

NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENT PROTECTION LEGISLATION AMENDMENT ACT 2023

Act No. 34 of 2023

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Schedule Act further amended



NORTHERN TERRITORY OF AUSTRALIA

Act No. 34 of 2023

An Act to amend the *Environment Protection Act 2019* and the *Environment Protection Regulations 2020* and to make consequential amendments to other enactments and for related purposes

[Assented to 6 December 2023]
[Introduced 25 October 2023]

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 Legislation Amendment Act 2023*.

2 Commencement

- (1) This Part, Part 3, Division 1, sections 207 and 219 and Part 5 commence on the day after the day on which the Administrator's assent to this Act is declared.
- (2) Part 3, Division 2 commences on the day on which section 2 of the *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022* commences.
- (3) The remaining provisions of this Act commence on the day fixed by the Administrator by *Gazette* notice.

- (4) If a provision of this Act referred to in subsection (3) does not commence before 16 October 2025, it commences on that day.

Part 2 General amendments to environment protection legislation

Division 1 Amendment of Environment Protection Act 2019

3 Act amended

This Division amends the *Environment Protection Act 2019*.

4 Section 4 amended (Definitions)

- (1) Section 4, definitions ***closure notice*** and ***environmental impact assessment***

omit

- (2) Section 4

insert

administrative amendment means an amendment:

- (a) correcting a clerical error; or
- (b) correcting an error arising from an omission, a material mistake in a calculation or in the description of any person, thing or matter; or
- (c) removing duplicate or conflicting material; or
- (d) clarifying any matter.

analyst, see section 292A.

environmental impact assessment means a standard assessment or strategic assessment carried out in accordance with the regulations but does not include the process for:

- (a) receiving or considering a referral of a proposed action or strategic proposal; or
- (b) receiving or considering a notification or referral of a significant variation.

environmental impact assessment process means a process under Part 4 including a process for any of the following:

- (a) referral, and consideration of a referral, of a proposed action or strategic proposal;
- (b) notification or referral, and consideration of a notice or referral, of a significant variation;
- (c) environmental impact assessment of a proposed action, strategic proposal or significant variation.

monitoring and management notice means a monitoring and management notice issued under Part 9, Division 4.

- (3) Section 4, definition ***assessment report***

omit

64

insert

64 or 299

- (4) Section 4, definition ***call-in notice***

omit

53

insert

53(1), (2) or (3)

5 Section 12 amended (Meaning of *significant variation*)

- (1) Section 12, after "an action"

insert

or strategic proposal

- (2) Section 12(a)

omit, insert

- (a) will alter the action, or the action or actions under the strategic proposal, to the extent that a referral trigger that did not previously apply to the action or actions now applies; or

6 Section 18A inserted

After section 18

insert

18A Principle of proportionality

Decision-making processes should ensure that decisions or actions directed at minimising harm or a risk of harm or impact to the environment are proportionate to the harm or risk of harm or impact that is being addressed.

7 Section 40 amended (Protected environmental areas – environmental offences)

(1) Section 40(1)(e)

omit

to the

insert

inside or outside the

(2) Section 40(2)(e)

omit, insert

(e) the conduct results in material environmental harm inside or outside the protected environmental area and the person is reckless in relation to that result.

(3) Section 40(3)(e)

omit, insert

(e) the conduct results in significant environmental harm inside or outside the protected environmental area.

8 Part 3, Division 3 inserted

After section 41

insert

Division 3 General

41A Interpretation

This Part does not limit the operation of section 42 of the *Interpretation Act 1978*.

9 Section 43 amended (General duty of proponents)

Section 43, after "action" (*all references*)

insert

or strategic proposal

10 Section 44 amended (Certain referrals prohibited)

(1) Section 44

omit

proponent or approval holder

insert

person

(2) Section 44, after "action" (*all references*)

insert

or strategic proposal

(3) Section 44

omit

it is:

insert

the action or an action under the strategic proposal is:

11 Section 45 amended (Cooperative agreements – assessment process)

Section 45(1), (2), (3) and (4), after "action"

insert

or strategic proposal

12 Section 46 amended (Proponent to have only one environmental impact assessment process)

Section 46, after "action" (*all references*)

insert

or strategic proposal

13 Section 47 amended (Significant variation of action)

(1) Section 47, heading, after "action"

insert

or strategic proposal

(2) Section 47(1) and (2), after "action"

insert

or strategic proposal

14 Section 50 amended (Referral if application made to statutory decision-maker)

Section 50(1)

omit

the decision-maker

insert

the statutory decision-maker

15 Section 51 amended (Proponent to notify NT EPA of significant variation of proposed action or strategic proposal)

Section 51(1) and (2)

omit, insert

- (1) The proponent of a proposed action must give notice to the NT EPA of any proposed significant variation to that action.
- (2) The proponent of a strategic proposal must give notice to the NT EPA of any proposed significant variation to that strategic proposal.

