

NORTHERN TERRITORY OF AUSTRALIA

CONSERVATION COMMISSION ACT

No. 13 of 1980

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THE NORTHERN TERRITORY OF AUSTRALIA

No. 13 of 1980

AN ACT

To establish a Conservation Commission to assist in the conservation and protection of the environment and for related purposes

[Assented to 13 March 1980]

BE 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:

PART I - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the Conservation Commission Act 1980.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.

3. DEFINITIONS

In this Act, unless the contrary intention appears -

"Aboriginal" means a person who is a member of the Aboriginal race of Australia;

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

"Commission" means the Conservation Commission of the Northern Territory established by this Act;

"Corporation" means the Conservation Land Corporation established by this Act;

"Deputy Director" means the Deputy Director of Conservation appointed under section 4 and includes a person acting as Deputy Director;

"Director" means the Director of Conservation appointed under section 4 and includes a person acting as Director;

"member" means a member of the Commission and includes an acting member;

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"public servant" means an employee within the meaning of the Public Service Act.

PART II - DIRECTOR OF CONSERVATION

4. APPOINTMENT OF DIRECTOR

(1) The Minister may appoint a public servant to be the Director of Conservation.

(2) The Minister may appoint a public servant to be the Deputy Director of Conservation.

(3) The Deputy Director, while he remains in office, shall have and may exercise, perform and discharge, subject to the control and direction of the Director, all the functions, powers, authorities, discretions, rights and duties of the Director and all references in this or in any other Act to the Director shall, so far as may be necessary for the purpose of giving effect to the provisions of this section, be read as including a reference to the Deputy Director.

(4) Where the Director or Deputy Director is absent from duty or from the Territory the Minister may appoint a public servant to act as Director or Deputy Director during the absence.

5. FUNCTIONS OF DIRECTOR

The functions of the Director are -

- (a) to represent the Commission;
- (b) to execute the policy decisions of the Commission; and
- (c) such other functions as are conferred on him by this Act or any other Act.

6. POWERS OF DIRECTOR

Subject to this Act, the Director has power to do all things that are necessary or convenient to be done for or in connection with, or incidental to, the performance of his functions.

7. DELEGATION

(1) The Director may, by instrument in writing, delegate any of his powers and functions except this power of delegation.

(2) A delegation under sub-section (1) may be made generally or for any particular case or class of cases specified in the instrument of delegation.

(3) A power or function delegated under this section may be exercised or performed in accordance with the terms of the delegation, by the person to whom the delegation is made.

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(4) A delegation under sub-section (1) is revocable at will and does not prevent the exercise of a power or the performance of a function by the Director.

(5) All references to the Director in this Act or any other Act shall, so far as may be necessary to give effect to a delegation under this section, be read as including a reference to the person to whom the delegation has been made.

8. DIRECTION OF THE MINISTER

The Director, in the performance of his functions and the exercise of his powers, is subject to the direction of the Minister.

PART III - CONSERVATION COMMISSION OF THE NORTHERN TERRITORY

9. ESTABLISHMENT OF COMMISSION

(1) There is hereby established a commission by the name of the Conservation Commission of the Northern Territory.

(2) The Commission -

(a) is a body corporate with perpetual succession;

(b) shall have a common seal; and

(c) is capable in its corporate name of suing and being sued.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall assume that it was duly affixed.

10. MEMBERSHIP OF COMMISSION

(1) The Commission shall consist of 8 members.

(2) The Director and Deputy Director shall be members.

(3) Not less than 2 members shall be Aboriginals domiciled in the Territory.

11. APPOINTMENT OF MEMBERS

(1) Subject to sub-section (2), the Minister may, by notice in the Gazette, appoint a person to be a member.

(2) Prior to an appointment of a member referred to in section 10(3), other than an appointment under section 15(1), the Minister shall, in writing, request each Land Council established under the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth to nominate to him, in writing, the names of 2 persons who are qualified to be members under section 10(3) and who are willing to serve as members.

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(3) The exercise of a power or the performance of a function of the Commission is not affected by reason only of there being a vacancy in its membership.

12. TERM OF OFFICE OF MEMBER

(1) Subject to this Act, a member of the Commission, other than the Director or Deputy Director, holds office until the expiration of such period, not exceeding 3 years, as is specified in his instrument of appointment, but is eligible for reappointment.

(2) Where a period of appointment is not specified in the instrument of appointment of a member, other than the Director or Deputy Director, the member holds office, subject to this Act, for 3 years.

13. RESIGNATION OF MEMBER

A member may resign his office by writing signed by him and delivered to the Minister.

