

NORTHERN TERRITORY OF AUSTRALIA

PASTORAL LAND AMENDMENT ACT 2013

Act No. 29 of 2013

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 29 of 2013

An Act to amend the *Pastoral Land Act*

[Assented to 8 November 2013]
[Second reading 22 August 2013]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Pastoral Land Amendment Act 2013*.

2 Commencement

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

3 Act amended

This Act amends the *Pastoral Land Act*.

4 Section 3 amended

Section 3(1)

insert (in alphabetical order)

non-pastoral purpose, see section 85A(1).

NTA means the *Native Title Act 1993* (Cth).

permit, for Part 7, see section 85A(1).

5 Section 29 amended

After section 29(h)

insert

(ha) to consider and determine applications for permission to use pastoral land for a non-pastoral purpose in accordance with Part 7;

6 Sections 85A to 85D inserted

Before section 86, in Part 7

insert

85A Permit

- (1) The Board may, on application by a pastoral lessee, grant the lessee a *permit* to use all or part of the land the subject of the lessee's pastoral lease for a purpose that is not a pastoral purpose (a *non-pastoral purpose*).
- (2) The Board may issue guidelines for pastoral lessees in relation to the processes of application for a permit and the determination of the application.
- (3) The guidelines must be approved by the Minister.

85B Registration

- (1) A permit is a registrable instrument for the *Land Title Act*.
- (2) On granting a permit, the Board must lodge with the Registrar-General the required number of copies of the permit for registration.
- (3) On registration by the Registrar-General, a permit gives the pastoral lessee of the land to which the permit relates the right to use the land the subject of the lease for non-pastoral purposes to the extent specified in the permit.

85C Effect of permit on dealing with lease

To avoid doubt, if a permit is registered in relation to land held under a pastoral lease, any subsequent dealing with the lease (for example, by a transfer or an assignment) is of the lease and the permit unless the dealing specifically states otherwise.

85D Fee for permit

The Minister may determine fees payable, on an annual or other basis, for a permit to use pastoral land for a non-pastoral purpose.

7 Section 86 amended

(1) Section 86, heading

omit

permission

insert

permit

(2) Section 86(1)

omit, insert

- (1) A pastoral lessee who wishes to use all or part of the land the subject of a pastoral lease for a non-pastoral purpose may, in the form the Board requires, apply to the Board for a permit.

Note for subsection (1)

Section 87 sets out matters the Board must consider in relation to applications.

8 Sections 87 to 89 replaced

Sections 87 to 89

repeal, insert

87 Assessment of application

- (1) This section applies if:
- (a) the Board is considering an application under section 86(1) for a permit to use pastoral land for a non-pastoral purpose; and
 - (b) the grant of the permit would be a future act to which Part 2, Division 3, Subdivision G of the NTA applies.
- (2) The Board:
- (a) must comply with the requirements of Part 2, Division 3, Subdivision G of the NTA; and
 - (b) must take into account current government policy known to it in relation to the type of use proposed; and

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- (c) must consider the likely effect of the proposed use on the environment and the pastoral enterprise of the pastoral lessee; and
 - (ca) must take into account submissions received by the Board under section 87A within the period specified in the notice given under section 87A(3)(c); and
 - (d) may consider or take into account any other matters as it thinks fit.
- (3) For subsection (2)(b), the Minister may issue guidelines to the Board.
- (3A) The meeting of the Board at which the application is considered may be open to the public.
- (3B) If the meeting is to be open to the public, the Board must:
- (a) invite the applicant and any person who made a submission under section 87A to attend the meeting; and
 - (b) give any person attending the meeting a reasonable opportunity to address the Board.
- (4) In this section:

future act, see section 233 of the NTA.

87A Public notice of application

- (1) Before making a decision on an application the Board must give public notice of the application.
- (2) The notice must be published in a newspaper circulating in the area of the Territory where the pastoral lease is located and on the Board's website.
- (3) The notice must:
 - (a) give details of the application; and
 - (b) be in the form prescribed by regulation; and
 - (c) invite any person who is interested in doing so to make written submissions to the Board about the application within the time specified in the notice (which must be not less than 14 days after the date the notice is first published).