16 Section 51A inserted

After section 51

insert

51A Certain notifications taken to be referrals

- (1) This section applies if a significant variation of a proposed action or strategic proposal is notified to the NT EPA under section 51(1) or (2) and either:
 - (a) the proposed action or strategic proposal was not referred to the NT EPA under section 48 or 49; or
 - (b) the proposed action was not referred, notified or submitted (however described) for assessment under the *Environmental Assessment Act 1982*.
- (2) This Division applies to the notification of the significant variation as if the notification of the significant variation were a referral of a proposed action under section 48 or of a strategic proposal under section 49, as the case requires.

17 Section 52 amended (Approval holder to refer proposed significant variation for assessment)

- (1) Section 52(1), after "action"

insert

or strategic proposal

(2) Section 52(2)

omit, insert

- (2) If a significant variation of an action or strategic proposal is referred to the NT EPA under subsection (1), this Division applies as if the referral of the significant variation were a referral of a proposed action or strategic proposal, as the case requires.

18 Section 53 amended (Call-in notice)

(1) Section 53(2)

omit, insert

- (2) If the NT EPA believes on reasonable grounds that a proponent of a proposed action or strategic proposal has made or is proposing a significant variation to the proposed action or strategic proposal, the NT EPA may, by written notice (a **call-in notice**), request the proponent to give it notice of the significant variation under section 51 within the time specified in the notice.

(2) Section 53(3), after "action"

insert

or strategic proposal

(3) Section 53(3), after "written notice"

insert

(a **call-in notice**)

(4) Section 53(4), after "action"

insert

or an action under the strategic proposal

(5) Section 53(5), after "must"

insert

, before giving a call-in notice

19 Section 55 amended (Process for considering referred actions and strategic proposals)

Section 55(2), (3), (4) and (5)

omit, insert

- (2) The NT EPA must determine whether the referred action or strategic proposal has the potential to have a significant impact on the environment.
- (3) In determining whether a referred action or strategic proposal has the potential to have a significant impact on the environment, the NT EPA must consider any applicable environmental objectives.
- (4) In determining whether a referred action or strategic proposal has the potential to have a significant impact on the environment, the NT EPA may consider other statutory decision-making processes that may mitigate the potential environmental impact of the referred action or strategic proposal.
- (5) Without limiting subsection (1), if the NT EPA determines that the referred action or strategic proposal has the potential to have a significant impact on the environment, the NT EPA must:
 - (a) determine that an environmental impact assessment is required for the referred action or strategic proposal; or
 - (b) if the NT EPA considers that the referred action or strategic proposal is unacceptable because it is likely to have significant impacts that cannot be appropriately avoided, mitigated or managed – recommend to the Minister that the Minister refuse to grant an environmental approval for the referred action or strategic proposal.
- (6) The regulations may provide for processes for:
 - (a) considering referrals of actions and strategic proposals; and
 - (b) determining whether:
 - (i) an environmental impact assessment of a referred action or strategic proposal is required; or
 - (ii) an environmental approval for a referred action or strategic proposal should be refused, with or without an environmental impact assessment.

20 Section 56 amended (Process for considering notified significant variations)

Section 56(4)

omit

(5)

insert

(6)

21 Section 58 amended (Statutory authorisations and environmental impact assessments)

(1) Section 58(1) and (2), after "a referred action"

insert

or an action under a referred strategic proposal

(2) Section 58(1), after "the referred action"

insert

or strategic proposal

(3) Section 58(2)(a) and (b), after "action" (*all references*)

insert

or strategic proposal

(4) Section 58(2)(b)

omit

environmental approval

insert

the environmental approval

22 Section 59 amended (Statutory authorisation granted before referral of action)

(1) Section 59(1), after "the action"

insert

or the strategic proposal to which the action relates

(2) Section 59(1)(a)(i) and (ii), after "action"

insert

or strategic proposal

(3) Section 59(1)(a)(ii)

omit

environmental approval

insert

the environmental approval

23 Section 59A inserted

After section 59, in Part 4, Division 3, Subdivision 6

insert

59A Regulations for sections 58 and 59

The regulations may provide that section 58 or 59:

- (a) applies to a specified statutory authorisation; or
- (b) does not apply to a specified statutory authorisation.

