

NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENT LEGISLATION AMENDMENT ACT 2021

Act No. 22 of 2021

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 22 of 2021

An Act to amend the *Bushfires Management Act 2016*, the *Environment Protection (Beverage Containers and Plastic Bags) Act 2011*, the *Environmental Offences and Penalties Act 1996*, the *Litter Act 1972*, the *Northern Territory Environment Protection Authority Act 2012*, the *Pastoral Land Act 1992*, the *Waste Management and Pollution Control Act 1998* and the *Waste Management and Pollution Control (Administration) Regulations 1998*

[Assented to 18 November 2021]

[Introduced 22 September 2021]

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 Legislation Amendment Act 2021*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 27 September 2023, it commences on that day.

Part 2 Amendment of Bushfires Management Act 2016

3 Act amended

This Part amends the *Bushfires Management Act 2016*.

4 Section 5 replaced

Section 5

repeal, insert

5 Public Notice

For this Act, a person gives **public notice** of a matter by publishing notice of the matter:

- (a) in a newspaper circulating in the Territory or in the part of the Territory to which the matter relates; or
- (b) on a radio or television station broadcasting in the Territory or in the part of the Territory to which the matter relates; or
- (c) on roadside message boards in the Territory or in the part of the Territory to which the matter relates; or
- (d) on the Internet; or
- (e) in any other manner as the executive director considers appropriate.

5 Section 68 amended (Requirement to establish firebreaks)

Section 68(1), before "firebreak"

insert

prescribed

6 Section 70 replaced

Section 70

repeal, insert

70 Property fire management plans within fire protection zone

- (1) The executive director may do any of the following:
 - (a) conduct a risk assessment of land within a fire protection zone;
 - (b) direct a fire control officer or other person to conduct a risk assessment of land within a fire protection zone;
 - (c) by written notice given to the owner or occupier of land within a fire protection zone, require the owner or occupier to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land;
 - (d) prepare a property fire management plan for land within a fire protection zone and give it to the owner or occupier of the land.
- (2) In determining whether to do any of the things permitted under subsection (1), the executive director may consider any factors the executive director considers relevant.
- (3) Without limiting subsection (2), the executive director may consider:
 - (a) previous non-compliance by the owner or occupier of the land with their obligations under this Act; and
 - (b) the likely scale and urgency of the risk of fire to human safety or the environment.
- (4) A property fire management plan prepared under this section must specify adequate arrangements for the mitigation, management and suppression of fire on the land.
- (5) If an owner or occupier of land is given notice under subsection (1)(c) and the submitted plan is not, in the opinion of the executive director, adequate, the executive director may return the plan to the owner or occupier to make the amendments required by the executive director.

- (6) The executive director, a fire control officer or a person directed by the executive director may enter land within a fire protection zone to carry out a risk assessment as permitted by this section.
- (7) If a property fire management plan requires the doing of a specified act by the owner or occupier of the land within a specified period and the owner or occupier fails to do the act within that period, the executive director may authorise, in writing, a person to:
 - (a) enter the land, with or without equipment and machinery; and
 - (b) do the act required to be done.
- (8) The cost to the Territory of work carried out under subsection (7) is:
 - (a) a debt due and payable to the Territory; and
 - (b) a statutory charge on the land.

70A Offences about property fire management plans within fire protection zone

- (1) A person commits an offence if:
 - (a) the person is the owner or occupier of land, within a fire protection zone, to which a fire management plan applies; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in contravention of the fire management plan and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.
- (4) A person commits an offence if:
 - (a) the person is the owner or occupier of land within a fire protection zone; and
 - (b) the person is given written notice under section 70(1)(c) requiring the person to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land; and
 - (c) the person intentionally engages in conduct; and

-
- (d) the conduct results in contravention of the written notice and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (5) Strict liability applies to subsection (4)(a) and (b).
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

7 Section 81 replaced

Section 81

repeal, insert

81 Property fire management plans within fire management zone

- (1) The executive director may do any of the following:
- (a) conduct a risk assessment of land within a fire management zone;
 - (b) direct a fire control officer or other person to conduct a risk assessment of land within a fire management zone;
 - (c) by written notice given to the owner or occupier of land within a fire management zone, require the owner or occupier to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land;
 - (d) prepare a property fire management plan for land within a fire management zone and give it to the owner or occupier of the land.
- (2) In determining whether to do any of the things permitted under subsection (1), the executive director may consider any factors the executive director considers relevant.
- (3) Without limiting subsection (2), the executive director may consider:
- (a) previous non-compliance by the owner or occupier of the land with their obligations under this Act; and
 - (b) the likely scale and urgency of the risk of fire to human safety or the environment.

