

NORTHERN TERRITORY OF AUSTRALIA
TERRITORY PARKS AND WILDLIFE CONSERVATION
AMENDMENT ACT 2000

No. 58 of 2000

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NORTHERN TERRITORY OF AUSTRALIA

No. 56 of 2000

AN ACT

to amend the *Territory Parks and Wildlife Conservation Act*

[Assented to 14 November 2000]

[Second reading 16 August 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Territory Parks and Wildlife Conservation Amendment Act 2000*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Territory Parks and Wildlife Conservation Act* is in this Act referred to as the Principal Act.

4. Long title

The long title to the Principal Act is amended by omitting "and the Protection and Conservation of Wildlife" and substituting "and the study, protection, conservation and sustainable utilisation of wildlife".

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5. Interpretation

Section 9 of the Principal Act is amended —

- (a) by inserting in subsection (1) after the definition of "Aboriginal Land Council" the following:

" 'Aboriginal tradition' has the same meaning as in the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth;";

- (b) by omitting from subsection (1) the definition of "animal" and substituting the following:

" 'animal' means a member of the animal kingdom other than man, whether dead or alive, and includes —

- (a) vertebrates;
- (b) invertebrates;
- (c) protists;
- (d) the progeny of an animal, including larvae, pupae, an animal in an egg or any other embryonic form;
- (e) a part of an animal, including an exudate, a secretion or reproductive material; and
- (f) a chemical or other extract derived from an animal;

'area of essential habitat' means an area of land declared to be an area of essential habitat under section 37;";

- (c) by inserting in subsection (1) after the definition of "article" the following:

" 'classification' means a classification of the conservation status of wildlife prescribed under section 28(1);

'commercial purpose', in relation to an animal or plant, means the keeping, breeding, displaying, moving or other dealing with or use of the animal or plant for the purposes of selling, trading or bartering with the animal or plant or of otherwise earning a livelihood or making a profit, and includes the use of the animal or plant for scientific purposes;";

- (d) by inserting in subsection (1) after the definition of "conservation officer" the following:

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"'co-operative management agreement' means an agreement entered into by the Commission under section 35;"

(e) by omitting from paragraph (b) of the definition of "Crown land" in subsection (1) "or the Commonwealth";

(f) by inserting in subsection (1) after the definition of "Director" the following:

"'feral animal' means a species of animal or an animal of a species of animal that is declared to be a feral animal under section 47;"

(g) by inserting in subsection (1) after the definition of "hovercraft" the following:

"'indigenous to Australia', in relation to animals or plants, includes —

(a) migratory animals that periodically or occasionally migrate to or visit Australia or the coastal waters of Australia; and

(b) animals or plants introduced into Australia (including the coastal waters of Australia), directly or indirectly, by Aboriginals before the year 1788;

'indigenous to the Territory', in relation to animals or plants, includes —

(a) migratory animals that periodically or occasionally visit the Territory or the coastal waters within the jurisdictional limits of the Territory; and

(b) animals or plants introduced into the Territory (including the coastal waters of the Territory), directly or indirectly, by Aboriginals before the year 1788;

'interfere with', in relation to an animal or a plant, means to —

(a) harm, disturb, alter the behaviour of or otherwise affect the capacity of the animal or plant to perform its natural processes; or

(b) damage or destroy the habitat of the animal or plant;"

(h) by inserting in subsection (1) after the definition of "land" the following:

"'management program' means a wildlife management program, or a management program in respect of feral animals or prohibited entrants, formulated and implemented under section 32;"

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- (j) by omitting from subsection (1) the definition of "pest" and substituting the following:

" 'permit' means a permit granted under section 56;";

- (k) by omitting from subsection (1) the definition of "plant" and substituting the following:

" 'plant' means a member of the plant kingdom or the fungus kingdom, whether dead or alive, and includes —

- (a) algae and lichen;
- (b) procaryotes;
- (c) a virus and a virus like particle;
- (d) the seeds, pollen or spores of a plant or a plant at any other stage of its life history;
- (e) a part of a plant including an exudate or a secretion; and
- (f) a chemical or other extract derived from a plant;";

- (m) by omitting from subsection (1) the definition of "prohibited entrant" and substituting the following:

" 'prohibited entrant' means a species of animal or plant or an animal of a species of animal or a plant of a species of plant that is a prohibited entrant under section 52 or 53;";

- (n) by omitting from subsection (1) the definitions of "protected animal", "protected area" and "protected plant" and substituting the following:

" 'protected wildlife' means a species of wildlife or an animal or plant of a species of wildlife that is protected wildlife under section 43;";

- (p) by omitting from subsection (1) the definitions of "specially protected animal" and "specially protected plant";

- (q) by inserting after the definition of "State" in subsection (1) the following:

" 'sustainable use', in relation to wildlife, means the taking or using of wildlife at a level that is capable of being continued without endangering the capacity of the wildlife to maintain itself and sustain its natural processes;";

- (r) by inserting after the definition of "this Act" in subsection (1) the following:

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" 'threatened wildlife' means a species of wildlife or an animal or plant of a classification or species of wildlife that the Minister identifies as threatened wildlife under section 30;"

- (s) by omitting from subsection (1) the definition of "unprotected animal" and substituting the following:

" 'unprotected wildlife' means a species of wildlife or an animal or plant of a species of wildlife that is not protected wildlife;" and

- (t) by inserting after subsection (3) the following:

"(3A) In this Act, a reference to a species of wildlife is a reference to a species, subspecies, population or subpopulation of wildlife, and includes a reference to a hybrid or variant race of a species of wildlife."

6. Repeal

Part III of the Principal Act is repealed.

7. Notices to be exhibited in sanctuaries

Section 25B of the Principal Act is amended by omitting from subsection (2) "\$400" and substituting "50 penalty units or imprisonment for 6 months".

8. Persons not to enter sanctuaries

Section 25C of the Principal Act is amended by omitting "\$2,000, or imprisonment for 6 months, or both" and substituting "100 penalty units or imprisonment for 12 months".

9. Firearms and traps prohibited in a sanctuary

Section 25D of the Principal Act is amended by omitting "\$2,000, or imprisonment for 6 months, or both" and substituting "100 penalty units or imprisonment for 12 months".

10. Persons not to kill in sanctuary

Section 25F of the Principal Act is amended –

- (a) by omitting from subsection (1) "\$2,000 or imprisonment for 6 months, or both; and in addition a penalty of \$100 for every animal in respect of which the offence was committed" and substituting "100 penalty units or imprisonment for 12 months"; and
- (b) by omitting from subsection (2) "\$2,000 or imprisonment for 6 months, or both; and in addition a penalty of \$100 for every animal in respect of which

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the offence was committed" and substituting "100 penalty units or imprisonment for 12 months".

11. Taking plants on or from sanctuary

Section 25G of the Principal Act is amended by omitting "\$4,000 or imprisonment for 12 months" and substituting "100 penalty units or imprisonment for 12 months".

12. Repeal and substitution

Parts IV and V of the Principal Act are repealed and the following substituted:

"PART IV – ANIMALS AND PLANTS

"Division 1 – General

"26. Application of Part

"This Part does not apply to aquatic life within the meaning of the *Fisheries Act* that –

- (a) has been caught, taken or harvested under a licence or permit granted under that Act; or
- (b) comprises a managed fishery or part of a managed fishery within the meaning of that Act.

