

# NORTHERN TERRITORY OF AUSTRALIA

## PASTORAL LAND REGULATIONS

As in force at 1 January 2015

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 January 2015

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## PASTORAL LAND REGULATIONS

### Regulations under the *Pastoral Land Act*

#### **Part 1 Preliminary matters**

##### **1 Citation**

These Regulations may be cited as the *Pastoral Land Regulations*.

##### **2 Commencement**

These Regulations shall come into operation on the commencement of the *Pastoral Land Act 1992*.

#### **Part 2 Proceedings of Board**

##### **3 Chairman to notify time and place of meetings of Board**

- (1) Subject to subregulation (2), the Chairman must give not less than 14 days notice of the time and place fixed for a meeting of the Board to an applicant or other person entitled to appear, or required to give evidence, at the meeting.
- (2) If the parties to a matter to be dealt with at a meeting of the Board agree, the notice required by subregulation (1) to be given may be reduced to that to which they have agreed.

##### **4 Communications with members of Board**

A person must not, before or after a meeting of the Board, communicate with a member of the Board with a view to influencing a recommendation or decision of the Board.

Maximum penalty: 40 penalty units

**5 Interruption of proceedings of Board**

A person must not interrupt the proceedings of the Board or cause a disturbance in a place where the Board is meeting.

Maximum penalty: 15 penalty units

**Part 3 Pastoral leases****6 Standard lease provision**

In every pastoral lease, unless otherwise provided in the lease, **stock** includes beef cattle, buffaloes, horses, donkeys, mules or camels which are not in a feral state.

**7 Insurance of improvements**

- (1) Where the lessee is allowed to pay for the right to the grant of a pastoral lease with improvements by instalments, the lessee must, from and including the day of commencement of the lease insure, and keep insured, against destruction or damage by fire, storm, flood or other event, for their full insurable value, all such improvements which are susceptible to such destruction or damage.
- (2) The insurance is to be in the joint names of the lessee and the Territory.
- (3) The lessee must forward to the Minister a copy of the policy of every such insurance within one month after it is issued.
- (4) The lessee must forward to the Minister the receipts for the premiums payable in respect of the policy within one month after they are due and payable.
- (5) If the lessee fails to comply with a provision of this regulation, the Minister may insure the improvements as required of the lessee by this regulation.
- (6) Moneys equal to the amount expended by the Minister under subregulation (5), with interest at the rate mentioned in regulation 29 but computed from the time of expending the moneys, are to be paid by the lessee, on demand, to the Minister and may be recovered as a debt due and payable by the lessee to the Territory.
- (7) All moneys received under the insurance policy must be applied towards reinstating the improvements in respect of which the insurance is received or otherwise as approved by the Minister.

**8 Surrender of leases**

The surrender of a lease or part of a lease must be in a form approved by the Minister and must be forwarded to the Minister for acceptance by the Minister.

**9 Lodging of surrender with Registrar-General**

On acceptance of the surrender of a lease or part of a lease, the Minister must lodge the instrument of surrender with the Registrar-General.

**10 Amendment of plan where lease partly surrendered**

Where a lease has been partly surrendered, the Minister must cause a new plan to be prepared delineating the amended boundaries of the leased land and lodge the amended plan with the Registrar-General with the instrument of partial surrender.

**11 Disposal of stock removed from pastoral land otherwise than by or on behalf of lessee**

- (1) Where the Minister has, under section 42(1) of the Act, caused stock to be removed from pastoral land, the stock must be disposed of in accordance with a contract entered into by the Minister for its removal or on the open market by tender, auction or private treaty, and a person so acquiring the stock has good title to it free of encumbrance.
- (2) The proceeds of the disposal of stock under section 42(3) of the Act are to be applied first, in meeting the expenses of its sale; and then in meeting the expenses incurred by the Minister in the work of destocking (including the reasonable costs incurred in transporting, holding and feeding the stock), with any amount remaining after the discharge of any registered mortgage of the stock being paid to the lessee.