- (4) A property fire management plan prepared under this section must specify adequate arrangements for the mitigation, management and suppression of fire on the land.
- (5) If an owner or occupier of land is given notice under subsection (1)(c) and the submitted plan is not, in the opinion of the executive director, adequate, the executive director may return the plan to the owner or occupier to make the amendments required by the executive director.
- (6) The executive director, a fire control officer or a person directed by the executive director may enter land within a fire management zone to carry out a risk assessment as permitted by this section.
- (7) If a property fire management plan requires the doing of a specified act by the owner or occupier of the land within a specified period and the owner or occupier fails to do the act within that period, the executive director may authorise, in writing, a person to:
 - (a) enter the land, with or without equipment and machinery; and
 - (b) do the act required to be done.
- (8) The cost to the Territory of work carried out under subsection (7) is:
 - (a) a debt due and payable to the Territory; and
 - (b) a statutory charge on the land.

81A Offences regarding property fire management plans within fire management zone

- (1) A person commits an offence if:
 - (a) the person is the owner or occupier of land, within a fire management zone, to which a fire management plan applies; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in contravention of the fire management plan and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

(4) A person commits an offence if:

- (a) the person is the owner or occupier of land within a fire management zone; and
- (b) the person is given written notice under section 81(1)(c) requiring the person to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land; and
- (c) the person intentionally engages in conduct; and
- (d) the conduct results in contravention of the written notice and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(5) Strict liability applies to subsection (4)(a) and (b).

(6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

8 Section 84 replaced

Section 84

repeal, insert

84 Property fire management plans within fire management area

(1) The executive director may do any of the following:

- (a) by public notice, require each owner or occupier of land within a fire management area to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan;
- (b) conduct a risk assessment of land within a fire management area;
- (c) direct a fire control officer, or another person, to conduct a risk assessment of land within a fire management area;
- (d) by written notice given to the owner or occupier of land within a fire management area, require the owner or occupier to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land;

- (e) prepare a property fire management plan for land within a fire management area and give it to the owner or occupier of the land.
- (2) In determining whether to do any of the things permitted under subsection (1), the executive director may consider any factors the executive director considers relevant.
- (3) Without limiting subsection (2), the executive director may consider:
 - (a) previous non-compliance by the owner or occupier of the land with their obligations under this Act; and
 - (b) compliance generally of the owners or occupiers of the land within the fire management area with their obligations under this Act; and
 - (c) the likely scale and urgency of the risk of fire to human safety or the environment.
- (4) A property fire management plan prepared under this section must specify adequate arrangements for the mitigation, management and suppression of fire on the land.
- (5) If an owner or occupier of land is given notice under subsection (1)(a) or (d) and the submitted plan is not, in the opinion of the executive director, adequate, the executive director may return the plan to the owner or occupier to make the amendments required by the executive director.
- (6) The executive director, a fire control officer or a person directed by the executive director may enter land within a fire management area to carry out a risk assessment as permitted by this section.
- (7) If a property fire management plan requires the doing of a specified act by the owner or occupier of the land within a specified period and the owner or occupier fails to do the act within that period, the executive director may authorise, in writing, a person to:
 - (a) enter the land, with or without equipment and machinery; and
 - (b) do the act required to be done.
- (8) The cost to the Territory of work carried out under subsection (7) is:
 - (a) a debt due and payable to the Territory; and
 - (b) a statutory charge on the land.