"27. Exemption from application of Part

"The Minister may, by notice in the *Gazette*, declare that this Part or a particular provision of this Part does not apply to or in relation to –

- (a) the whole or a specified part of the Territory;
- (b) a specified species of animal or plant; or
- (c) a specified activity in relation to an animal or plant,

and accordingly this Part or that provision does not apply.

"Division 2 – Management of wildlife

"Subdivision 1 – Classification of wildlife

"28. Prescribed classifications

"(1) The Administrator must prescribe by regulation classifications for classifying the conservation status of wildlife in the Territory.

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"(2) A regulation prescribing a classification may apply, adopt or incorporate, either wholly or in part, a classification as from time to time prescribed or published by any authority or body (whether or not a Territory authority or body).

"29. Classification of wildlife

"(1) The Minister must identify the conservation status of each of the species of wildlife in the Territory and apply a classification prescribed under section 28 to each species accordingly.

"(2) On classifying wildlife under subsection (1), the Minister must —

- (a) give public notice —
 - (i) of the making of the classification;
 - (ii) inviting the public to make submissions in respect of the classification not later than 30 days after the date of the notice; and
 - (iii) stating that copies of the classification are available for inspection or purchase at the offices of the Commission specified in the notice during the business hours of the Commission;
- (b) make the classification and a copy of his or her written reasons for classifying the species of wildlife available for inspection or purchase at those offices of the Commission;
- (c) consider any submissions made in respect of the classification and review the classification and make the alterations to it, if any, that he or she considers appropriate; and
- (d) present the revised classification to the Administrator for approval.

"(3) If the Administrator is satisfied that —

- (a) subsections (1) and (2) have been complied with; and
- (b) a classification of a species of wildlife is appropriate,

the Administrator may in writing approve the classification.

"(4) If the Administrator approves the classification of a species —

- (a) the Minister must give public notice of the approval; and

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- (b) the Director must cause copies of the classification to be kept and made available for inspection or purchase by the public at the offices of the Commission during its business hours.

"(5) The public notice of the approval must include a statement that copies of the classification are available for inspection or purchase at the offices of the Commission during the business hours of the Commission.

"(6) A classification of a species has effect on and from the day the Minister gives public notice of its approval under subsection (4)(a).

"(7) The classification of a species under this section may be varied and, for the purpose of varying a classification of a species, a reference in this section to –

- (a) classifying a species includes a reference to varying a classification of a species; and
- (b) a classification of a species includes a reference to a variation of a classification of a species.

"30. Threatened wildlife

"(1) The Minister must, by notice in the *Gazette*, identify by classification or species the wildlife that is threatened wildlife.

"(2) The reference in subsection (1) to a classification is to be read as a reference to a classification as in force from time to time.

"Subdivision 2 – Principles of management

"31. Principles of management

"(1) The management of wildlife under this Act is to be carried out in a manner that promotes –

- (a) the survival of wildlife in its natural habitat;
- (b) the conservation of biological diversity within the Territory;
- (c) the management of identified areas of habitat, vegetation, ecosystem or landscape to ensure the survival of populations of wildlife within those areas;
- (d) the control or prohibition of –
 - (i) the introduction or release of prohibited entrants into the Territory; and

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- (ii) any other act, omission or thing that adversely affects, or will or is likely to adversely affect, the capacity of wildlife to sustain its natural processes; and
- (e) the sustainable use of wildlife and its habitat.
- "(2) Species of wildlife are to be managed in a manner that –
 - (a) accords with their classification under section 29; and
 - (b) in the case of threatened wildlife – maintains or increases their population and the extent of their distribution within the Territory at or to a sustainable level (which may include breeding in captivity).
- "(3) Feral animals are to be managed in a manner that –
 - (a) reduces their population and the extent of their distribution within the Territory; and
 - (b) controls any detrimental effect they have on wildlife and the land.

"Subdivision 3 – Management programs

"32. Management programs

"(1) The Commission may formulate and implement or co-operate with the Commonwealth or a State or another Territory of the Commonwealth or with an authority of the Commonwealth or of a State or another Territory of the Commonwealth in formulating and implementing –

- (a) wildlife management programs for the protection, conservation, sustainable use, control and management of wildlife;
- (b) management programs for the control and management of feral animals; or
- (c) management programs for the prohibition, control and management of prohibited entrants.

"(2) In formulating and implementing a wildlife management program referred to in subsection (1)(a), the Commission must take into account –

- (a) the classification of the wildlife under section 29 to which the program relates;
- (b) the habitat of the wildlife to which the program relates;
- (c) the extent to which parks and reserves (including parks and reserves established under a law of the Commonwealth or a State or Territory

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of the Commonwealth) assist in the conservation of the wildlife to which the program relates;

- (d) the population of the wildlife to which the program relates and the causes of any known increases or decreases in the population;
- (e) any known response by the wildlife to which the program relates to any action taken for the purpose of the protection, conservation, control, sustainable use or management of the wildlife; and
- (f) the obligations of the Commonwealth under international treaties and agreements relating to the protection and conservation of wildlife,

and is to provide for a review of the program to be undertaken at appropriate intervals.

"(3) The matters that a management program referred to in subsection (1)(b) is to provide for include –

- (a) assessment and analysis of the population and distribution of the feral animal within the Territory;
- (b) examination of the habitat of the feral animal within the Territory;
- (c) evaluation of the impact the feral animal has on wildlife and its habitat and on ecosystems, vegetation and the landscape in general;
- (d) control of the population and distribution of the feral animal within the Territory;
- (e) assessment of whether the survival of the feral animal in its natural habitat is threatened and, if so, whether its protection and survival in the Territory would assist its conservation; and
- (f) review of the program at appropriate intervals.

"(4) The matters that a management program referred to in subsection (1)(c) is to provide for include –

- (a) assessment of whether the survival of a prohibited entrant in its natural habitat is threatened and, if so, whether its protection and survival in the Territory would assist its conservation;
- (b) evaluation of the actual and potential threat the prohibited entrant poses to wildlife, habitats, ecosystems, vegetation and the landscape; and
- (c) review of the program at appropriate intervals.

"33. Management program may refer to co-operative management agreement etc.

"A management program may provide for, apply to or refer to a co-operative management agreement, an area of essential habitat or an agreement under section 73 or 74.

"34. Administrator to approve management program

"(1) If the Commission formulates a management program, the Director must submit the management program to the Administrator for approval.

"(2) The Administrator may in writing approve a management program that has been submitted to him or her.

"(3) The Director must, within 14 days after the Administrator approves a management program, give public notice of the approval and a description of the details of the management program.

"(4) The Commission must not implement a management program unless the Administrator has approved it.

"Subdivision 4 – Co-operative management agreements

"35. Commission may make co-operative management agreements for management of wildlife etc.

"The Commission may negotiate and enter into agreements to implement co-operative schemes for –

- (a) the protection, conservation, sustainable use, control and management of wildlife;
- (b) the control and management of feral animals;
- (c) the prohibition, control and management of prohibited entrants; or
- (d) the management, preservation, maintenance or care of areas of habitat, ecosystem, vegetation, or landscape,

in accordance with a management program.

"36. Certain provisions of co-operative management agreements

"(1) A co-operative management agreement may provide for –

- (a) if the Minister gives his or her written approval – the provision of financial or other assistance by the Territory or the Commission for the purpose of achieving an objective of the agreement; or

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- (b) further agreements to be made between the persons who have entered into the co-operative management agreement for the purpose of achieving the objectives of the co-operative management agreement.

"(2) A co-operative management agreement –

- (a) is to refer to a management program; and
- (b) may relate to an area of essential habitat.