**12 Rent notices**

In addition to the matters prescribed in section 56(1)(a) and (b) of the Act, the notice under that section must:

- (a) contain a description of the pastoral land to which it relates by reference to its portion number, pastoral lease number and title; and
- (b) show the unimproved value of the land determined by the Valuer-General under the *Valuation of Land Act*, and

- (c) show the percentage of the unimproved value declared by the Minister under section 55(1) of the Act for the relevant District.

## **Part 4 Pastoral land monitoring**

### **13 Monitoring sites**

For section 75 of the Act, a monitoring site must be marked by a marker of steel or other durable material protruding above the surface of the ground so as to be clearly visible, to which is attached a tag bearing the words "Monitoring Site marker .... Removal is an offence", or to that effect.

## **Part 5 Access to pastoral land**

### **14 Regulation of persons on pastoral land etc. under Part 6 of Act**

- (1) A person on pastoral land under Part 6 of the Act, or on or in perennial natural waters mentioned in section 79(1) of the Act, must not:
  - (a) wilfully or negligently destroy or damage property of the lessee or other person on the land or on or in the water; or
  - (b) knowingly unreasonably interfere with the operation of the pastoral enterprise; or
  - (c) leave a gate on the land otherwise than as he or she found it; or
  - (d) use a firearm as defined in section 3(1) of the *Firearms Act*, on the land (or on the water so as to deliberately or negligently cause its projectile to pass over or impact with the pastoral land or anything on the pastoral land), except with the permission of the pastoral lessee or in the exercise of a right or power under any other law in force in the Territory; or
  - (e) light a fire otherwise than in a constructed fireplace or on an area so cleared as to ensure that the fire does not escape or leave such a fire unattended if it is not extinguished; or
  - (f) drive a motor vehicle (including a motor-cycle) in a place or manner likely to damage an access route or cause or contribute to soil erosion or other degradation on the land, having regard to soil and weather conditions and all other relevant considerations; or
  - (g) pollute or litter the land or the water; or

- (h) cut or otherwise damage any living plant that is not a declared weed, as defined in section 4 of the *Weeds Management Act*, on the land or in the water.

Maximum penalty: 40 penalty units

- (2) Subregulation (1) does not relieve a person of the obligation to comply with any other law in force in the Territory relating to a matter mentioned in that subregulation.

## **15 Cost of restoration and compensation**

- (1) In addition to any penalty imposed by a court for an offence against regulation 14, the court imposing the penalty may order that the person found guilty of the offence pay to the lessee, the Territory, or such other person as the court directs the cost of or likely to be incurred by the lessee the Territory or other person in restoring any damage resulting from the guilty person's action and an amount of compensation for the loss.
- (2) A court mentioned in subregulation (1) has the jurisdiction and power to assess the amount of damages or compensation.

## **Part 6 Licence to go onto and take certain things from pastoral land**

### **16 Application to be licensed under section 84 of Act**

- (1) An application to the Minister to license a person under section 84 of the Act must be in writing to the Minister, accompanied by the prescribed fee, and set out:
- (a) the full name and address of the applicant; and
  - (b) the occupation of the applicant; and
  - (c) a description of the area in respect of which the applicant wishes to be licensed; and
  - (d) the purpose for which he or she wishes to be licensed.
- (2) The Minister may, by notice in writing to the applicant, license the applicant as requested in the application, refuse to license the applicant or return the application to the applicant for amendment in such manner as the Minister specifies and license the applicant in accordance with the amended form.

**17 Entry by licensee onto pastoral land**

- (1) It is a condition subject to which a person is licensed under section 84 of the Act that the person must not enter land in respect of which he or she is licensed except for such periods specified in the notice under regulation 16(2), or as subsequently advised in writing by the Minister, as in the opinion of the Minister are necessary to enable the person to exercise the person's right as a licensee.
- (2) Before entering pastoral land, a licensee must give reasonable notice to the pastoral lessee of the licensee's intention to do so and comply with all reasonable requests by the pastoral lessee to establish the licensee's identity and to avoid unnecessary interference with normal pastoral operations on the land.