84A Offences about property fire management plans within fire management area

- (1) A person commits an offence if:
- (a) the person is the owner or occupier of land, within a fire management area, to which a fire management plan applies; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in contravention of the fire management plan and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.
- (4) A person commits an offence if:
- (a) the person is the owner or occupier of land within a fire management area; and
 - (b) public notice is given under section 84(1)(a) requiring the person to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land; and
 - (c) the person intentionally engages in conduct; and
 - (d) the conduct results in contravention of the public notice and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (5) Strict liability applies to subsection (4)(a) and (b).
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.
- (7) A person commits an offence if:
- (a) the person is the owner or occupier of land within a fire management area; and

- (b) the person is given written notice under section 84(1)(d) requiring the person to prepare and submit to the executive director, by a date specified in the notice, a property fire management plan for the land; and
- (c) the person intentionally engages in conduct; and
- (d) the conduct results in contravention of the written notice and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (8) Strict liability applies to subsection (7)(a) and (b).
- (9) It is a defence to a prosecution for an offence against subsection (7) if the defendant has a reasonable excuse.

9 Section 91 amended (Duty of person who lights fire to control it)

Section 91(5), at the end

insert

Maximum penalty: 100 penalty units.

**Part 3 Amendment of Environment Protection
(Beverages Containers and Plastic Bags)
Act 2011**

10 Act amended

This Part amends the *Environment Protection (Beverages Containers and Plastic Bags) Act 2011*.

11 Section 11 amended (Waste management arrangements generally)

- (1) Section 11(3), after "provisions"

insert

, not inconsistent with this Act,

(2) Section 11(4)

omit, insert

- (4) All the provisions of a waste management arrangement must be appropriate for the CDS.

12 Section 23 amended (Deciding application)

Section 23(2)

omit, insert

- (2) The NT EPA may grant a CDS approval in relation to a collection approval only if the NT EPA has taken into account the proposed location of the collection depot and is satisfied the depot will be:
- (a) accessible to the general public in that location; and
 - (b) open on a consistent and regular basis.

13 Section 23A repealed (Approval of waste management arrangement)

Section 23A

repeal

14 Section 24 amended (Conditions of CDS approval generally)

(1) Section 24(a)

omit

approved

(2) Section 24(b)

omit, insert

- (b) if a waste management arrangement relevant to the CDS approval is varied or replaced, the holder of the approval must give the varied or replacement arrangement to the NT EPA if requested by the NT EPA;

15 Part 9 inserted

After section 109

insert

**Part 9 Transitional matters for Environment
Legislation Amendment Act 2021****110 Definitions**

In this Part:

amending Act means the *Environment Legislation Amendment Act 2021*.

commencement means the commencement of Part 3 of the amending Act.

111 Approval of waste management arrangements

(1) Subsection (2) applies if, before the commencement:

- (a) a waste management arrangement was given to the NT EPA for approval under section 23A; and
- (b) the NT EPA did not make a decision about the waste management arrangement.

(2) The NT EPA must deal with the waste management arrangement in accordance with this Act as in force immediately before the commencement.

16 Act further amended

Schedule 1 has effect.

**Part 4 Amendment of Environmental Offences and
Penalties Act 1996****17 Act amended**

This Part amends the *Environmental Offences and Penalties Act 1996*.

18 Section 8 amended (Infringement offences)

(1) Section 8(a)(i)

omit

3.5

insert

20

(2) Section 8(a)(ii)

omit

17.5

insert

100

(3) Section 8(b)(i)

omit

1.5

insert

10

(4) Section 8(b)(ii)

omit

7.5

insert

50

Part 5 Amendment of Litter Act 1972**19 Act amended**

This Part amends the *Litter Act 1972*.

20 Section 13 inserted

After section 12

insert

13 Delegation

- (1) The Minister may delegate to a person, or the holder from time to time of a particular designation, position or office, any of the Minister's powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, is taken to have been exercised or performed by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

Part 6 Amendment of Northern Territory Environment Protection Authority Act 2012**21 Act amended**

This Part amends the *Northern Territory Environment Protection Authority Act 2012*.

22 Section 3 amended (Definitions)

Section 3, definition ***ecologically sustainable development***

omit, insert

ecologically sustainable development, see section 4 of the *Environment Protection Act 2019*.

23 Section 24A amended (Statement of intent)

Section 24A(1)

omit (all references)

2

insert

4

Part 7 Amendment of Pastoral Land Act 1992

24 Act amended

This Part amends the *Pastoral Land Act 1992*.