88 Decision of Board

- (1) After considering the matters specified in section 87(2), the Board may grant a permit for the use of pastoral land for a non-pastoral purpose.
- (2) The permit is subject to any conditions the Board thinks appropriate and specifies in the permit.

89 Term of permit

- (1) A permit has effect for the period, not exceeding 30 years, specified in the permit.
- (2) However, if a permit relates to land held under a term pastoral lease, the permit has effect only until the expiry of the lease, or the lesser period specified in the permit.

89A Extension of term of permit

- (1) A pastoral lessee may apply to the Board for the extension for a specified period of the term of a permit granted in relation to the pastoral land.
- (2) The application must be made in the approved form at least 2 years before the permit is due to expire.
- (3) In considering the application, the Board must have regard to:
 - (a) the conduct of the applicant in relation to the operation of the permit (including the extent to which the applicant has complied with the conditions of the permit); and
 - (b) the likely impact on the environment if the term of the permit was extended; and
 - (c) any other matter prescribed by regulation.
- (4) The Board must, by written notice to the applicant, decide the application by:
 - (a) extending the term of the permit for the specified period; or
 - (b) extending the term of the permit for a shorter period as decided by the Board; or
 - (c) refusing the application.
- (5) If the Board extends the term of the permit, the Board must lodge with the Registrar-General the required number of copies of the written notice of extension for registration.

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- (6) On registration by the Registrar-General of the written notice of extension, the term of the permit is extended for the period specified in the notice.
 - (7) If the Board has not decided the application before the permit ceases to have effect, the Board is taken to have refused the application.

89B Variation of permit – by Board

- (1) The Board may, on its own initiative, by written notice given to a pastoral lessee in relation to whose pastoral land a permit is in force, vary the permit if the Board considers the variation is appropriate, having regard to:
 - (a) the conduct of the lessee in relation to the operation of the permit (including the extent to which the lessee has complied with the conditions of the permit); and
 - (b) the likely impact on the environment if the variation were made; and
 - (c) whether the variation may result in:
 - (i) a use for a non-pastoral purpose becoming the dominant use of the pastoral land; or
 - (ii) Part 2, Division 3, Subdivision G of the NTA applying in relation to the variation; and
 - (d) any other matter prescribed by regulation.
- (2) The notice must specify the variation.
- (3) If the Board varies the permit, the Board must lodge with the Registrar-General the required number of copies of the written notice of variation for registration.
- (4) On registration by the Registrar-General of the written notice of variation, the permit is varied as specified in the notice.
- (5) A permit may be varied more than once under this section.
- (6) In this section:

variation, of a permit:

 - (a) includes a variation of the conditions of the permit; but
 - (b) does not include an extension of the term of the permit.

89C Variation of permit – on application by pastoral lessee

- (1) A pastoral lessee in relation to whose pastoral land a permit is in force may apply to the Board for a specified variation of the permit.
- (2) The application must be made in the approved form before the permit is due to expire.
- (3) In considering the application, the Board must have regard to:
 - (a) the conduct of the applicant in relation to the operation of the permit (including the extent to which the applicant has complied with the conditions of the permit); and
 - (b) the likely impact on the environment if the variation were made; and
 - (c) whether the variation may result in:
 - (i) a use for a non-pastoral purpose becoming the dominant use of the pastoral land; or
 - (ii) Part 2, Division 3, subdivision G of the NTA applying in relation to the variation; and
 - (d) any other matter prescribed by regulation.
- (4) The Board must, by written notice to the applicant, decide the application by:
 - (a) varying the permit as specified in the application; or
 - (b) varying the permit as specified in the application, but with specified changes made by the Board; or
 - (c) refusing the application.
- (5) If the Board varies the permit, the Board must lodge with the Registrar-General the required number of copies of the written notice of variation for registration.
- (6) On registration by the Registrar-General of the written notice of variation, the permit is varied as specified in the notice.
- (7) If the Board has not decided the application before the permit expires or otherwise ceases to have effect, the Board is taken to have refused the application.
- (8) A permit may be varied more than once under this section.