14. TERMINATION OF APPOINTMENT

(1) The Minister may terminate the appointment of a member for inability, inefficiency, misbehaviour, physical or mental incapacity or failure to comply with section 17.

(2) If a member -

(a) is absent, except on leave granted by the Commission, from 3 consecutive meetings of the Commission; or

(b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Minister shall terminate the appointment of the member.

15. ACTING APPOINTMENTS

(1) Where a member, other than the Director or Deputy Director, is or is expected to be absent from duty or from the Territory, the Minister may appoint a person to act as a member during the absence.

(2) If an appointment under sub-section (1) is to replace a member referred to in section 10(3), the person appointed shall be an Aboriginal domiciled in the Territory.

(3) The Minister may, at any time, terminate an appointment made under this section.

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(4) The validity of a decision of the Commission shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

16. CHAIRMAN

(1) The Director or, in his absence, the Deputy Director shall be Chairman at all meetings of the Commission.

(2) In the absence of the Director and Deputy Director the members present at a meeting shall elect an Acting Chairman and that person may exercise the powers and perform the duties of the Chairman for that meeting.

17. MEMBER NOT TO ACT WHERE INTERESTED

(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which he is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the Commission and the member -

- (a) shall not, while he has that interest, take part after the disclosure in any deliberation or decision of the Commission in relation to that matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Commission in relation to that matter.

18. MEETINGS OF COMMISSION

(1) The Director shall call such meetings of the Commission as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 3 months.

(2) The Director shall, within 7 days after he receives a request to do so from not less than 3 members, call a meeting of the Commission.

(3) The Minister may, at any time, direct the Director to convene a meeting of the Commission and the Director shall convene a meeting accordingly.

(4) At a meeting of the Commission -

- (a) 4 members constitute a quorum;

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- (b) questions arising shall be determined by a majority of the votes of the members present and voting;
- (c) the Chairman has a deliberative vote and, in the event of an equality of votes, also has a casting vote; and
- (d) subject to this Act, the Commission shall determine the procedure to be followed at or in connection with the meeting.
- (5) The Commission shall keep records of its meetings.

19. FUNCTIONS OF COMMISSION

The functions of the Commission are to -

- (a) promote the conservation and protection of the natural environment of the Territory;
- (b) establish and manage parks, reserves and sanctuaries;
- (c) undertake and assist in education concerned with, and research into, matters relating to the environment;
- (d) assist in soil conservation;
- (e) assist in the development of environmental impact studies;
- (f) monitor and assist in the management of the impact of development on the environment;
- (g) co-operate with and assist any person, (including the owners of Aboriginal land) organization or government authority in matters relating to the environment; and
- (h) carry out such other functions as are conferred on it by this Act or any other Act.

20. POWER OF COMMISSION

(1) Subject to section 22, the Commission has power to do all things necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

(2) Without limiting the generality of sub-section (1), the Commission may, for the purpose of carrying out its functions and exercising its powers, including the powers conferred on it elsewhere in this Act -

- (a) enter into contracts;
- (b) erect buildings and structures and carry out works;
- (c) acquire, hold and dispose of personal property or an interest in personal property;

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(d) accept gifts and bequests made to the Commission whether in trust or otherwise and act as trustees of moneys and other property vested in the Commission upon trust; and

(e) occupy, use and control any land or building owned or leased by the Territory and made available to the Commission.

21. COMMISSION NOT TO ACQUIRE REAL PROPERTY

The Commission shall not acquire or hold any estate or interest in real property.

22. DIRECTION OF THE MINISTER

The Commission, in the performance of its functions and the exercise of its powers, is subject to the direction of the Minister.

23. DELEGATION

(1) The Commission may, from time to time by resolution, delegate such of its powers and functions, other than this power of delegation, as are specified in the resolution, to a member of the Commission or to an employee.

(2) A delegation under sub-section (1) may be made generally or for any particular case or class of cases specified in the instrument of delegation.

(3) A power or function delegated under this section may be exercised or performed, in accordance with the terms of the delegation, by the person to whom the delegation is made.

(4) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Commission.

(5) All references to the Commission in this Act or any other Act shall, so far as may be necessary to give effect to a delegation under this section, be read as including a reference to the person to whom the delegation has been made.

24. EMPLOYMENT BY COMMISSION

(1) The Commission may employ, on such terms and conditions as it thinks fit, persons it thinks necessary for the purposes of the Commission.

(2) In relation to persons employed by the Commission other than under sub-section (1), the Commission shall be a prescribed authority within the meaning of the Public Service Act.

25. CONSULTANTS TO COMMISSION

The Commission may engage consultants and may make arrangements to be provided with such advice relating to its functions as it thinks fit.