25 Section 3 amended (Interpretation)

(1) Section 3(1)

omit

, unless the contrary intention appears

(2) Section 3(1), definitions **permit** and **rehabilitate**

omit

(3) Section 3(1)

insert

clear, in relation to land, see section 91A.

clearing period means:

- (a) the period determined by the Board under section 91J(1); or
- (b) if no period is determined by the Board under section 91J(1) – the period specified in section 91J(3).

clearing permit, see section 91F(1).

native vegetation, see section 91B.

non-pastoral use permit means a permit granted by the Board under section 85A(1).

rehabilitate, in relation to land, means to bring the land back as near as practicable to the condition it was in before its degradation, having particular regard to its capacity to carry stock and its level of soil stability and:

- (a) if there is a remedial plan in force under section 76 in respect of the land – the action required to comply with the remedial plan; or
- (b) if there is a rehabilitation plan in force under section 91V in respect of the land – the action required to comply with the rehabilitation plan.

rehabilitation direction, see section 91V(1).

rehabilitation plan means the plan:

- (a) prepared by the Board under section 91V(2)(b); or
- (b) approved by the Board under section 91V(3)(a).

stop work direction means a direction given to a person under section 91T(1).

- (4) Section 3(1), at the end

insert

Note for subsection (1)

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

26 Section 38 amended (Conditions of pastoral leases)

Section 38(1)(h)

omit, insert

- (h) that the lessee will not clear pastoral land unless the lessee is granted a clearing permit or the clearing is permitted under section 91D;

27 Section 68 amended (Application for consent to lease transaction)

- (1) Section 68(5)(c), before "permit"

insert

non-pastoral use

- (2) After section 68(5)

insert

- (6) If the Minister consents to a lease transaction, the applicant under subsection (1) must lodge with the Registrar-General the details of the lease transaction.
- (7) If the applicant does not lodge with the Registrar-General the details of the lease transaction, the Minister may lodge with the Registrar-General the details of the lease transaction.

-
- (8) The Minister may recover the cost of lodging the details under subsection (7) as a debt due and payable to the Territory by the applicant.
- (9) On lodgement of the details under subsection (6) or (7), the Registrar-General must create an entry in the land register in relation to the land and record the particulars in accordance with the *Land Title Act 2000*.

28 Part 7A inserted

After section 91

insert

Part 7A Clearing pastoral land

91A Meaning of *clear* in relation to land

Clear, in relation to land, means any of the following:

- (a) the killing, destruction or removal of native vegetation;
- (b) any substantial damage to native vegetation.

91B Meaning of *native vegetation*

Native vegetation means a plant that is terrestrial or intertidal flora indigenous to the Territory.

Examples for definition native vegetation

Grasses, shrubs and mangroves.

91C Clearing of land

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct results in clearing pastoral land and the person is reckless in relation to that result; and
 - (c) the clearing was not:
 - (i) conducted in accordance with a clearing permit; or
 - (ii) permitted under section 38(1)(k) or (2)(f) or 91D.

Maximum penalty: 500 penalty units.

- (2) Strict liability applies to subsection (1)(c).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

91D Permitted clearing

The Board may, by *Gazette* notice, determine that clearing pastoral land in circumstances specified in the notice is permitted without a clearing permit.

Examples for section 91D

- 1 Clearing land to build a fence.
- 2 Clearing land to build a track.

91E Board may issue guidelines

- (1) The Board may issue guidelines for clearing pastoral land.
- (2) The Board must publish the guidelines in any manner that makes the guidelines publicly available in the Territory.

91F Application for clearing permit

- (1) A pastoral lessee may apply to the Board for a permit (a **clearing permit**) to conduct clearing for all or part of the land the subject of the lessee's pastoral lease.
- (2) An application for a clearing permit must be:
 - (a) in the form approved by the Board; and
 - (b) accompanied by any application fee determined by the Minister.
- (3) To avoid doubt, a clearing permit only permits a pastoral lessee to clear land subject to the lessee's pastoral lease and does not permit the lessee to use the land for a non-pastoral purpose.

Note for subsection (3)

A pastoral lessee may apply to the Board for a non-pastoral use permit under section 85A.

91G Public notice of application

- (1) Before making a decision on an application for a clearing permit, the Board must give public notice of the application.
- (2) The Board may determine the manner in which the public notice is to be given.

(3) The notice must:

- (a) give details of the application; and
- (b) be in the form approved by the Board; 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).