"Subdivision 5 – Areas of essential habitat

"37. Declaration of area of essential habitat

"(1) Subject to section 38, if there is an area of land that, on its own or together with another area of land or other areas of land, is a habitat that is essential for the survival in that area or those areas of wildlife generally or a species of wildlife, the Administrator may, by notice in the *Gazette*, declare the area to be an area of essential habitat.

"(2) The Administrator must not make a declaration under subsection (1) unless –

- (a) he or she is satisfied that the Director has consulted with the owner and, if not the same person, the occupier of the land and any other person who, in the opinion of the Director, has an interest that is likely to be adversely affected by the declaration; and
- (b) the Minister recommends the making of the declaration under section 38(3)(a).

"(3) Despite subsection (1), if, in the opinion of the Minister, there is an area of land in which there is a species of wildlife that is likely to become extinct if not immediately protected, the Minister may, by notice in the *Gazette*, declare the area to be an area of essential habitat.

"(4) The area of land referred to in subsection (1) or (3) may be –

- (a) land that has been alienated from the Crown, including Aboriginal land but not including other freehold land; or
- (b) land that is reserved or dedicated under a law in force in the Territory.

"(5) In a declaration under this section, the Administrator or Minister, as the case may be, must –

- (a) describe the area of land declared to be an area of essential habitat;

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- (b) specify the wildlife to which the declaration relates;
- (c) give the reasons for making the declaration;
- (d) give details of the proposed management of the area the subject of the declaration, including specification of the objectives of making the declaration and any management programs, co-operative management programs and by-laws made under section 71 that apply to the land; and
- (e) state that the land the subject of the declaration is to be used and enjoyed in a manner that is consistent with the objectives of the declaration.

"(6) In a declaration under this section, the Administrator or the Minister, as the case may be, may specify –

- (a) an article, thing, animal or plant that may not be taken into or out of the area of essential habitat the subject of the declaration; or
- (b) the activities that may not be carried out in the area of essential habitat the subject of the declaration,

unless authorised in writing by the Director.

"(7) The land the subject of a declaration under this section is to be used and enjoyed in a manner that is consistent with the declaration.

"38. Submissions regarding declaration of area of essential habitat

"(1) Before the Administrator makes a declaration under section 37(1) and on the making by the Minister of a declaration under section 37(3), the Minister must invite written submissions in respect of the declaration from –

- (a) the owner and, if not the same person, the occupier of the land that is or is proposed to be the subject of the declaration and any other person who, in the opinion of the Director, has an interest that is likely to be adversely affected by the declaration by serving a written notice on each of those persons; and
- (b) any other interested person by giving public notice.

"(2) Notice under subsection (1) is to –

- (a) include a description of the terms of the declaration; and
- (b) specify the date not more than 28 days after the date of the notice by which submissions are to be received by the Minister.

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"(3) The Minister must consider each submission made to the Minister under this section and any other matter that comes to his or her attention in relation to the declaration and may —

- (a) if the declaration is proposed to be made under section 37(1) — make the recommendation he or she thinks appropriate to the Administrator in relation to the making of the declaration or refuse to recommend the making of the declaration; or
- (b) if the Minister made the declaration under section 37(3) — vary (including by the imposition of conditions) or revoke the declaration as he or she thinks appropriate.

"39. Notification of declaration of area of essential habitat

"The Director must, not later than 7 days after the date a declaration of an area of essential habitat is made under section 37 or the date the Minister varies or revokes a declaration under section 38(3)(b) —

- (a) serve written notice of the making or variation of the declaration and its terms or the revocation of the declaration on the persons on whom written notice was served under section 38(1)(a); and
- (b) give public notice of the making or variation of the declaration and its terms or the revocation of the declaration.

"40. Notices to be exhibited in area of essential habitat

"(1) The Director must erect and maintain in good condition a sign —

- (a) at the points of entry into and exit from an area of essential habitat; and
- (b) otherwise in the vicinity of the area of essential habitat,

as he or she considers appropriate to notify a person travelling into, from or in the vicinity of the area that it is an area of essential habitat.

"(2) A sign under subsection (1) is to —

- (a) clearly indicate that a person reading it is entering, leaving or in the vicinity of an area of essential habitat (as the case may be);
- (b) specify —
 - (i) the articles, things, animals or plants that may not be taken into the area of essential habitat; and

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- (ii) the activities that may not be carried out in the area of essential habitat,

without the written authority of the Director;

- (c) generally indicate, by diagram or otherwise, the boundaries of the area; and
- (d) be erected in such a manner that the words and diagrams on the sign are clearly visible to a person travelling past the sign.

"(3) A person must not remove, deface or otherwise interfere with a sign displayed under subsection (1).

Penalty: 50 penalty units or imprisonment for 6 months.

"41. Notification of area of essential habitat on title

"Where a declaration of an area of essential habitat has the effect of imposing a restriction on the use and enjoyment of land, the declaration is a restriction for the purposes of section 191B of the *Real Property Act*.

"42. Conservation officer may carry out certain work

"(1) A conservation officer may carry out the work in an area of essential habitat that the Director considers necessary to attain the objectives of the declaration of the area of essential habitat.

"(2) The conservation officer may, after giving the person in lawful occupation of land in the area of essential habitat reasonable notice of his or her intention to do so, enter the land with the assistance, plant, machinery and equipment as the Director considers appropriate to carry out the work.

"(3) The Commission is liable to pay reasonable compensation for any damage or loss suffered in consequence of work being done under this section.

"Division 3 – Protected wildlife

"43. Protected wildlife

"(1) All wildlife that –

- (a) is in a park, reserve, sanctuary, wilderness zone or area of essential habitat; or
- (b) is a vertebrate that is indigenous to Australia,

is protected wildlife.

"(2) The Regulations may prescribe species of wildlife that are protected wildlife.

"(3) Despite subsections (1) and (2), the Minister may, in relation to the whole or a specified part of the Territory, declare by notice in the *Gazette* that a species of wildlife is protected wildlife.

"(4) Protected wildlife is protected wildlife whether or not the property in the wildlife is vested in the Territory.

"44. Lawful dealings with certain protected wildlife

"(1) The Minister may, by notice in the *Gazette*, declare that it is lawful to keep or bring into, release in or take out of the Territory, including for a commercial purpose, animals of a specified animal species of protected wildlife without being granted a permit to do so.

"(2) A declaration under subsection (1) is to specify the conditions that apply, if any, to the keeping or bringing into, releasing in or taking out of the Territory of the animals.

"45. Killing of protected wildlife

"(1) Subject to subsection (3), the Minister may, by notice in the *Gazette*, declare that it is lawful to kill animals of a specified species of protected wildlife.

"(2) A declaration under subsection (1) is to specify the conditions that apply to or in relation to the killing of the animals, including –

- (a) the period during which and the times when the animals may be killed;
- (b) the areas within which the animals may be killed;
- (c) the type of equipment that is to be used to kill the animals;
- (d) the maximum number of animals that a person may kill;
- (e) the maximum number or amount of dead animals or parts of dead animals a person may have in his or her possession or under his or her control; and
- (f) that, notwithstanding the declaration, a person wishing to kill the animals cannot do so unless he or she has been granted a permit to do so or is a nominee under a permit granted to another person to do so.

"(3) The Minister may not exercise his or her power under subsection (1) to authorise –

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- (a) the killing of animals located in a park, reserve, sanctuary or wilderness zone; or
- (b) the killing of animals for commercial purposes.