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PART IV - CONSERVATION LAND CORPORATION

26. DEFINITION OF MEMBER

In this Part, "member" means a person appointed under section 30(2) to be a member of the Corporation.

27. ESTABLISHMENT OF CORPORATION

(1) There is hereby established a body corporate by the name of the Conservation Land Corporation.

(2) The Corporation is -

(a) a body corporate with perpetual succession and a common seal; and

(b) capable, in its corporate name, of -

(i) subject to this Act, acquiring, holding and disposing of real and personal property; and

(ii) suing and being sued.

28. JUDICIAL NOTICE OF SEAL

All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Corporation affixed to a document and shall presume that it was duly affixed.

29. CORPORATION NOT AUTHORITY

(1) The Corporation is not an authority or instrumentality of the Crown and is not, for the purposes of the Interpretation Act or the Financial Administration and Audit Act, a statutory corporation.

(2) The Corporation is not subject to the control and direction of the Minister or the Crown.

30. MEMBERSHIP OF CORPORATION

(1) The Corporation shall consist of not less than 2 members.

(2) The Minister may, by notice in the Gazette, appoint a person to be a member.

(3) The exercise of a power or the performance of a function of the Corporation is not affected by reason only of there being a vacancy in its membership.

31. RESIGNATION OF MEMBER

A member may resign his office by writing signed by him and delivered to the Minister.

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32. TERMINATION OF APPOINTMENT

(1) The Minister may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity.

(2) If a member -

(a) is absent, except on leave granted by the Corporation, from 3 consecutive meetings of the Corporation;

(b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(c) fails to comply with section 37,

the Minister shall terminate the appointment of the member.

33. CHAIRMAN

The Minister may, by notice in the Gazette, appoint a person to be the Chairman of the Corporation.

34. DATE OF APPOINTMENT

An appointment under section 33 shall take effect from -

(a) the date of publication of the notification; or

(b) if there is a later date specified in the notification - that later date.

35. MEMBER NOT PERSONALLY LIABLE

A member or person acting with the authority of the Corporation is not personally liable in respect of any matter or thing done, or contract entered into -

(a) by the Corporation; or

(b) by that person,

if the matter or thing was done, or the contract was entered into, in good faith for the purpose of executing this Act or any other Act conferring or imposing functions on the Corporation.

36. MEMBER SHALL NOT DISCLOSE INFORMATION

A member shall not disclose any information obtained in the course of his duties as such a member unless that disclosure is made in the course of his duty as such a member.

Penalty: \$3,000 or imprisonment for 3 months.

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37. MEMBER NOT TO ACT WHERE INTERESTED

(1) If a member has a direct or indirect interest in any matter -

(a) which is the subject of consideration at a meeting of the Corporation; or

(b) in which the Corporation is concerned,

he shall, as soon as possible after he knows that he has the interest and that the Corporation is considering the matter, disclose his interest to the Corporation.

(2) The Corporation may direct a member who has disclosed an interest in a matter under sub-section (1) to refrain from taking part in the deliberations of the Corporation in relation to that matter, and the member shall comply with the direction.

Penalty: \$1,000.

38. PROCEDURE

The Corporation may, subject to this Act, determine its own procedures.

39. FUNCTION OF CORPORATION

(1) The function of the Corporation is to acquire, hold and dispose of real property (including any estate or interest in real property) in accordance with this Act and it may acquire and hold such property, notwithstanding any other law in force in the Territory which would restrict or otherwise limit the capacity of the Corporation to acquire and hold such property.

(2) The Corporation has power to do all things necessary or convenient to be done for or in connection with or incidental to the carrying out of its function.

(3) Any moneys payable by the Corporation for or incidental to the acquisition of any estate or interest in real property may be advanced by the Commission on such terms and conditions as the Commission thinks fit.

(4) Any moneys payable to the Corporation in respect of any estate or interest in real property held or disposed of by the Corporation shall be paid to the Commission, whose receipt shall be a sufficient discharge therefor, and any moneys payable by the Corporation in respect of any estate or interest in real property held by the Corporation may be paid by the Commission.

(5) Notwithstanding anything contained in the Stamp Duty Act, no stamp duty shall be payable on any instrument by which any property or interest is granted or assured to or vested in the Corporation.

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(6) The Commission has the care, control and management of all land acquired by the Corporation.

PART V - MISCELLANEOUS

40. COMMISSION IS PRESCRIBED STATUTORY CORPORATION

For the purposes of the Financial Administration and Audit Act the Commission is a prescribed statutory corporation.

41. ANNUAL REPORT

The Commission shall forward to the Minister as soon as practicable after 30 June in each year a report on the operation of the Commission during the preceding year.

42. REGULATIONS

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.