interim Board must keep a record of all its meetings and other proceedings and all its decisions made during the course of its meetings and other proceedings.

**68. Expiry of Part**

This Part expires 18 months after the commencement of this Act or, if the Minister fixes an earlier date by notice in the *Gazette*, the earlier date.

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*Notes*

1. The *Desert Knowledge Australia Act* comprises the *Desert Knowledge Australia Act 2003* and amendments made by other legislation, the details of which are specified in the following table:

Act	Number and year	Date of assent by Administrator	Date of commencement
<i>Desert Knowledge Australia Act 2003</i>	No. 30, 2003	26 June 2003	22 Sept 2003 (a)

(a) See section 2 and *Gazette* S19.

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