91H Decision of application by Board

(1) Before making a decision whether to grant a clearing permit, the Board must consider:

- (a) any submission received by the Board under section 91G(3)(c); and
- (b) any relevant guidelines issued by the Board under section 91E; and
- (c) any other matters the Board considers relevant.

(2) After considering the matters mentioned in subsection (1), the Board must:

- (a) approve the application and grant the clearing permit, with or without conditions, to the applicant; or
- (b) refuse to grant the clearing permit.

(3) The clearing permit must be in writing and include the following details:

- (a) the land on which the clearing may be conducted;
- (b) any conditions specified by the Board;
- (c) the clearing period.

91J Clearing period

(1) The Board may determine that the clearing of land, in relation to a clearing permit:

- (a) must be completed within a specified period; or
- (b) is permitted to be completed in specified stages.

- (2) If the Board determines that the clearing is permitted in stages, the Board may also specify conditions to be satisfied at the conclusion of a stage.
- (3) If the Board does not make a determination under subsection (1), the clearing must be completed within 10 years from the date of the clearing permit.
- (4) If the holder of a clearing permit does not complete all or part of the clearing in accordance with subsection (1) or (3), the holder is presumed to have abandoned the incomplete clearing and the clearing period is taken to have lapsed.

91K Duration and effect of clearing permit

- (1) A clearing permit remains in force until the earlier of:
 - (a) the day the permit is revoked under section 91R or 91S; or
 - (b) the day the expiry of the pastoral lease granted for the land the subject of the permit.
- (2) While a clearing permit remains in force, the holder of the permit may:
 - (a) during the clearing period – clear the land the subject of the permit; and
 - (b) undertake work to maintain the land that was cleared in accordance with the permit.
- (3) Despite subsection (1)(b), if a clearing permit relates to land held under a term pastoral lease and at the expiry of that term the land for which the lease applied is granted a pastoral lease in perpetuity, the clearing permit continues:
 - (a) in force as if the previous lease term had not expired; and
 - (b) until revoked under section 91R or 91S.
- (4) If a clearing permit has been revoked under section 91R or 91S or the clearing period has lapsed under section 91J(4), a pastoral lessee is entitled to undertake work to maintain the land that was cleared in accordance with the permit despite the revocation or lapsed period.
- (5) The entitlement under subsection (4) does not permit the pastoral lessee to conduct any new clearing.

91L Registration of clearing permit

- (1) The following are registrable instruments for the *Land Title Act 2000*:
 - (a) a clearing permit;
 - (b) any variation of a clearing permit under section 91P;
 - (c) any extension of the clearing period under section 91N.
- (2) If the Board grants or varies a clearing permit or extends the clearing period, the Board must lodge with the Registrar-General details of the permit, variation or extension.
- (3) On lodgement of the details of the clearing permit, variation or extension, the Registrar-General must create an entry in the land register in relation to the land subject to the permit and record the particulars in accordance with the *Land Title Act 2000*.

91M Effect of clearing permit on dealing with lease

If a clearing permit is registered under section 91L in relation to land held under a pastoral lease, any subsequent dealing with the lease is of the lease and the permit unless the dealing specifically states otherwise.

Examples for section 91M

Subsequent dealing with a lease may include a transfer of the lease or an assignment of the lease.

91N Extension of clearing period

- (1) The holder of a clearing permit may apply to the Board for an extension of the clearing period.
- (2) The application must be made in the form approved by the Board at least 3 months prior to the expiry of the clearing period.
- (3) Before making a decision whether to extend the clearing period, the Board must consider:
 - (a) any relevant guidelines issued by the Board under section 91E; and
 - (b) any other matter the Board considers relevant.

- (4) The Board must, by written notice given to the applicant, decide the application by:
 - (a) approving the application and extending the clearing period for the period specified by the Board; or
 - (b) refusing the application.
- (5) The clearing period may be extended more than once under this section.

91P Variation of clearing permit

- (1) The Board may, on its own initiative or on application by the holder of a clearing permit, vary a clearing permit if the Board thinks the variation is appropriate, having regard to the following:
 - (a) the clearing permit and any conditions of the permit;
 - (b) the proposed variation;
 - (c) any other matter the Board considers relevant.
- (2) The variation must be given in writing to the holder of a clearing permit and include the details of the variation to the permit.
- (3) A clearing permit may be varied more than once under this section.
- (4) A variation under this section cannot extend the clearing period of a clearing permit.