Maximum penalty: 4 penalty units.

**18 Period for which person licensed**

Subject to section 84(2) of the Act, a person is licensed for the period specified in the notice under regulation 16(2).

**19 Production of notice**

Where the Minister (or the pastoral lessee in pursuance of regulation 17(2) or person acting on his or her behalf) requires a person licensed under section 84 of the Act to produce the relevant notice under regulation 16(2) to the Minister, the pastoral lessee or the person on behalf of the pastoral lessee, as the case may be, the licensee must produce the notice accordingly.

Maximum penalty: 4 penalty units.

**20 Employment of labour on land in respect of which person licensed**

- (1) A licensee may issue to a person he or she wishes to employ in the exercise of the licensee's rights on the land in respect of which the licensee is licensed, a certificate, in a form approved by the Minister, identifying the person.
- (2) A person to whom a certificate under subregulation (1) is issued may enter the relevant land (but only during the periods referred to in regulation 17(1)) for the purpose of being employed by the licensee in the exercise of the licensee's rights, and these regulations apply to and in relation to the certificate and the person to whom it is issued as if the certificate were a notice under regulation 16(2).



- (3) A certificate under this regulation remains in force for as long only as the relevant notice of the Minister under regulation 16(2) remains in force.

## **21 Returns in relation to material taken**

The Minister may require a person licensed under section 84 of the Act to give to the Minister a return, in such form and at such times as the Minister thinks fit which accurately indicates the amount of material taken from the land in respect of which the licensee is licensed, and the licensee must comply with the requirement.

Maximum penalty: 4 penalty units.

## **22 Royalties**

The Minister may determine the amount or rate of a royalty on material removed or to be removed from pastoral land in respect of which a person is or is to be licensed under section 84 of the Act and the amount or rate of the royalty, if any, and the time and place at which it is to be paid is to be specified in the relevant notice under regulation 16(2), and the licensee must pay the royalty accordingly.

## **23 Refusal of licence when royalty or rate fixed**

Where an amount or rate of royalty is determined under regulation 22, the licensee may, in writing, advise the Minister that the licensee does not intend to exercise his or her rights as a licensee because the amount or rate of royalty determined is not acceptable to the licensee and, on the licensee returning to the Minister the relevant notice under regulation 16(2), the Minister must refund to him or her the fee paid at the time of lodging the application to be licensed.

## **24 Minister may revoke notice to licensee**

- (1) Where a licensee fails:
- (a) to comply with a condition subject to which he or she is licensed; or
  - (b) to comply with a requirement of or under the Act or these Regulations; or
  - (c) to pay within the time required a fee or an amount of royalty required under the Act or these Regulations to be paid;

the Minister may, by notice in writing to the licensee specifying the failure, revoke the notice under regulation 16(2).

- (2) Despite subregulation (1), the Minister may, in his or her absolute discretion revoke a notice of approval under regulation 16(2), but on so doing, except in a case referred to in subregulation (1) of this regulation, the Minister must refund such percentage of the fee paid by the licensee under regulation 16(1) as the Minister thinks appropriate in the circumstances.

## **Part 8                      Miscellaneous matters**

### **28                      Records to be kept**

A pastoral lessee must keep, in respect of each area of pastoral land held by him or her under a separate pastoral lease, a continuous record of:

- (a) the stock levels on, and turned off from, the pastoral land; and
- (b) measures taken to control feral animals as directed under section 73 of the Act by the Board.

Maximum penalty:        15 penalty units.

### **29                      Interest on debts due and payable to territory**

For section 124(2) of the Act, interest accrues on an amount from time to time due and payable to the Territory (other than under section 59 of the Act) at the rate of 1% above the Commonwealth Bank of Australia standard overdraft rate applicable on the first working day of each relevant quarter, commencing one month after the amount first became payable and afterwards on the first working day after each subsequent 1 October, 1 January, 1 April and 1 July, as the case may be, with corresponding quarterly rests.

