

NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENT PROTECTION AUTHORITY ACT 2007

Act No. 24 of 2007

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 24 of 2007

Act to establish the Environment Protection Authority, and for related purposes

[Assented to 29 October 2007]
[Second reading 29 August 2007]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Environment Protection Authority Act 2007*.

2 Commencement

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

3 Definitions

In this Act:

Authority means the Environment Protection Authority established by section 4.

chairperson means the chairperson of the Authority.

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

Government Business Division, see the *Financial Management Act*.

member means a member of the Authority.

Part 2 Environment Protection Authority

Division 1 Establishment, functions, powers and independence

4 Establishment

The Environment Protection Authority is established.

5 Functions

(1) The Authority's functions are to give advice and make recommendations to the Territory, businesses and the community about ecologically sustainable development:

- (a) on a reference made by the Minister; or
- (b) on a reference:
 - (i) made by someone else in accordance with criteria and arrangements agreed with the Minister; and
 - (ii) accepted by the Authority; or
- (c) on its own initiative in accordance with criteria and arrangements agreed with the Minister.

(2) The following are examples of matters about which the advice or recommendation may be given or made:

- (a) achieving best practice environmental policy and management;
- (b) setting objectives, targets and standards for the public and private sectors;
- (c) reviewing practices and procedures of the public and private sectors;
- (d) legislation and its administration;
- (e) issues affecting the Territory's capacity to achieve ecologically sustainable development;
- (f) emerging environmental issues;

- (g) monitoring and evaluating cumulative impacts of development in the Territory.

6 Powers

- (1) The Authority may do all things necessary or convenient to enable it to perform its functions.
- (2) Without limiting subsection (1), the Authority may do the following:
 - (a) conduct the inquiries it considers appropriate;
 - (b) require the Chief Executive Officer of an Agency (other than a Government Business Division) to give it relevant information;
 - (c) ask a Government Business Division or non-government entity to give it relevant information.
- (3) The Authority may ask a person having special knowledge or experience relevant to a particular inquiry to help it conduct the inquiry.

7 How Authority acts

- (1) In exercising its powers and performing its functions, the Authority must consult with Agencies, businesses and the community in the way it considers appropriate.
- (2) In addition, the Authority must have regard to the following:
 - (a) the principles of ecologically sustainable development;
 - (b) the need to adopt objectives, targets and standards for environmental management that are:
 - (i) soundly and scientifically based; and
 - (ii) consistent with best practices;
 - (c) the need to promote integration, certainty and reduce duplication of government processes;
 - (d) the principle that decision making processes and frameworks should effectively integrate both long-term and short-term economic, environmental and social equity considerations;

- (e) the need to consider:
 - (i) the global dimension of environmental impacts of actions and policies; and
 - (ii) regional variations in the environment;
- (f) the need to develop a strong, growing and diversified economy and a well informed and engaged private sector that can enhance the capacity for protection of the environment;
- (g) the need to maintain and enhance international competitiveness in an environmentally sound way;
- (h) the need to adopt cost effective and flexible policy instruments, including, for example, improved valuation, pricing and incentive mechanisms;
- (i) the need to facilitate community involvement (reflecting the diversity of the community) relating to issues affecting the community;
- (j) the need to be transparent in information availability and decision making and to monitor and report on outputs and outcomes;
- (k) government economic policies and priorities for the Territory.

8 Independence

- (1) The Authority is not subject to the Minister's direction.
- (2) In particular, the Authority is not subject to the Minister's direction in relation to the preparation and contents of any advice or recommendation of the Authority.

Division 2 Membership

9 Composition

The Authority consists of at least 4 members but not more than 7 members.

10 Appointment

- (1) The Administrator may, by *Gazette* notice, appoint a person to

be a member.

- (2) The Administrator may appoint a person to be a member only if satisfied the person holds qualifications or experience that will help the Authority perform its functions.
- (3) In making an appointment, the Administrator must have regard to the following:
 - (a) the person's skills and knowledge, including skills and knowledge relating to regional and indigenous issues;
 - (b) the person's experience of environmental or business issues;
 - (c) the person's experience in working with the community.

11 Duration of appointment

A member holds office for the period, not exceeding 3 years, stated in the instrument of appointment.