24 Section 61 amended (Purpose of environmental approval)

Section 61, after "an action"

insert

or any action under a strategic proposal

25 Section 62 amended (Fit and proper person to hold environmental approval)

(1) Section 62, heading, after "**approval**"

insert

or approval notice

(2) Section 62, before "In"

insert

(1)

- (3) Section 62, after "environmental approval"
insert
or an approval notice
- (4) After section 62(a)(iii)
insert
(iiia) has contravened a law of the Territory under which a tax or royalty is payable to the Territory; or
- (5) Section 62(a)(v), after "holder"
insert
or an approval notice holder
- (6) Section 62(b)
omit
must
insert
may
- (7) Section 62, at the end
insert
- (2) Nothing in this Part requires the Minister to conduct an investigation in considering whether a person is a fit and proper person.

26 Section 62A inserted

After section 62, in Part 5, Division 1

insert

62A More than one environmental approval may be granted

To avoid doubt, the Minister may grant more than one environmental approval for a proposed action or strategic proposal following an environmental impact assessment of the proposed action or strategic proposal.

27 Section 63 amended (Application of Division)

Section 63

omit

an action

insert

a referred action or strategic proposal

28 Section 64 amended (Assessment report)

Section 64

omit

an action

insert

a referred action or strategic proposal

29 Section 66 amended (Statement of unacceptable impact)

Section 66(1)(a)

omit

action

insert

referred action or strategic proposal

30 Section 67 amended (Notice of assessment report and other documents)

Section 67(1)(a)

omit

an action

insert

a referred action or strategic proposal

31 Section 73 amended (Matters to be considered by Minister in deciding on environmental approval)

(1) Section 73(1)

omit

have regard to

insert

consider

(2) Section 73(1) and (2), after "action" (*all references*)

insert

or strategic proposal

32 Section 74 amended (Time for decision on environmental approval)

Section 74(2)(a), after "action"

insert

or strategic proposal

33 Section 76 amended (Minister's decision in relation to statement)

(1) Section 76(1)(b)(i)

omit

the environmental

insert

an environmental

(2) Section 76(1)(b)(ii)

omit

environmental

insert

an environmental

- (3) Section 76(2)
omit
have regard to
insert
consider
- (4) Section 76(2)(b)
omit
- (5) Section 76(5)(a) and (b), after "action"
insert
or strategic proposal

34 Section 84 amended (Conditions of environmental approval)

- Section 84(1)
omit
the action
insert
any action to which the approval applies

35 Section 85 amended (Condition may apply after action completed)

- (1) Section 85(2)(b), after "monitoring"
insert
, management
- (2) After section 85(2)
insert
- (3) Without limiting subsection (1), the conditions of an environmental approval may require that the availability of an environment protection bond extend beyond the period to which the environmental approval relates to include any period for which post-closure monitoring, management and reporting are required.

36 Section 86 amended (Conditions imposing financial requirements)

Section 86(1)

omit, insert

- (1) A condition may provide that the approval holder must provide to the Minister an environment protection bond in the amounts or values and at the times required by the Minister by written notice to the approval holder.

37 Section 88 amended (Conditions relating to management of health, social and cultural impacts)

Section 88(1)

omit

the action

insert

any action

38 Section 94 amended (Expiry of environmental approval)

Section 94(2)

omit

have regard to

insert

consider

39 Part 5, Division 7A inserted

After section 95

insert

Division 7A Consolidation or separation of environmental approvals

95A Consolidation of environmental approvals

- (1) If there is more than one environmental approval applying to a particular site, the Minister may, at the request of the proponent or approval holder, consolidate the environmental approvals and grant one environmental approval in their place.
- (2) The Minister may make any amendments to the conditions of an environmental approval to be consolidated that the Minister considers necessary for the purposes of the consolidation.
- (3) Section 107 applies in relation to an amendment to the conditions of an environmental approval under subsection (2) other than an administrative amendment.
- (4) The Minister must publish the following as soon as practicable after the environmental approval is granted under subsection (1):
 - (a) the environmental approval granted under subsection (1);
 - (b) a statement of reasons for:
 - (i) the consolidation of the environmental approvals; and
 - (ii) any amendment made under subsection (2) to the conditions of an environmental approval.
- (5) If the Minister grants an environmental approval under subsection (1), the replaced environmental approvals are revoked.