Note for subsection (4)

The clearing period of a clearing permit may be extended under section 91N.

91Q Suspension of clearing permit by Board

- (1) The Board may, on its own initiative, suspend a clearing permit if the Board thinks the suspension is appropriate, having regard to:
 - (a) the conduct of the holder of the permit in relation to the operation of the permit, including the extent to which the holder has complied with the conditions of the permit; and
 - (b) any special circumstances giving rise to the need for the suspension; and
 - (c) any other matter the Board considers relevant.

Example for subsection (1)(b)

Special circumstances may include an emergency.

- (2) The suspension notice must be given in writing to the holder of the clearing permit and include the following details:
 - (a) the reason for the suspension;
 - (b) the period of the suspension.
- (3) Before the end of the suspension period, the Board may, by written notice given to the holder of the clearing permit:
 - (a) extend the suspension period; or
 - (b) revoke the clearing permit under section 91R; or
 - (c) reinstate the clearing permit.
- (4) A clearing permit may be suspended more than once under this section.

91R Revocation of clearing permit by Board

- (1) If the Board considers, on its own initiative, that a clearing permit should be revoked, the Board must, by written notice to the holder of the clearing permit, give the holder of the permit the opportunity to give reasons to the Board why the permit should not be revoked.
- (2) The notice under subsection (1) must specify:
 - (a) a reasonable time by which the holder of the clearing permit must provide the reasons; and
 - (b) if the notice has been given because the Board considers the holder of the clearing permit has not complied with the permit:
 - (i) details of the non-compliance; and
 - (ii) if the non-compliance can be remedied – that the holder of the permit must take specified actions to remedy the non-compliance within a reasonable period as specified in the notice.
- (3) After the expiry of the response time specified in the notice, the Board may revoke the clearing permit if the Board considers it appropriate, having regard to:
 - (a) whether or not the holder of the permit has taken appropriate actions that will remedy the non-compliance, including any actions mentioned in subsection (2)(b)(ii); and
 - (b) any reasons given by the holder of the permit under subsection (1); and

- (c) any other matter the Board considers relevant.
- (4) If the Board revokes the clearing 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 clearing permit ceases to have effect.

91S Suspension or revocation of clearing permit – on application by holder of clearing permit

- (1) The holder of a clearing permit 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 form approved by the Board.
- (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; and
 - (b) any other matter the Board considers relevant.

Example for subsection (3)(a)

Special circumstances may include an emergency.

- (4) The Board must, by written notice given to the applicant, decide the application by:
 - (a) approving the application by suspending or revoking the clearing permit; or
 - (b) refusing the application.
- (5) A clearing permit may be suspended more than once under this section.
- (6) If the Board revokes the clearing 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 clearing permit ceases to have effect.

91T Stop work direction

- (1) The Board may give a person a notice directing the person to stop clearing land if the Board believes on reasonable grounds that the clearing has contravened, is contravening or will contravene:
 - (a) a condition of a clearing permit; or
 - (b) a provision of this Act.
- (2) The stop work direction must be in writing and specify:
 - (a) the clearing and the land that the direction applies to; and
 - (b) that the direction remains in force until revoked by the Board.
- (3) The Board may do any of the following:
 - (a) revoke a stop work direction;
 - (b) vary a stop work direction.

91U Offence about stop work direction

- (1) A person commits an offence if:
 - (a) a stop work direction under section 91T is given to the person; and
 - (b) the person engages in conduct; and
 - (c) the conduct results in a contravention of the direction and the person is reckless in relation to that result.