"46. Director may require person to give up protected wildlife

"(1) The Director may, by notice in writing served on –

- (a) a person who is or was the holder of a permit;
- (b) a person who is or was a nominee under a permit; or
- (c) a person who is or was otherwise authorised under this Act to deal with wildlife,

require the person to give to the Director protected wildlife that is in the possession or under the control of the person by virtue of the permit or other authorisation.

"(2) The person must comply with the notice.

Penalty: 50 penalty units or imprisonment for 6 months.

"(3) An offence against subsection (2) is a regulatory offence.

"(4) If the Director receives protected wildlife because of a notice served under subsection (1), the Director must pay just compensation for the wildlife to the person on whom the notice was served.

"Division 4 – Feral animals

"47. Declaration of feral animals

"(1) The Minister may, by notice in the *Gazette*, declare a species of animal –

- (a) that is not indigenous to Australia or, if it is indigenous to Australia, its natural habitat is not in the Territory;
- (b) that, since its introduction into Australia or the Territory, has spread from the site of its introduction and established itself within Australia or the Territory; and
- (c) whose population or presence in a particular area in the Territory is not able to be easily controlled,

to be a feral animal.

"(2) The declaration may be made in relation to the whole or a specified part of the Territory.

"48. Feral animal control areas

"If, in the Minister's opinion, wildlife or an area of habitat, ecosystem, vegetation or landscape is or soon will be threatened by the presence of a feral animal, the Minister may declare an area of land in respect of the wildlife, habitat, ecosystem, vegetation or landscape to be a feral animal control area.

"49. Notice to owner etc. to eradicate feral animals

"(1) The Director may, by notice in writing, require the owner or occupier of land in a feral animal control area to undertake the measures specified in the notice for the control or eradication of a feral animal on the land.

"(2) A person on whom a notice is served under subsection (1) must take all reasonable steps to comply with the terms of the notice.

Penalty: 50 penalty units or imprisonment for 6 months and, in addition, 5 penalty units for each day during which the offence continues after the first day on which the offence is committed.

"50. Commission may provide materials etc.

"If the Director serves a notice on a person under section 49, he or she may provide without expense to that person –

- (a) the materials or equipment necessary to carry out the measures specified in the notice; or
- (b) other assistance, by way of labour or otherwise, that the Director considers necessary or desirable for the control or eradication of the feral animal.

"51. Conservation officer may enter and do work

"(1) A conservation officer may, with the assistance the Director considers appropriate, enter a feral animal control area at any time and do anything necessary or expedient for the investigation, control or eradication of a feral animal in the area.

"(2) If the conservation officer or a person assisting the conservation officer, in doing a thing for the investigation, control or eradication of a feral animal in pursuance of subsection (1), causes damage to the land, crops, buildings, fences or other improvements on the land, the owner or occupier of the land is entitled to be compensated for that damage unless –

- (a) the damage was caused without negligence on the part of the conservation officer or person; and

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- (b) the owner or occupier was required by a notice under section 49 to undertake measures for the control or eradication of the feral animal and has failed to do so.

"Division 5 – Prohibited entrants

"52. Non-indigenous vertebrates are prohibited entrants

"Animals of a species of animal that –

- (a) is a vertebrate; and
- (b) is not indigenous to the Territory,

are prohibited entrants unless prescribed not to be prohibited entrants by the Regulations.

"53. Declaration of prohibited entrants

"(1) The Minister may, by notice in the *Gazette*, declare –

- (a) a species of animal that is not a vertebrate and is not indigenous to the Territory; or
- (b) a species of plant that is not indigenous to the Territory,

to be a prohibited entrant.

"(2) The declaration may be in relation to the whole or a part of the Territory.

"54. Prohibited entrants that escape or are liberated

"(1) If an animal –

- (a) escapes from the possession of or from being under the control of a person; or
- (b) is released or permitted to escape,

in a place where it is a prohibited entrant, immediately on that escape or liberation, the animal is to be taken to be a feral animal and Division 4 applies in respect of the animal accordingly.

"(2) Despite Division 4, if a prohibited entrant has escaped or been released, a conservation officer may, with the assistance the Director thinks appropriate, enter land where the Director believes the prohibited entrant is or might be to –

- (a) investigate whether the feral animal is present on the land and the threat it poses or is likely to pose to a habitat, ecosystem, vegetation or landscape on the land; or
- (b) take immediate action to eradicate the prohibited entrant.

"(3) If the conservation officer or a person assisting the conservation officer enters on to land in pursuance of subsection (2) and causes damage to the land, crops, buildings, fences or other improvements on the land, the owner or occupier of the land is entitled to be compensated for that damage unless the damage was caused without negligence on the part of the conservation officer or person.

"Division 6 – Permits

"55. Application for permit

"(1) A person may apply to the Director for a permit authorising the person and the person's nominees (if any) specified in the application to –

- (a) take or interfere with protected wildlife;
- (b) take or interfere with wildlife for commercial purposes;
- (c) subject to a declaration under section 44, keep protected wildlife;
- (d) subject to a declaration under section 44, bring protected wildlife into, release protected wildlife in or take protected wildlife out of the Territory; or
- (e) bring prohibited entrants into, keep prohibited entrants in or take prohibited entrants out of the Territory.

"(2) An application under subsection (1) must be –

- (a) in a form approved by the Director; and
- (b) accompanied by the prescribed fee and the prescribed information, if any.

"56. Grant or refusal to grant permit

"(1) Subject to this Part, the Director may grant or refuse to grant a permit having considered and taken into account –

- (a) the classification of wildlife under section 29;
- (b) the principles of management set out in section 31;

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- (c) all relevant management programs, co-operative management agreements, declarations of areas of essential habitat and agreements under sections 73 and 74;
- (d) the likely effect (and in particular any detrimental impact) of the issue of a permit on the continued survival of wildlife, habitats, vegetation and ecosystems and on the landscape and the environment generally;
- (e) in the case of a permit relating to prohibited entrants — matters relating to the retrieval, capture, disposal or destruction of an escaped prohibited entrant;
- (f) the welfare of the animal or animals to which the permit relates;
- (g) the protection of the safety and welfare of the public; and
- (h) any prescribed matters.

"(2) The Director must not grant a permit authorising—

- (a) an activity that is inconsistent with the objectives of a management program; or
- (b) unless the Minister gives his or her written approval to do so — the taking or interference with wildlife that is threatened wildlife.

"(3) The Director must not grant a permit to a person if the person or a nominee specified by the person in the application has been found guilty of an offence against this Act or that otherwise relates to wildlife within the 5 year period immediately before the person applies for the permit.

"(4) A permit is to be in a form approved by the Director and, if the permit is granted to a person and his or her nominees, is to specify the nominees.

"57. Terms and conditions of permits

"(1) A permit is subject to—

- (a) the prescribed terms and conditions; and
- (b) the conditions imposed by the Director providing for all or any of the following:
 - (i) the manner in which an animal or plant may be taken or otherwise interfered with under the permit;
 - (ii) the manner in which an animal or plant is to be kept or transported under the permit;

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- (iii) the maximum number or amount of an animal or plant, or part of an animal or plant, to which the permit relates;
- (iv) the species, sex, age, size, location of the animal or plant to which the permit relates;
- (v) the marketing of the animal or plant, or a derivative or product of an animal or plant, to which the permit relates, including the labelling or applying of markings to the animal, plant, derivative or product;
- (vi) the furnishing to the Director of returns and reports;
- (vii) the period or periods of time during which, or the hours each day when, the permit is in force and the date of expiration of the permit;
- (viii) the welfare of animals;
- (ix) the protection of the safety and welfare of the public;
- (x) in the case of a permit relating to a prohibited entrant – the retrieval, capture, disposal or destruction of the prohibited entrant if it escapes or is liberated and the indemnification of the Territory against any costs or expenses incurred by the Territory because of the prohibited entrant;
- (xi) if the holder of the permit or a nominee under the permit will employ or otherwise engage one or more persons to carry out activities under the permit for or on behalf of him or her – the authorisation of those persons;
- (xii) any prescribed matters.