95B Separation of environmental approvals

- (1) The Minister may, at the request of the proponent or approval holder, separate an environmental approval applying to a particular site and grant 2 or more environmental approvals in its place.
- (2) The Minister may make any amendments to the conditions applying to each environmental approval that the Minister considers necessary for the purposes of the separation.

- (3) Section 107 applies in relation to an amendment to the conditions of an environmental approval under subsection (2) other than an administrative amendment.
- (4) The Minister must publish the following as soon as practicable after the environmental approvals are granted under subsection (1):
 - (a) the environmental approvals granted under subsection (1);
 - (b) a statement of reasons for:
 - (i) the separation of the environmental approval; and
 - (ii) any amendment made under subsection (2) to the conditions of each environmental approval.
- (5) If the Minister grants 2 or more environmental approvals under subsection (1), the replaced environmental approval is revoked.

40 Section 97A inserted

After section 97

insert

97A Requirement for approval notice

A person (including the approval holder) must not take any action under an environmental approval granted following a strategic assessment unless an approval notice has been issued for that action.

41 Section 101 amended (Decision of Minister in relation to approval notice)

- (1) After section 101(2)

insert

- (2A) Before making a decision to approve an application, the Minister must consider whether or not the applicant is a fit and proper person to hold an approval notice.

- (2) Section 101(3)(b)

omit

42 Section 102A inserted

After section 102

insert

102A Conditions of approval notice

- (1) An approval notice may be issued subject to any conditions that the Minister considers necessary to manage the potential environmental impacts of the action and imposes on the approval notice in accordance with this section.
- (2) The conditions of an approval notice must not authorise activities that, together with the activities authorised under any other approval notice relating to the environmental approval, would exceed any threshold for those activities specified in the environmental approval.
- (3) The conditions of an approval notice must be conditions that could be imposed on an environmental approval.
- (4) The conditions of an approval notice must not be inconsistent with the conditions of the environmental approval.
- (5) For this section, a condition of an approval notice is not inconsistent with the conditions of the environmental approval if the condition is more stringent than the conditions of the environmental approval.
- (6) At the Minister's discretion, an approval notice may contain only conditions that are applicable to managing the significant impacts of the action to which the approval notice relates.
- (7) The person issued with an approval notice must comply with the conditions of the approval notice.

43 Section 105A inserted

After section 105, in Part 5, Division 8

insert

105A Amendment of approval notice

- (1) The Minister may at any time on the Minister's own initiative or at the request of the person to whom an approval notice is issued:
 - (a) amend the approval notice to ensure consistency with any amendment of the environmental approval relevant to the approval notice; or

- (b) amend the approval notice to ensure consistency with an environmental approval granted under section 95A or 95B in place of the environmental approval to which the approval notice relates; or
 - (c) make an administrative amendment to the approval notice.
- (2) If an approval notice is amended, the Minister must issue an amended approval notice to the person to whom the approval notice was issued.
 - (3) The Minister must publish the amended approval notice and a statement of reasons for the amendment as soon as practicable after the approval notice is amended.
 - (4) An approval notice for an action is revoked if an amended approval notice for the action is issued.

44 Section 106 amended (Amendment of environmental approval)

- (1) Section 106(1)(b)
omit
– in accordance with the regulations
- (2) After section 106(1)(c)
insert
 - (ca) if the environmental approval is for an action to which an environmental approval for a strategic proposal applies and the environmental approval for the action was granted after the referral of the strategic proposal was accepted – to ensure that the environmental approval for the action is consistent with the environmental approval for the strategic proposal; or
- (3) Section 106(1)(d)
omit
or the approved strategic proposal
- (4) After section 106(1)(d)(i)
insert
 - (ia) is not being managed in a manner that is consistent with meeting the objects of this Act; or

(5) Section 106(3)(a)

omit

have regard to

insert

consider

(6) After section 106(3)

insert

(3A) The Minister may, at any time on the Minister's own initiative or at the request of the approval holder, make an administrative amendment to an environmental approval.

