



# NORTHERN TERRITORY OF AUSTRALIA

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No. 7 of 1988

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## AN ACT

to amend the *Territory Parks and  
Wildlife Conservation Act*

[Assented to 21 March 1988]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

### 1. SHORT TITLE

This Act may be cited as the *Territory Parks and Wildlife Conservation Amendment Act 1988*.

### 2. COMMENCEMENT

This Act shall come into operation on a date to be 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. INTERPRETATION

Section 9 of the Principal Act is amended -

(a) by inserting after the definition of "Police Force" the following:

"'progeny' means the offspring of an animal and includes live ova and live sperm and an animal in an egg or in an embryonic form;"

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- (b) by inserting after the definition of "sanctuary" the following:

"'specially protected animal' means an animal declared by the Regulations to be a specially protected animal;"; and

- (c) by inserting after the definition of "State" the following:

"'take', in relation to an animal, means to hunt, catch, restrain or kill, or attempt or assist to hunt, catch, restrain or kill, the animal;".

5. PROTECTED ANIMALS

The Principal Act is amended by inserting after section 26(1) the following:

"(1A) A protected animal remains a protected animal whether or not the property in that animal is vested in the Territory."

6. NEW SECTION

The Principal Act is amended by inserting after section 26 the following:

"26A. SPECIALLY PROTECTED ANIMALS

"(1) Every specially protected animal is a protected animal and, notwithstanding anything to the contrary in this Act or the Regulations, remains a protected animal throughout the whole of the Territory at all times.

"(2) The maximum penalty to which a person is liable for an offence, under section 25F or under this Part, in relation to a specially protected animal, is twice that to which the person would be otherwise liable if the animal were a protected animal but not a specially protected animal.

"26B. PROPERTY IN WILDLIFE

"(1) Subject to sections 43(1A) and (1B) and 43A(3) and (4), a protected animal becomes the property of the Territory at the moment when it is caught, restrained, killed, injured, bought or obtained, or sold or otherwise disposed of, by a person.

"(2) Subject to sections 43(1A) and (1B) and 43A(3) and (4), the progeny of a protected animal, which protected animal has become the property of the Territory under subsection (1) and has not been lawfully transferred, is the property of the Territory.

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"(3) An animal, or part or product of an animal, referred to in subsection (1) or (2) remains the property of the Territory until lawfully transferred in accordance with a permit issued under section 43(1)(e).

"(4) No action or proceeding shall lie against the Territory for or in respect of any damage or injury caused by a protected animal the property of the Territory unless that damage or injury is due to a failure to take reasonable care on the part of a servant of the Territory who has, or is responsible for, the control of the animal."

7. TAKING OF PROTECTED ANIMAL

Section 29 of the Principal Act is amended -

- (a) by omitting from subsection (1) "kill" and substituting "take";
- (b) by omitting from subsection (1) "limitations of" and substituting "limitations of the Regulations,"; and
- (c) by omitting from subsection (2) "killing" and "killed" (wherever occurring) and substituting "taking" and "taken" respectively.

8. REGULATIONS

Section 42(1) of the Principal Act is amended:

- (a) by omitting from paragraph (b) "and";
- (b) by omitting from paragraph (c) "section 34." and substituting "section 34; and"; and
- (c) by adding at the end the following:  
"(d) the catching or restraining without a permit of a protected animal."

9. PERMITS - PROTECTED ANIMALS

Section 43 of the Principal Act is amended -

- (a) by omitting from subsection (1) "The Director" and substituting "Subject to subsection (4), the Director";
- (b) by omitting from subsection (1)(a) "kill" and substituting "take";
- (c) by omitting from subsection (1)(b) "an egg" and substituting "an egg of such an animal;";
- (d) by omitting from subsection (1)(c) "take an action" and substituting "do an act";

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- (e) by omitting from subsection (1)(d) "wildlife;" and substituting "wildlife; or";
- (f) by inserting after subsection (1)(d) the following:
  - "(e) to possess, buy, use, sell, barter, offer for sale or barter, farm, breed, obtain or dispose of -
    - (i) a protected animal; or
    - (ii) any egg, flesh, skin, bone, horn, shell or other part or product of a protected animal.";
- (g) by inserting after subsection (1) the following:
  - "(1A) A person who sells or disposes of a protected animal or a part or product of a protected animal in accordance with a permit issued under subsection (1)(e) -
    - (a) shall be deemed to pass the property in the animal or part or product of the animal but where the permit provides that the property shall pass at a specified time or on the occurrence of a specified event, the property shall be deemed to pass accordingly; and
    - (b) is entitled, subject to any other law in force in the Territory (including the common law), to any money, credit or other consideration obtained for such sale or disposal.
  - "(1B) A person who buys or obtains a protected animal or part or product of a protected animal in a transaction referred to in subsection (1A) acquires the property in the animal or the part or product of the animal when the property in it shall, under that subsection, be deemed to pass."; and
- (h) by adding at the end the following:
  - "(4) A permit shall not be issued under this section in relation to a specially protected animal or a part or product of such an animal."

10. NEW SECTION

The Principal Act is amended by inserting after section 43 the following:

"43A. PERMITS - SPECIALLY PROTECTED ANIMALS

"(1) The Commission may issue a permit to a person, or to a person and his servants and agents -

- (a) to take a specially protected animal;

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- (b) to take an egg of a specially protected animal;
- (c) to do an act in relation to a specially protected animal that, but for the permit, would be an offence against section 31(1), 33 or 34;
- (d) to obtain, possess, use, farm or breed a specially protected animal; or
- (e) to use, buy, sell, barter, offer for sale or barter, obtain or dispose of any egg, flesh, skin, bone, horn, shell or other part or product of a specially protected animal.

"(2) A permit issued under this section may be issued subject to terms, conditions and limitations.

"(3) A person who sells or disposes of a part or product of a specially protected animal in accordance with a permit issued under subsection (1)(e) -

- (a) shall be deemed to pass the property in the part or product of the animal but when the permit provides that the property shall pass at a specified time or on the occurrence of a specified event, the property shall be deemed to pass accordingly; and
- (b) is entitled, subject to any other law in force in the Territory (including the common law), to any money, credit or other consideration obtained for such sale or disposal.

"(4) A person who buys or obtains a part or product of an animal in a transaction referred to in subsection (3) acquires the property in the part or product of the animal when the property in it shall, under that subsection, be deemed to pass.

"(5) The Commission shall have regard, in considering whether to issue a permit under this section, and any terms, conditions and limitations to which it shall be subject -

- (a) to the likely effect of the issue of the permit on the population of any species of animal in the Territory and to the protection of that species; and
- (b) to the obligations imposed on the Commonwealth and the Territory, in respect of that species, by any treaty or other international agreement.

"(6) The Commission may, at any time, by notice in writing served on the holder of a permit -

- (a) revoke the permit; or

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- (b) vary the terms, conditions and limitations of the permit."

11. REGULATIONS

Section 123(2) of the Principal Act is amended -

- (a) by omitting from paragraph (a) "aviaries; and" and substituting "aviaries;";
  - (b) by omitting from paragraph (b) "nature." and substituting "nature;"; and
  - (c) by adding at the end the following:  
"(c) specify terms, conditions and limitations to which the issue of permits under this Act shall be subject; and
  - (d) limit the persons to whom permits may be issued."
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