"(2) It is a condition of a permit that, where the holder of the permit or a person who carries out activities under the permit for and on behalf of the holder of the permit is carrying out an activity authorised by the permit, the holder or the person must –

- (a) have the permit or a duplicate of the permit issued under section 61 in his or her possession; and
- (b) if required by a conservation officer or an honorary conservation officer to do so – show the permit or duplicate of the permit to the officer.

"(3) It is a condition of a permit that the holder of the permit, each nominee under the permit and each person employed or otherwise engaged by the

holder of the permit or a nominee under the permit to carry out activities under the permit must comply with the permit and this Act.

"(4) A permit authorising the taking of wildlife for commercial purposes is subject to the condition that, if the property in the wildlife is vested in the Territory, the holder of the permit is to pay the royalties (if any) assessed in accordance with section 116 in respect of the wildlife.

"(5) In the event of an inconsistency arising between a term or condition of a permit prescribed by this Act and a term or condition of a permit imposed by the Director, the prescribed term or condition prevails.

"58. Variation of permit

"(1) If, in the opinion of the Director it is appropriate –

- (a) on account of the classification of wildlife under section 29, the principles of management specified in section 31, a management program, the declaration of an area of essential habitat, an agreement under section 73 or 74 or a change in the circumstances in relation to the survival, conservation or protection of wildlife or the environment generally; or
- (b) for the purposes of the welfare of an animal or the safety and welfare of the public,

the Director may –

- (c) on his or her own initiative; or
- (d) on the application of the holder of a permit to the Director,

by notice in writing served on the holder of the permit, vary a term or condition of the permit.

"(2) An application under subsection (1)(d) is to be in a form approved by the Director.

"(3) A permit may be varied by the addition, substitution or deletion of a term or condition.

"(4) A variation of a permit takes effect on –

- (a) the date the notice of the variation is served on the holder of the permit; or
- (b) the date specified for that purpose in the notice,

whichever occurs last.

"59. Cancellation of permits

"(1) If—

(a) the holder of a permit —

- (i) fails to pay fees or royalties required to be paid under the permit;
- (ii) is found guilty of an offence against this Act or that otherwise relates to wildlife;
- (iii) has paid a sum in pursuance of a notice of infringement issued under this Act; or
- (iv) is in breach of any other term or condition of the permit;

(b) a nominee under a permit —

- (i) is found guilty of an offence against this Act or that otherwise relates to wildlife; or
- (ii) is in breach of a term or condition of the permit;

(c) information becomes available that indicates a new threat to, or any other new circumstance in relation to, the survival of wildlife, habitats, vegetation, ecosystems, the landscape or the environment generally (whether or not that will or has caused the classification of the wildlife to be varied) to which the permit relates; or

(d) the holder of a permit requests in writing that the permit be cancelled,

the Director may, by notice in writing served on the holder of a permit, cancel a permit.

"(2) The cancellation of a permit takes effect on the date of cancellation specified in the notice.

"(3) A person whose permit is cancelled under subsection (1)(a) is not eligible to apply for and be granted a permit until the expiry of 5 years after the date of the notice of cancellation.

"60. Permit holder requires permission to enter land

"The grant of a permit does not authorise —

(a) the holder of the permit;

- (b) a nominee under the permit; or
- (c) a person employed or otherwise engaged by the holder of the permit or a nominee under the permit to carry out activities under the permit,

to enter onto land to carry out the activities authorised by the permit without the consent of the owner or the occupier of the land or, in the case of unalienated Crown land, the Minister responsible for the administration of the *Crown Lands Act*.

"61. Duplicate permits

"(1) On granting a permit, the Director may issue a duplicate of the permit for –

- (a) each nominee under the permit; and
- (b) each person who will be employed or otherwise engaged by the holder of the permit or a nominee under the permit to carry out activities under the permit.

"(2) A duplicate permit is to be in a form approved by the Director.

"62. Permit holder is owner of wildlife taken under permit

"If wildlife is taken by a person under a permit, the wildlife becomes the property of the holder of the permit and, subject to any lawful agreement or other lawful arrangement the holder has entered into that affects his or her rights and interests in the wildlife, the holder may lawfully deal with that wildlife as its owner.

"63. Permits not transferable

"A permit is not transferable.

"Division 7 – Appeals

"64. Appeal

"(1) A person who is aggrieved by a decision made under this Part may, not later than 30 days after the date of the decision, appeal against the decision to the Local Court.

"(2) The appeal is to be by hearing de novo.

"(3) In determining the appeal, the Local Court may –

- (a) confirm the decision appealed against;

- (b) vary the decision; or
- (c) remit a matter to which the decision relates to the person who made the decision for re-consideration, either generally or in respect of specified issues, and for substitution of another decision,

and may make the other orders, including orders as to costs, it considers appropriate.

"(4) In remitting a matter to the person who made the decision, the Local Court must –

- (a) advise the person of its reasons for doing so; and
- (b) give the person the directions in respect of the reconsideration it considers appropriate.

"65. Operation of decision pending outcome of appeal

"A decision that is the subject of an appeal continues to have effect according to its tenor during the conduct of the appeal.

"Division 8 – Offences

"66. Offences relating to protected wildlife

"(1) A person must not take or interfere with protected wildlife unless the person is authorised to do so under this Act.

Penalty: In the case of protected wildlife other than threatened wildlife –

- (a) if the offender is a natural person – 500 penalty units or imprisonment for 5 years; or
- (b) if the offender is a body corporate – 2,500 penalty units.

In the case of threatened wildlife –

- (a) if the offender is a natural person – 1,000 penalty units or imprisonment for 10 years; or
- (b) if the offender is a body corporate – 5,000 penalty units.

"(2) A person must not have in his or her possession or under his or her control an animal that is protected wildlife unless the person is authorised to do so

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under this Act.

Penalty: In the case of protected wildlife other than threatened wildlife—

- (a) if the offender is a natural person— 500 penalty units or imprisonment for 5 years; or
- (b) if the offender is a body corporate— 2,500 penalty units.

In the case of threatened wildlife—

- (a) if the offender is a natural person— 1,000 penalty units or imprisonment for 10 years; or
- (b) if the offender is a body corporate— 5,000 penalty units.

"(3) A person must not bring protected wildlife into, release protected wildlife in or take protected wildlife out of the Territory unless the person is authorised to do so under this Act.

Penalty: In the case of protected wildlife other than threatened wildlife—

- (a) if the offender is a natural person— 500 penalty units or imprisonment for 5 years; or
- (b) if the offender is a body corporate— 2,500 penalty units.

In the case of threatened wildlife—

- (a) if the offender is a natural person— 1,000 penalty units or imprisonment for 10 years; or
- (b) if the offender is a body corporate— 5,000 penalty units.

"(4) It is a defence to a prosecution against subsection (1) if the defendant proves that the contravention or failure to comply that constitutes the offence occurred as a result of the defendant's reasonable use and enjoyment of the land where the wildlife was located and was not the result of negligence on the part of the defendant.