(3B) Subsections (1), (2) and (3) do not apply to an administrative amendment.

45 Section 107 amended (Consultation on proposed amendment)

After section 107(3)

insert

(4) Subsections (1), (2) and (3) do not apply to an administrative amendment.

46 Section 113 amended (Obligations under approval to continue)

(1) Section 113(1)

omit

for an action

(2) Section 113(2)(a)

omit

the action

insert

any action to which the approval applies

(3) Section 113(2)(b)

omit

environment.

insert

environment; and

(4) After section 113(2)(b)

insert

(c) comply with any necessary environmental monitoring, management and reporting obligations at the site to which the environmental approval applies.

47 Section 121 amended (Minister may have regard to certain matters)

(1) Section 121, heading

omit

may have regard to

insert

must consider

(2) Section 121

omit

The Minister must have regard to

insert

In addition to the matters set out in Part 2, the Minister must consider

48 Section 123 amended (Decision on transfer)

Section 123(3)

omit

approval.

insert

approval and grant an amended environmental approval in its place.

49 Section 124 amended (Publication of approval of transfer and reasons)

After section 124(2)

insert

- (3) In addition to subsections (1) and (2), if the Minister amends the environmental approval under section 123(3), the Minister must publish the following as soon as practicable after the decision to approve the transfer of the environmental approval is made:
- (a) the amended environmental approval;
 - (b) a statement of reasons for the amendment.

50 Section 125 amended (Environmental offsets framework and guidelines)

- (1) Section 125(3)

omit

The guidelines may provide for:

insert

Without limiting subsection (2), the guidelines may provide for any of the following:

- (2) Section 125(3)(a), (b), (c) and (d)

omit

and

51 Section 128 amended (Purpose of environment protection bond)

- (1) Section 128(b), after "taking action"

insert

at any time

(2) Section 128(d)

omit

reporting and monitoring

insert

monitoring, management and reporting

52 Section 129 amended (Amount of bond)

(1) After section 129(2)

insert

- (2A) If the regulations prescribe a minimum amount of environment protection bond payable in relation to an action or class of actions or a circumstance or class of circumstances, the Minister may determine that the amount of the environment protection bond is or includes the prescribed minimum amount.

(2) Section 129(5)

omit, insert

- (5) The amount of an environment protection bond required for an environmental approval may be recalculated:

- (a) in accordance with the environmental approval; or
- (b) if the environmental approval is varied; or
- (c) if the Minister is satisfied that there is a substantial change in the circumstances on the basis of which the bond was calculated; or
- (d) at the request of the approval holder.

(3) Section 129(6)

omit

must have regard to

insert

may consider

(4) Section 129(7)

omit, insert

- (7) The Minister may determine and publish the methodology for calculating the amount or value of an environment protection bond payable in respect of an action or class of actions or in a circumstance or class of circumstances.
- (7A) The regulations may prescribe a minimum amount of environment protection bond payable in respect of an action or class of actions or in a circumstance or class of circumstances.

53 Section 131 amended (Claim on bond)

After section 131(3)

insert

- (3A) Costs and expenses may be recovered under this section even if they were incurred as a result of an act or matter that occurred before the environment protection bond was provided.

54 Section 132 amended (Unused bond refundable)

After section 132(1)

insert

- (1A) If an amount of environment protection bond held is reduced as a result of a recalculation under section 129, the amount of bond that is the difference between the environment protection bond held and the recalculated bond is refundable to the approval holder.

55 Section 142 amended (Direction by CEO to carry out environmental audit)

After section 142(a)

insert

- (ab) the approval holder, in carrying out an action, is carrying out, or has carried out, a prohibited action or an action in a protected environmental area that is prohibited in that area; or
- (ac) the approval holder has otherwise contravened, or is likely to contravene, this Act; or

56 Section 150 amended (Declarations in relation to environmental reports)

- (1) Section 150(a)
omit
a declaration signed by the approval holder or
insert
in the case of an audit under section 142 – a declaration signed by
- (2) Section 150(b)
omit
a declaration
insert
in the case of an audit under section 142 or 143 – a declaration

57 Section 153 amended (Retention and production of audit documentation)

- (1) Section 153(1)
omit
An approval holder
insert
A person to whom a direction is given under section 142
- (2) Section 153(1)(c)
omit
approval holder
insert
person
- (3) Section 153(2)
omit, insert
(2) The CEO may direct a person to produce a document that the person is required to retain under subsection (1).