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

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

91V Rehabilitation direction

- (1) The Board may direct, by written notice, a person to rehabilitate land (a **rehabilitation direction**) if the Board believes on reasonable grounds that:
 - (a) clearing land by the person resulted in substantial degradation of the land; or
 - (b) clearing was contrary to the clearing permit or this Act.
- (2) The rehabilitation direction may:
 - (a) require the person:
 - (i) to prepare a rehabilitation plan for the land for the person to implement; and
 - (ii) to submit the rehabilitation plan to the Board for approval within a specified period; or
 - (b) specify that the Board has prepared a rehabilitation plan for the land which the person must implement.
- (3) After receiving a rehabilitation plan from a person under subsection (2)(a) for approval, the Board must:
 - (a) if the Board considers the plan is adequate – approve the plan by written notice given to the person within 14 days of making the decision; or
 - (b) if the Board does not consider the plan is adequate – return the plan by written notice given to the person for amendment as directed by the Board within 14 days of making the decision.
- (4) A person must implement:
 - (a) the rehabilitation plan prepared by the Board under subsection (2)(b); or
 - (b) the rehabilitation plan approved by the Board under subsection (3)(a).
- (5) If a rehabilitation plan requires the person to do a specified act within a specified period and the person fails to do the act within that period, the Board may authorise, in writing, a person to:
 - (a) enter the land the subject of a rehabilitation plan, with or without equipment and machinery; and

(b) do the act required to be done.

- (6) The cost to the Territory of work carried out under subsection (5) is a debt due and payable to the Territory.

91W Board may revoke or vary rehabilitation plan

The Board may do any of the following:

- (a) vary a rehabilitation plan;
- (b) revoke a rehabilitation plan.

91X Duration of rehabilitation plan

A rehabilitation plan remains in force until revoked by the Board under section 91W(b).

91Y Registration of rehabilitation plan

- (1) A rehabilitation plan is a registrable instrument for the *Land Title Act 2000*.
- (2) If the Board approves a rehabilitation plan, the Board may lodge with the Registrar-General details of the plan.
- (3) On lodgement of the details of the rehabilitation plan, the Registrar-General must create an entry in the land register in relation to the land subject to the plan and record the particulars in accordance with the *Land Title Act 2000*.

91Z Effect of rehabilitation plan on dealing with lease

If a rehabilitation plan is registered under section 91Y in relation to land held under a pastoral lease, any subsequent dealing with the lease is of the lease and the plan unless the dealing specifically states otherwise.

Examples for section 91Z

Subsequent dealing with a lease may include a transfer of the lease or an assignment of the lease.

91ZA Offence for contravening rehabilitation direction

- (1) A person commits an offence if:
 - (a) a rehabilitation direction is given to the person under section 91V(1); and
 - (b) the person intentionally engages in conduct; and

- (c) the conduct results in a contravention of the rehabilitation direction and the person is reckless in relation to that result.

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

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

91ZB Offence for contravening rehabilitation plan

- (1) A person commits an offence if:
- (a) the person is required to implement a rehabilitation plan under section 91V(4); and
- (b) the person intentionally engages in conduct; and
- (c) the conduct results in a contravention of the rehabilitation plan and the person is reckless in relation to that result.

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

- (2) Strict liability applies to subsection (1)(a).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

29 Act further amended

Schedule 2 has effect.

Part 8 Amendment of waste management and pollution control legislation

Division 1 Amendment of Waste Management and Pollution Control Act 1998

30 Act amended

This Division amends the *Waste Management and Pollution Control Act 1998*.

31 Section 4 amended (Interpretation)

- (1) Section 4(1), definition ***ecologically sustainable development***

omit

- (2) Section 4(1)

insert

ecologically sustainable development, see section 4 of the *Environment Protection Act 2019*.

emergency authorisation, see section 46A.

- (3) Section 4(1), at the end

insert

Note for subsection (1)

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

32 Part 5 heading replaced

Part 5, heading

omit, insert

Part 5 Environment protection approvals and licences, best practice licences and emergency authorisations

33 Section 30 amended (Where approval or licence required)

- (1) Section 30(1) and (2), after "approval"

insert

or an emergency authorisation

- (2) Section 30(3)

omit

or a best practice licence

insert

, a best practice licence or an emergency authorisation

34 Part 5, Division 3A inserted

After section 46

insert

Division 3A Emergency authorisation

46A Emergency authorisation

- (1) Despite Divisions 1, 2 and 3, the Minister may authorise a person to conduct an activity specified in Schedule 2 if the Minister considers it appropriate for the purposes of an emergency situation (an ***emergency authorisation***).
- (2) An emergency authorisation must be in writing and specify the following information:
 - (a) the activity to be conducted;
 - (b) the location at which the activity is to be conducted;
 - (c) any conditions the Minister considers appropriate for conducting the activity;
 - (d) the period during which the authorisation is to be in force.
- (3) The emergency authorisation remains in force for the period specified in the authorisation regardless of whether the emergency situation still exists.
- (4) In this section:

emergency situation means the following:

- (a) an emergency situation under section 18 of the *Emergency Management Act 2013*;
- (b) a state of emergency under section 19 of the *Emergency Management Act 2013*;
- (c) a state of disaster under section 21 of the *Emergency Management Act 2013*.