"67. Offence relating to unprotected wildlife

"A person must not take or interfere with unprotected wildlife for commercial purposes unless the person is authorised to do so under this Act.

Penalty: In the case of a natural person – 500 penalty units or imprisonment for 5 years.

In the case of a body corporate – 2,500 penalty units.

"67A. Offence relating to feral animals

"A person must not release a feral animal in the Territory.

Penalty: In the case of a natural person – 100 penalty units or imprisonment for 12 months.

In the case of a body corporate – 500 penalty units.

"67B. Offences relating to prohibited entrants

"A person must not –

- (a) bring a prohibited entrant into the Territory;
- (b) have a prohibited entrant in his or her possession or under his or her control;
- (c) release a prohibited entrant in the Territory; or
- (d) take a prohibited entrant out of the Territory,

unless the person is authorised to do so under this Act.

Penalty: In the case of a natural person – 100 penalty units or imprisonment for 12 months.

In the case of a body corporate – 500 penalty units.

"67C. Offences relating to areas of essential habitat

"(1) A person must not, either directly or indirectly, alter, damage or destroy an area or part of an area of essential habitat unless the person is authorised to do so under this Act.

Penalty: In the case of a natural person – 500 penalty units or imprisonment for 5 years.

In the case of a body corporate – 2,500 penalty units.

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"(2) A person must not take, interfere with or remove wildlife in or from an area of essential habitat unless the person is authorised to do so under this Act.

Penalty: In the case of a natural person – 500 penalty units or imprisonment for 5 years.

In the case of a body corporate – 2,500 penalty units.

"(3) A person must not, without being authorised to do so under this Act, have in his or her possession or under his or her control, or use, in a part of an area of essential habitat that is not a public or private road –

- (a) an article, thing, animal or plant specified in a declaration under section 37(6) as an article, thing or wildlife that may not be taken into an area of essential habitat without the written authority of the Director; or
- (b) any other article or thing that is –
 - (i) a kind of weapon that discharges a projectile; or
 - (ii) a kind of trap.

Penalty: In the case of a natural person – 50 penalty units or imprisonment for 6 months.

In the case of a body corporate – 250 penalty units.

"67D. Compliance with permit

"The following persons must not contravene or fail to comply with a permit:

- (a) the holder of the permit;
- (b) a nominee under the permit;
- (c) a person employed or otherwise engaged by the holder of the permit or a nominee under the permit to carry out activities under the permit.

Penalty: In the case of a natural person – 50 penalty units or imprisonment for 6 months.

In the case of a body corporate – 250 penalty units."

13. Drivers must comply with traffic signs

Section 69 of the Principal Act is amended by omitting "\$100" and substituting "5 penalty units".

14. By-laws

Section 71 of the Principal Act is amended –

- (a) by omitting from subsection (1A) "reserve or a sanctuary" and substituting "reserve or a sanctuary, other than fossicking,";
- (b) by omitting from subsection (2)(w) all the words from and including "as an alternative" to and including "otherwise punishable" and substituting "an amount prescribed by the by-laws instead of a penalty that may otherwise be imposed for the alleged contravention and for the service of a notice relating to the payment of the amount on the person and the particulars to be included in the notice";
- (c) by omitting from subsection (2)(zc) "and" (last occurring); and
- (d) by inserting after subsection (2)(zc) the following:
"(zca) providing for fossicking in parks and reserves; and".

15. Agreements regarding wildlife etc. on land occupied by Aboriginals

Section 73 of the Principal Act is amended –

- (a) by omitting subsection (1) and substituting the following:
"(1) If Aboriginals occupy an area of land or take and use wildlife from an area of land in accordance with Aboriginal tradition, the Commission may –
 - (a) assist or co-operate in; or
 - (b) enter into negotiations and finalise agreements relating to,
the management of the land to protect and conserve wildlife on the land and protect the natural features of the land with –
 - (c) subject to the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, an Aboriginal Land Council established under that Act in respect of the land; or
 - (d) any other organisation or body that controls or manages the land or in which the land is vested."; and
- (b) by inserting after subsection (1A) the following:
"(1B) An agreement under subsection (1) may provide for the granting of permits in relation to the taking and using of wildlife in accordance with Aboriginal tradition on the land to which the agreement relates.

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"(1C) The Commission must not take any action under subsection (1) in relation to land referred to in that subsection unless the Director has consulted with the Aboriginals who the Director is satisfied use the land in accordance with Aboriginal tradition."

16. Repeal

Section 75 of the Principal Act is repealed.

17. Repeal and substitution

Sections 93A and 93B of the Principal Act are repealed and the following substituted:

"93A. Function of conservation officers and honorary conservation officers

"It is the function of conservation officers and honorary conservation officers to assist the Director with the management of parks, reserves, sanctuaries and areas of essential habitat and with the conservation of wildlife.

"93B. Powers of conservation officers and honorary conservation officers

"(1) The Director must, by written notice, determine which of the powers conferred on conservation officers by or under this Act a conservation officer or class of conservation officer has and the conditions of the exercise of those powers.

"(2) The Director must, by written notice, determine which of the powers conferred on conservation officers by or under this Act an honorary conservation officer appointed under section 92(2) or (3) has and the conditions of the exercise of those powers.

"(3) A conservation officer or a honorary conservation officer appointed under section 92(2) or (3) –

- (a) may only exercise the powers determined in relation to him or her under subsection (1) or (2); and
- (b) must exercise his or her powers subject to the conditions determined under that subsection.

"(4) An honorary conservation officer who is a member of the Police Force of the Northern Territory has and may exercise, subject to the directions of the Commissioner of Police, the powers conferred on a conservation officer by or under this Act.

"93C. Compliance with Director's directions by officers

"The Director may give directions to a conservation officer or an honorary conservation officer appointed under section 92(2) or (3) in respect of the exercise

his or her powers and performance of his or her function and the conservation officer or honorary conservation officer must comply with those directions."

18. Identity cards

Section 94 of the Principal Act is amended by omitting from subsection (2) "\$100" and substituting "20 penalty units".

19. New section

Section 96 of the Principal Act is repealed and the following substituted:

"96. Search of premises and persons

"(1) In this section —

'enter' includes to board;

'premises' includes vacant land and vehicles;

'residential premises' means premises used exclusively or primarily for residential purposes and includes a private room in a motel, hotel or guesthouse while the room is occupied but does not include a private room in a motel, hotel or guesthouse if the room is unoccupied or any other part of a motel, hotel or guesthouse;

'vehicle' includes an aircraft and a vessel.

"(2) For the purposes of this section, a vehicle, substance or thing is connected with an offence if—

- (a) the offence has been committed with respect to the vehicle, substance or thing;
- (b) the vehicle, substance or thing will afford evidence of the commission of the offence; or
- (c) the vehicle, substance or thing was used, is being used or is intended to be used for the purpose of committing the offence.

"(3) For the purposes of the administration or enforcement of this Act, a conservation officer may—

(a) enter —

- (i) premises other than residential premises at any time of the day or night; or

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- (ii) any premises with the consent of the occupier or a person apparently in charge of the premises; and
- (b) enter premises under paragraph (a)(i) or (ii) with the assistance, and using the force, that is necessary and reasonable.

"(4) For the purpose of entering a vehicle under subsection (3), a conservation officer may require a person to stop or move the vehicle or to bring the vehicle to a place and remain in control of the vehicle until the conservation officer permits the vehicle to depart.