58 Section 178 amended (Requirements of environment protection notices)

(1) Section 178(1), after "182"

insert

, 182A

(2) After section 178(1)(d)

insert

(da) a requirement that the person:

(i) rehabilitate the environment; or

(ii) prepare, in accordance with specified requirements and to the satisfaction of the CEO, a plan to rehabilitate the environment;

(3) Section 178(1)(e)

omit

paragraph (d)

insert

paragraph (d) or (da)

59 Section 181 amended (Notice to prescribed statutory decision-maker of proposed notice)

Section 181(4)(b)

omit

14

insert

10

60 Section 182A inserted

After section 182

insert

182A Further power of CEO to issue emergency environment protection notice

- (1) This section does not apply in relation to an action to which section 182 applies.
- (2) The CEO may issue an emergency environment protection notice to a person if the CEO believes on reasonable grounds that:
 - (a) an action is causing material or significant environmental harm; and
 - (b) urgent action is required for the protection of the environment and to meet the objects of this Act.
- (3) The emergency environment protection notice may impose any requirements mentioned in section 178(1) that are reasonably required for the protection of the environment.
- (4) An application to NTCAT for review of an emergency environment protection notice under this section that imposes a requirement mentioned in section 178(1)(a), (b) or (c) or a requirement prescribed by regulation does not stay the operation of the notice.
- (5) An emergency environment protection notice issued to a person under this section ceases to have effect at the end of 10 business days after it is issued unless it is revoked earlier under section 184.

61 Section 194 amended (NT EPA may issue stop work notice)

- (1) Section 194(1) and (3), after "an action" (*all references*)

insert

, strategic proposal

- (2) After section 194(1)

insert

- (1A) The NT EPA may issue a stop work notice to a person other than a proponent or approval holder if the NT EPA believes on reasonable grounds that the person is taking an action that relates to an action, strategic proposal or significant variation that has been referred, or is required to be referred, to the NT EPA under Part 4, Division 3.

- (3) Section 194(2)
omit
proponent or approval holder to stop taking the action
insert
person to whom it is issued to stop taking an action that relates to the action, strategic proposal or significant variation
- (4) Section 194(2)(a) and (b), after "the action"
insert
, strategic proposal
- (5) Section 194(2)(b) and (3), after "assessment"
insert
process
- (6) Section 194(3)
omit
the proponent or approval holder has commenced the action.
insert
the action to be stopped by the notice has commenced.

62 Part 9, Division 4 heading and section 199 replaced

Part 9, Division 4, heading and section 199

repeal, insert

Division 4 Monitoring and management notices

199 Monitoring and management notice – environmental approval

- (1) This section applies to a site to which an environmental approval applies or has applied.
- (2) The CEO may issue a monitoring and management notice in relation to the site if the CEO considers, on reasonable grounds, that ongoing investigation, monitoring, management or reporting of the site is or will be required following the expiry or revocation of the environmental approval as a result of anything done or that

occurred at the site before the expiry or revocation.

- (3) This section does not apply to a site or a part of a site if a closure certificate has been issued in relation to that site or that part of the site.
- (4) If the environmental approval is in force, the monitoring and management notice must be issued to the approval holder.
- (5) If the environmental approval is no longer in force, the monitoring and management notice must be issued to:
 - (a) the person who was the approval holder immediately before the environmental approval expired or was revoked; or
 - (b) the owner or occupier of the site.

199A Monitoring and management notice – protected environmental area or prohibited action

- (1) The CEO may issue a monitoring and management notice in relation to a site if:
 - (a) a prohibited action is being, or has been, carried out at the site; and
 - (b) the CEO considers, on reasonable grounds, that ongoing investigation, monitoring, management or reporting of the site is or will be required as a result of the prohibited action.
- (2) The CEO may issue a monitoring and management notice in relation to a site that is in a protected environmental area if:
 - (a) an action is being, or has been, carried out at the site; and
 - (b) the action is not authorised under the declaration of the protected environmental area; and
 - (c) the CEO considers, on reasonable grounds, that ongoing investigation, monitoring, management or reporting of the site is or will be required as a result of that action.
- (3) A monitoring and management notice under this section must be issued to:
 - (a) the person who is carrying out or has carried out the action; or
 - (b) the owner or occupier of the site.