12 Conditions of appointment

A member holds office on the conditions stated in the instrument of appointment.

13 Chairperson

The Minister must appoint a member to be the chairperson.

14 When member ceases to hold office

- (1) A member ceases to hold office if:
 - (a) the member resigns by giving written notice of resignation to the Minister; or
 - (b) the member's term of office comes to an end and the member is not re-appointed; or
 - (c) the member is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (d) the member is absent, except on leave granted by the Authority, from 3 consecutive meetings of the Authority; or
 - (e) the member is removed from office under subsection (2).

- (2) The Administrator may remove a member from office for:
- (a) mental or physical incapacity to carry out official duties satisfactorily; or
 - (b) neglect of duty; or
 - (c) breach of a condition of appointment; or
 - (d) dishonest or dishonourable conduct.

Division 3 Conduct of business

15 Holding meetings

- (1) The Authority must meet as often as is necessary for the exercise of its powers and the performance of its functions.
- (2) However, the Authority must meet at least 4 times in each year.
- (3) The chairperson must make appropriate arrangements for the Authority to meet.

16 Presiding member at meetings

- (1) The chairperson must preside at all meetings of the Authority at which he or she is present.
- (2) If the chairperson is absent from a meeting, the members present must elect a member to preside.

17 Procedures at meetings

- (1) A quorum of the Authority consists of a majority of members.
- (2) A question arising for decision at a meeting must be resolved according to the opinion of a majority of the members present at the meeting and, if they are equally divided in opinion, the chairperson has a casting vote.
- (3) The Authority must keep proper minutes of its proceedings and decisions.
- (4) Subject to this Part, the Authority may decide its own procedures.

18 Disclosure of interest

- (1) If a member has a direct or indirect interest in a matter being considered or about to be considered by the Authority, the member must disclose the nature of the interest at an Authority meeting as soon as practicable after the relevant facts come to the member's knowledge.
- (2) The disclosure must be recorded in the Authority's minutes.
- (3) The member must not, while having the interest:
 - (a) take part in any deliberation or decision of the Authority relating to the matter; or
 - (b) form part of the quorum of the Authority in any deliberation or decision of the Authority relating to the matter.
- (4) However, subsection (3) does not apply if the Authority resolves the subsection does not apply to the member.
- (5) Despite the resolution, the member may decline to take part in any deliberation or decision of the Authority relating to the matter.

Division 4 Authority staff

19 Status

Staff of the Authority must be public sector employees.

20 Staff subject to direction of members

Staff of the Authority are subject to the direction of a member in the performance of their duties.

Division 5 General

21 Guidelines

- (1) The chairperson may make guidelines about the Authority's administrative practices and procedures.
- (2) Without limiting subsection (1), the guidelines may provide for dealing with culturally sensitive or commercial information.
- (3) The guidelines must not be inconsistent with this Act.

22 Annual report

- (1) The Authority must, within 3 months after the end of each financial year, report to the Minister on the administration of this Act for the year.
- (2) The Minister must, within 6 sitting days after receiving the report, table a copy of it in the Legislative Assembly.

23 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith:
 - (a) in the exercise or purported exercise of a power as a member; or
 - (b) in the performance or purported performance of a function as a member.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

Part 3 Information availability**24 Availability of advice or recommendation**

- (1) When the Authority gives advice or makes a recommendation, it must give a copy of it to the Minister and make it available to the public in the way the Authority considers appropriate.
- (2) However, the Authority may withhold information if it is satisfied there are reasonable grounds for doing so.
- (3) In addition, before making the advice or recommendation available to the public, the Authority must give the Minister reasonable notice of its intention to do so.

25 Minister to notify Authority of decision on advice or recommendation

If the Authority gives advice or makes a recommendation to the Territory, the Minister must, as soon as practicable after a decision is taken on the advice or recommendation, give written notice to the Authority of the decision.

Part 4 Miscellaneous matters

26 Review of Act

The Minister must, within 5 years after the commencement of this Act:

- (a) review the operation of this Act; and
- (b) table a copy of the report of the review in the Legislative Assembly.

27 Regulations

The Administrator may make regulations under this Act.