"(5) A conservation officer who enters premises under subsection (3) may do any of the following:

- (a) inspect or examine the premises or a substance or thing found in or on the premises;
- (b) break open and search furniture and fixtures, or boxes, packages and other containers, found in or on the premises;
- (c) take measurements of, or conduct tests in relation to, the premises or a substance or thing found in or on the premises;
- (d) take photographs, films or audio, video or other recordings of the premises or a substance or thing found in or on the premises;
- (e) take and remove from the premises samples for analysis of a substance or thing found in or on the premises;
- (f) if the premises entered are a vehicle – subject to subsection (9), seize the vehicle;
- (g) subject to subsection (9), seize a substance or thing found in or on the premises, including a vehicle;
- (h) in the case of a document found in or on the premises – take copies of or extracts from the document;
- (j) require a person in or on the premises to –
 - (i) answer questions or provide information;
 - (ii) make available documents kept on the premises; or
 - (iii) provide reasonable assistance to the conservation officer in relation to the exercise of his or her powers under this section.

"(6) A conservation officer –

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- (a) may require a person to stop, to state his or her name and address and to answer the questions put to the person by the officer; and
- (b) if the officer believes on reasonable grounds that the person –
 - (i) has committed, is committing or is about to commit an offence against this Act; or
 - (ii) is in possession of a substance or thing connected with an offence,

may require the person to accompany the officer to a place, at that place search the person and any bag or other container in the person's possession and, subject to subsection (9), seize a substance or thing found on the person or in the person's possession.

"(7) A search of a person under subsection (6) is to be conducted by –

- (a) if the person is female – a female conservation officer; or
- (b) if the person is male – a male conservation officer.

"(8) After taking a sample under subsection (5)(e) or seizing a vehicle, substance or thing under subsection (5)(f) or (g) or (6)(b), a conservation officer must give a receipt for the sample, vehicle, substance or thing to –

- (a) in the case of a sample taken under subsection (5)(e) or a vehicle, substance or thing seized under subsection (5)(f) or (g) –
 - (i) the occupier or a person apparently in charge of the premises; or
 - (ii) the person who the conservation officer reasonably believes was in possession of the sample, vehicle, substance or thing immediately before it was taken or seized; or
- (b) in the case of a substance or thing seized under subsection (6)(b) – the person searched.

"(9) A conservation officer may seize a vehicle, substance or thing under subsection (5)(f) or (g) or subsection (6)(b) if he or she has reasonable grounds for believing that –

- (a) the vehicle, substance or thing is connected with an offence against this Act; and
- (b) the seizure is necessary to prevent the vehicle, substance or thing from being –

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- (i) concealed, lost, damaged or destroyed; or
- (ii) used to commit the offence.

"(10) A conservation officer is not entitled –

- (a) to remain on premises entered by the conservation officer under subsection (5) if, on request by the occupier or a person apparently in charge of the premises, the conservation officer does not produce his or her identity card; or
- (b) to continue to do anything authorised under subsection (6) in respect of a person if, on request by the person, the conservation officer does not produce his or her identity card."

20. Repeal and substitution

Section 97 of the Principal Act is repealed and the following substituted:

"97. Power to inspect permits

"A conservation officer may require a person who is engaged or it appears is, has been or will be engaged in an activity for which a permit is required to show the conservation officer his or her permit or duplicate permit authorising the activity.

"97A. Person to comply with requirements of conservation officer etc.

"(1) A person must not –

- (a) refuse or fail to comply with a requirement of a conservation officer under section 96 or 97;
- (b) fail to answer a question put to him or her by a conservation officer; or
- (c) give an answer to a question put to him or her by a conservation officer that is false or misleading in a material particular.

Penalty: 50 penalty units or imprisonment for 6 months.

"(2) In subsection (1), 'conservation officer' includes an honorary conservation officer."

21. Repeal and substitution

Sections 110 and 111 of the Principal Act are repealed and the following substituted:

"110. Limitation of liability

"No civil or criminal liability is incurred by the Director, a member of the Commission, a conservation officer, an honorary conservation officer or any other officer or employee of the Commission for or in relation to an act or omission on his or her part done or made in good faith in or in connection with the performance or exercise, or purported performance or exercise, of his or her powers or functions under this Act.

"111. Recovery of expenses of Commission

"(1) Where the Commission enters land and incurs expenses in carrying out work on the land that the owner or occupier of the land was required to do under this Act, the Commission may recover the expenses reasonably incurred by the Commission from the owner or occupier of the land as a debt due and payable to the Commission.

"(2) An amount recoverable as a debt by virtue of subsection (1) is an overriding statutory charge within the meaning of the *Real Property Act* on the land to which it relates.

"(3) In subsection (2), 'amount' includes the interest, if any, that accrues on the amount."

22. Power to enter land

Section 112 of the Principal Act is amended –

- (a) by omitting from subsection (1) all words after "thinks fit," and substituting "to enter any land to –
 - (a) assess whether or not the land is suitable for reservation under this Act; or
 - (b) examine the wildlife located on the land for the purposes of –
 - (i) classifying the wildlife under section 29;
 - (ii) formulating and implementing a management program;
 - (iii) negotiating and entering into a co-operative management agreement;
 - (iv) declaring an area of essential habitat; or
 - (v) declaring a feral animal control area."; and
- (b) by omitting from subsections (3) and (4) "investigation" and substituting "assessment or examination".

23. Authorised destruction of feral animals in park etc.

Section 113 of the Principal Act is amended –

- (a) by omitting from subsection (1) "protected area" and substituting "area of essential habitat "; and
- (b) by omitting from subsection (1) "native animals" (wherever occurring) and substituting "wildlife".

24. Repeal and substitution

Section 114 of the Principal Act is repealed and the following substituted:

"114. Making of false statement

"A person must not, whether orally or in writing, wilfully make a false or misleading statement in connection with a matter under this Act.

Penalty: In the case of a natural person – imprisonment for 2 years.

In the case of a body corporate – 500 penalty units."

25. Averment in relation to parks etc.

Section 115 of the Principal Act is amended –

- (a) by omitting from paragraph (a) "sanctuary or protected area" and substituting "sanctuary or area of essential habitat";
- (b) by omitting from paragraph (b) "pest" and substituting "feral animal"; and
- (c) by omitting from paragraph (c) "sanctuary or protected area" and substituting "sanctuary or area of essential habitat".

26. New sections

The Principal Act is amended by inserting after section 115 the following:

"115A. Parties to offences committed outside Territory

"(1) A person in the Territory who is a party to an act done in a place outside the Territory that –

- (a) is an offence against a law in force in that place; and
- (b) if the act had been done in the Territory – would be an offence against this Act,

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is to be taken to have committed the offence against this Act and, if found guilty of that offence by virtue of this section, is liable to the same penalty and forfeiture as if the act had been done in the Territory.

"(2) Subsection (1) is to be construed so that, if the person has previously been found guilty of the offence against a law in force in the place outside the Territory, a court may not find him or her guilty of the offence against this Act.

"115B. Liability of permit holders and nominees for actions of others under permit

"(1) Where —

- (a) a nominee under a permit; or
- (b) a person employed or otherwise engaged by the holder of a permit or a nominee under a permit to carry out activities under the permit,

commits an offence against this Act while carrying out or purportedly carrying out activities under the permit, the holder of the permit is to be taken to have committed the same offence.