(9) In this section:

variation, of a permit:

- (a) includes a variation of the conditions of the permit; but
- (b) does not include an extension of the term of the permit.

89D Suspension of permit – by Board

(1) The Board may, on its own initiative, by written notice to a pastoral lessee in relation to whose pastoral land a permit is in effect, suspend the permit if the Board thinks the suspension is appropriate, having regard to:

- (a) the conduct of the lessee in relation to the operation of the permit (including the extent to which the lessee has complied with the conditions of the permit); and
- (b) any special circumstances giving rise to the need for the suspension (including, for example, an emergency); and
- (c) the likely impact on the environment if the permit were suspended; and
- (d) any other matter prescribed by regulation.

(2) The notice must specify:

- (a) the reason for the suspension; and
- (b) the period of the suspension (the *suspension period*).

(3) Before the end of the suspension period, the Board may, by written notice given to the pastoral lessee:

- (a) extend the suspension period; or
- (b) revoke the permit under section 89E; or
- (c) reinstate the permit.

(4) A permit may be suspended more than once under this section.

89E Revocation of permit – by Board

(1) The Board may, on its own initiative, if the Board considers that a permit should be revoked, by written notice to the pastoral lessee in relation to whose pastoral land the permit is in effect, give the lessee the opportunity to give reasons to the Board why the permit should not be revoked.

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- (2) The notice must specify:
 - (a) a reasonable time (the *response time*) by which the pastoral lessee must provide the reasons; and
 - (b) if the notice has been given because the Board considers the lessee has contravened this Act in relation to the permit or pastoral lease:
 - (i) details of the contravention; and
 - (ii) if the contravention can be remedied – that the lessee must take specified actions to remedy the contravention within a reasonable period as specified in the notice.
 - (3) After the expiry of the response time, the Board may revoke the permit if it thinks it appropriate, having had regard to:
 - (a) whether or not the pastoral lessee has taken appropriate actions that will remedy a contravention (including, for example, actions mentioned in subsection (2)(b)(ii)); and
 - (b) any reasons given by the lessee under subsection (1); and
 - (c) the likely impact on the environment if the permit were revoked; and
 - (d) any other matter prescribed by regulation.
 - (4) If the Board revokes the permit, the Board must lodge with the Registrar-General the required number of copies of the written notice of revocation for registration.
 - (5) On registration by the Registrar-General of the written notice of revocation, the permit ceases to have effect.

89F Suspension or revocation of permit – on application by pastoral lessee

- (1) A pastoral lessee in relation to whose pastoral land a permit is in force may apply to the Board for:
 - (a) the suspension of the permit for a specified period; or
 - (b) the revocation of the permit.
- (2) The application must be made in the approved form.

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- (3) In considering the application, the Board must have regard to:
 - (a) any special circumstances giving rise to the need for the suspension or revocation (including, for example, an emergency); and
 - (b) the likely impact on the environment if the decision to suspend or revoke the permit were made; and
 - (c) any other matter prescribed by regulation.
 - (4) The Board must, by written notice given to the applicant, decide the application by:
 - (a) approving the application by suspending or revoking the permit; or
 - (b) refusing the application.
 - (5) A permit may be suspended more than once under this section.
 - (6) If the Board revokes the permit, the Board must lodge with the Registrar-General the required number of copies of the written notice of revocation for registration.
 - (7) On registration by the Registrar-General of the written notice of revocation, the permit ceases to have effect.

89G If permit revoked

- (1) If the Board revokes a permit under section 89E or 89F, the pastoral lessee of the land in relation to which the permit had been granted must comply with the reasonable written directions of the Board in relation to removal of any impact on the land arising from the carrying on of the use for a non-pastoral purpose.
- (2) A failure to comply with a direction mentioned in subsection (1) is an offence.

Maximum penalty: 500 penalty units and 10 penalty units for each day during which the offence continues.

9 Act further amended

The Schedule has effect.

Schedule Pastoral Land Act further amended

section 9

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 90(1)	shall	must
section 90(2)(b)	the permission of the Board	a permit