### **30                      Board to notify reasons**

Where the Board takes an action or makes a decision that adversely affects a lessee and the action or decision may be reviewed by the Tribunal under the Act, the Board must, in its relevant report, or notice to the lessee, give its reasons for taking the action or making the decision.

### **31                      Prescribed purposes under section 68(5) of the Act**

The prescribed purposes under section 68(5) of the Act are as follows:

- (a) generating electrical power on the land and transmitting or distributing electrical power to, from, through or across the land;

- (b) supplying or conveying to, through or across the land gas, liquid fuels or water or other liquids in such a form as to be capable of conveying energy;
- (ba) establishing and housing facilities, as defined in section 7 of the *Telecommunications Act 1997* (Cth), for telecommunications;
- (bb) housing surveying and scientific measurement equipment and associated infrastructure;
- (c) establishing and operating a commercial tourist enterprise;
- (d) keeping and breeding animals (other than stock).

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**ENDNOTES**
**1 KEY**

Key to abbreviations

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

**2 LIST OF LEGISLATION*****Pastoral Land Regulations (SL No. 23, 1992)***

Notified	26 June 1992
Commenced	26 June 1992 (r 2, s 2 <i>Pastoral Land Act 1992</i> (Act No. 17, 1992) and <i>Gaz S33</i> , 26 June 1992)

***Amendment of Pastoral Land Regulations (SL No. 21, 1993)***

Notified	11 August 1993
Commenced	11 August 1993

***Amendment of Pastoral Land Regulations (SL No. 13, 1994)***

Notified	13 May 1994
Commenced	13 May 1994

***Amendment of Pastoral Land Regulations (SL No. 17, 1999)***

Notified	12 May 1999
Commenced	12 May 1999

***Pastoral Land Amendment Regulations 2011 (SL No. 40, 2011)***

Notified	31 August 2011
Commenced	31 August 2011

***Penalties Amendment (Miscellaneous) Act 2013 (Act No. 23, 2013)***

Assent date	12 July 2013
Commenced	28 August 2013 ( <i>Gaz G35</i> , 28 August 2013, p 2)

***Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No. 2) Act 2014 (Act No. 35, 2014)***

Assent date	13 November 2014
Commenced	pts 4, 9, 10 and 19: nc; rem: 1 January 2015 ( <i>Gaz G51</i> , 24 December 2014, p 7)

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**3****LIST OF AMENDMENTS**

pt 1 hdg	amd No. 40, 2011, r 4
r 3	amd No. 40, 2011, r 4
rr 4 – 5	amd No. 40, 2011, r 4; Act No. 23, 2013, s 14
rr 7 – 13	amd No. 40, 2011, r 4
r 14 hdg	amd No. 40, 2011, r 4
r 14	amd No. 40, 2011, r 4; Act No. 23, 2013, s 14
rr 15 – 16	amd No. 40, 2011, r 4
r 17	amd No. 40, 2011, r 4; Act No. 23, 2013, s 14
r 18	amd No. 40, 2011, r 4
r 19	amd No. 40, 2011, r 4; Act No. 23, 2013, s 14
r 21	amd No. 40, 2011, r 4
rr 22 – 24	amd No. 40, 2011, r 4
pt 7 hdg	rep Act No. 35, 2014, s 104
rr 25 – 27	amd No. 40, 2011, r 4
	rep Act No. 35, 2014, s 104
pt 8 hdg	amd No. 40, 2011, r 4
r 28	amd No. 40, 2011, r 4; Act No. 23, 2013, s 14
r 29	amd No. 40, 2011, r 4
r 30	amd No. 40, 2011, r 4; Act No. 35, 2014, s 105
r 31	ins No. 21, 1993
	amd No. 13, 1994; No. 17, 1999; No. 40, 2011, r 3