"(2) It is a defence to a prosecution for an offence committed by virtue of subsection (1) —

- (a) that the nominee or the person referred to in subsection (1)(b) would not have been found guilty of the offence because the nominee or person would have been able to establish a defence;
- (b) that the defendant did not know, and could not reasonably have been expected to know, that the offence was to be or was being committed; or
- (c) that the defendant exercised due diligence to prevent the commission of the offence.

"(3) Where a person employed or otherwise engaged by a nominee under a permit to carry out activities under the permit commits an offence against this Act while carrying out or purportedly carrying out activities under the permit, the nominee is to be taken to have committed the same offence.

"(4) It is a defence to a prosecution for an offence committed by virtue of subsection (3) —

- (a) that the person referred to in subsection (3) would not have been found guilty of the offence because the person would have been able to establish a defence;

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- (b) that the defendant did not know, and could not reasonably have been expected to know, that the offence was to be or was being committed; or
- (c) that the defendant exercised due diligence to prevent the commission of the offence.

"(5) A person may be prosecuted and found guilty of an offence by virtue of subsection (1) or (3) whether or not the nominee or the person referred to in subsection (1)(b) or (3) has been prosecuted for or found guilty of the offence.

"(6) A person is not liable to imprisonment if found guilty of an offence by virtue of subsection (1) or (3) if the person would not have been found guilty of the offence if subsection (1) or (3) had not been enacted.

"115C. Conduct of directors, employees and agents

"(1) Where, in a prosecution for an offence against this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to show --

- (a) that the conduct was engaged in by a director, employee or agent of the body corporate, or an employee or agent of the natural person, within the scope of his or her actual or apparent authority; and
- (b) that the director, employee or agent had that state of mind.

"(2) For the purposes of a prosecution for an offence against this Act, conduct engaged in on behalf of a body corporate or a natural person by a director, employee or agent of the body corporate, or an employee or agent of the natural person, within the scope of his or her actual or apparent authority is to be taken to have been engaged in also by the body corporate or the natural person.

"(3) A natural person is not liable to imprisonment for an offence against this Act if the person would not have been found guilty of the offence if subsection (1) or (2) had not been enacted.

"(4) A reference in this section to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.

"(5) A reference in this section to a director of a body corporate is to be read as including a reference to a member of a body corporate incorporated for a public purpose by a law of the Territory, the Commonwealth or a State or another Territory of the Commonwealth."

27. Repeal and substitution

Section 116 of the Principal Act is repealed and the following substituted:

"116. Royalties and advance payments etc.

"(1) The Minister may, by notice in the *Gazette*, determine for the Territory or a part of the Territory –

- (a) the manner in which; and
- (b) the rates at which,

royalties in respect of wildlife the property of the Territory taken under a permit are to be assessed.

"(2) A royalty assessed under subsection (1) is a debt due and payable to the Territory by the holder of the permit.

"(3) The Regulations may provide for –

- (a) the payment of prescribed amounts in advance by the holder of a permit and the crediting of amounts so paid towards royalties subsequently payable by the holder to the Territory;
- (b) the calculation of the amount to be paid to the Territory as royalties as a proportion of profits earned from commercial dealings in respect of wildlife and the deferral of the payment of those royalties; and
- (c) the payment of royalties owing to the Territory by –
 - (i) the provision of services of an equivalent value to or at the direction of the Territory; or
 - (ii) entering into a joint venture or a profit sharing agreement with the Territory the terms of which provide for the payment of royalties to the Territory by the provision of capital or services of the equivalent value or out of any profit made to or at the direction of the Territory."

28. Fees, charges etc.

Section 117 of the Principal Act is amended by omitting subsection (1)(b) and substituting the following:

"(b) grants a permit; or".

29. Repeal and substitution

Section 117A of the Principal Act is repealed and the following substituted:

"117A. Register

"(1) The Director must keep at the principal office of the Commission a register (in a form, including an electronic form, or a combination of forms as the Director thinks fit) in which is to be recorded the details of all of the following:

- (a) areas of essential habitat;
- (b) management programs;
- (c) classifications of wildlife under section 29;
- (d) feral animal control areas.

"(2) The Director must keep at the principal office of the Commission each of the following:

- (a) a copy of the classification of wildlife;
- (b) a list of threatened species;
- (c) a list of protected animals;
- (d) a list of feral animals;
- (e) a list of prohibited entrants;
- (f) a list of the species of vertebrates that are not indigenous to the Territory and that under section 52 are not prohibited entrants;
- (g) a copy of the declarations of areas of essential habitat and feral animal control areas;
- (h) a copy of the management programs.

"(3) A member of the public may inspect the register kept under subsection (1) or a document referred to in subsection (2) during the business hours of the principal office of the Commission."

30. Repeal and substitution

Section 122 of the Principal Act is repealed and the following substituted:

"122. Traditional use of land and water by Aboriginals

"(1) Nothing in or under this Act limits the right of Aboriginals who have traditionally used an area of land or water from continuing to use that area in accordance with Aboriginal tradition for hunting, food gathering (otherwise than for the purpose of sale) and for ceremonial and religious purposes.

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"(2) The operation and effect of this Act is subject to the *Native Title Act 1993* of the Commonwealth."

31. Regulations

Section 123 of the Principal Act is amended –

- (a) by omitting subsection (1)(aa) and (ab);
- (b) by omitting from subsection (2)(b) "protected area" and substituting "area of essential habitat";
- (c) by omitting subsection 2(c) and (d) and substituting the following:
 - "(c) prescribe fees, charges or royalties payable under this Act;
 - (d) prescribe the information to accompany an application for a permit;
or
 - (e) prescribe the terms or kinds of terms that may be included in management programs and co-operative agreements.";
- (d) by omitting from subsection (5) "a protected plant or specially protected plant" (wherever occurring) and substituting "protected wildlife"; and
- (e) by adding at the end the following:
 - "(6) The Regulations may –
 - (a) provide for the payment to the Commission of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against this Act 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;
 - (b) prescribe penalties, not exceeding 100 penalty units or, in the case of a body corporate, 500 penalty units for offences against the Regulations; or
 - (c) designate an offence against the Regulations as a regulatory offence."

32. New section

The Principal Act is amended by adding at the end the following:

"124. Acquisition on just terms

"If, but for this section, property is acquired under this Act (including as a result of an act done under a permit) otherwise than on just terms —

- (a) the person from whom the property is acquired is entitled to receive just compensation for the acquisition; and
- (b) a court of competent jurisdiction may determine the amount of the compensation or make the orders necessary to ensure that the compensation is on just terms."

33. Savings

(1) In this section, "Principal Act" means the *Territory Parks and Wildlife Conservation Act* as in force immediately before the commencement of this Act.

- (2) A licence or permit granted or issued under the Principal Act —
 - (a) continues in force until the time when it would have expired under the Principal Act; and
 - (b) is subject to and may be dealt with under the Principal Act as amended by this Act,

as if it were a permit granted under the Principal Act as amended by this Act.

(3) A declaration of a protected area under the Principal Act continues in force, subject to the Principal Act as amended by this Act, as if it were a declaration of an area of essential habitat under the Principal Act as amended by this Act.

(4) A declaration of a pest control area under the Principal Act continues in force, subject to the Principal Act as amended by this Act, as if it were a declaration of a feral control area under the Principal Act as amended by this Act.

(5) A notice given to an owner or occupier of land in a pest control area under section 38(1) of the Principal Act continues in force, subject to the Principal Act as amended by this Act, as if it were a notice given to the owner or occupier of land in a feral animal control area under section 49(1) of the Principal Act as amended by this Act.