46B Person must comply with emergency authorisation

- (1) A person commits an offence if:
 - (a) the person is authorised under an emergency authorisation to conduct an activity specified in Schedule 2; and

-
- (b) the person intentionally contravenes the emergency authorisation.

Penalty: environmental offence level 3.

- (2) A person commits an offence if:

- (a) the person is authorised under an emergency authorisation to conduct an activity specified in Schedule 2; and
- (b) the person contravenes the emergency authorisation.

Penalty: environmental offence level 4.

35 Section 88 amended (Regulatory offences)

Section 88, after "43(1),"

insert

46B(2),

Division 2 Amendment of Waste Management and Pollution Control (Administration) Regulations 1998

36 Regulations amended

This Division amends the *Waste Management and Pollution Control (Administration) Regulations 1998*.

37 Schedule 1 amended (Offences)

Schedule 1, entry for *Waste Management and Pollution Control Act 1998*, after "43(1),"

insert

46B(2),

Part 9 Repeal of Act

38 Repeal of Act

This Act is repealed on the day after it commences.

Schedule 1 Environmental Protection (Beverage Containers and Plastic Bags) Act 2011 further amended

section 16

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 4, definition approved	whole definition	
section 10(2)(c)	approval	making
sections 18(5) and 20(1)(b) and (c), (3) and (4)	approved	
section 21(1)(b)(i)	proposed	
sections 30(1)(a) and 37(b)(ii) and (d) and Schedule, clause 1, definition secondary coordinator , paragraph (a)	an approved	a
Schedule, clause 3	approved	

Schedule 2 Pastoral Land Act 1992 further amended

section 29

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 85A, heading	Permit	Non-pastoral use permit
section 85A(1)	<i>permit</i>	non-pastoral use permit
sections 85A(2) and 85B(1)	permit	non-pastoral use permit
section 85B(2)	permit (<i>first reference</i>)	non-pastoral use permit
section 85C, heading	permit	non-pastoral use permit
section 85C	permit (<i>first reference</i>)	non-pastoral use permit
section 85D, heading	permit	non-pastoral use permit
section 85D	permit	non-pastoral use permit
section 86, heading	permit	non-pastoral use permit
sections 86(1), 87(1)(a) and (b) and 88(1)	permit	non-pastoral use permit
section 88(2)	permit (<i>first reference</i>)	non-pastoral use permit
section 89, heading	permit	non-pastoral use permit
section 89(1) and (2)	permit (<i>first reference</i>)	non-pastoral use permit
section 89A, heading	permit	non-pastoral use permit

section 89A(1), (2), (3)(b), (4)(a) and (b), (5), (6) and (7)	permit	non-pastoral use permit
section 89A(3)(a)	permit (first reference)	non-pastoral use permit
section 89B, heading	permit	non-pastoral use permit
section 89B(1) and (6), definition variation	permit (first reference)	non-pastoral use permit
section 89B(3), (4) and (5)	permit	non-pastoral use permit
section 89C, heading	permit	non-pastoral use permit
section 89C(1), (3)(a) and (9), definition variation	permit (first reference)	non-pastoral use permit
section 89C(2), (4)(a) and (b), (5), (6), (7) and (8)	permit	non-pastoral use permit
section 89D, heading	permit	non-pastoral use permit
section 89D(1)	permit (first reference)	non-pastoral use permit
section 89D(3)(b) and (c) and (4)	permit	non-pastoral use permit
section 89E, heading	permit	non-pastoral use permit
section 89E(1)	permit (first reference)	non-pastoral use permit
section 89E(2)(b), (3), (4) and (5)	permit	non-pastoral use permit
section 89F, heading	permit	non-pastoral use permit
section 89F(1), (3)(b), (4)(a), (5), (6) and (7)	permit	non-pastoral use permit
section 89G, heading	permit	non-pastoral use permit

section 89G(1)	permit (<i>first reference</i>)	non-pastoral use permit
section 90(2)(b)	permit	non-pastoral use permit