199B Monitoring and management notice – form and giving of notice

- (1) A monitoring and management notice must:
 - (a) be in writing; and
 - (b) be given to each person to whom it is issued.
- (2) A copy of the monitoring and management notice must be given to each owner and occupier of the site to which the notice applies unless the notice is issued to that person under section 199(5) or 199A(3).

63 Section 200 amended (Contents of closure notice)

- (1) Section 200, heading

omit

closure

insert

monitoring and management
- (2) Section 200(1) and (2)

omit

closure

insert

monitoring and management
- (3) Section 200(1)(e)(ii)

omit

Minister

insert

CEO

64 Section 201 amended (Effect of closure notice)

- (1) Section 201, heading

omit

closure

insert

monitoring and management

(2) Section 201

omit

closure

insert

monitoring and management

65 Section 202 amended (Copy of closure notice may be lodged with Registrar-General)

(1) Section 202, heading

omit

closure

insert

monitoring and management

(2) Section 202(1) and (3)

omit

closure

insert

monitoring and management

(3) Section 202(1)

omit

by the Minister

(4) Section 202(2)

omit

of the notice

insert

of the monitoring and management notice

66 Section 203 amended (Recorded notice applies to owners and occupiers of land)

Section 203(1) and (2)

omit

closure

insert

monitoring and management

67 Section 204 amended (Notice to owners and occupiers of land)

(1) Section 204(1), (2), (3) and (5)

omit (all references)

closure

insert

monitoring and management

(2) Section 204(2)

omit

the notice

insert

the monitoring and management notice

(3) Section 204(3)

omit

The notice

insert

The written notice

(4) Section 204(4)

omit

the notice

insert

the written notice

- (5) Section 204(5)

omit

A notice

insert

A written notice

- (6) Section 204(5), after "199"

insert

or 199A

68 Section 205 amended (Notice by owner or occupier to CEO)

- (1) Section 205(1) and (2)

omit

closure

insert

monitoring and management

- (2) Section 205(3)

omit

The notice

insert

The written notice

69 Section 207 amended (Cancellation of recording of closure notice)

- (1) Section 207, heading

omit

closure

insert

monitoring and management

- (2) Section 207(1), (2) and (4)

omit

closure

insert

monitoring and management

70 Section 208 amended (Contravention of closure notice – environmental offence)

- (1) Section 208, heading

omit

closure

insert

monitoring and management

- (2) Section 208(1)(a)

omit

closure

insert

monitoring and management

71 Section 209 amended (Obstruct compliance with closure notice – environmental offence)

- (1) Section 209, heading

omit

closure

insert

monitoring and management

- (2) Section 209(1)(b)
omit
closure
insert
monitoring and management

72 Section 210 amended (Closure notice not complied with)

- (1) Section 210, heading
omit
Closure
insert
Monitoring and management

- (2) Section 210
omit
closure
insert
monitoring and management

73 Section 244A inserted

After section 244

insert

244A Contravention of direction – environmental offence

- (1) A person commits an offence if:
- (a) the person is given a direction under section 244; and
 - (b) the person contravenes that direction.

Penalty: environmental offence level 3.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

74 Section 246 amended (CEO to have regard to certain matters)

- (1) Section 246, heading

omit

have regard to

insert

consider

- (2) Section 246

omit

have regard to

insert

consider

75 Section 249 amended (Court to have regard to certain matters)

- (1) Section 249, heading

omit

have regard to

insert

consider

- (2) Section 249

omit

have regard to

insert

consider

76 Section 254 amended (Proceeding to be stayed if criminal proceedings commenced)

After section 254(3)

insert

- (4) This section does not prevent an application or order from being made under Division 1 if a criminal proceeding has commenced.

77 Part 11, Division 1AA inserted

After Part 11, heading

insert

Division 1AA General environmental harm offence

259A Offence to cause environmental harm – environmental offences

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and
 - (c) the conduct is not authorised under this Act; and
 - (d) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct is part of carrying out an action and the person is reckless in relation to that circumstance; and
 - (c) the conduct is not authorised under this Act; and
 - (d) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

- (3) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct is part of carrying out an action; and
 - (c) the conduct is not authorised under this Act; and
 - (d) the conduct results in significant environmental harm.
- Penalty: environmental offence level 2.
- (4) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct is part of carrying out an action; and
 - (c) the conduct is not authorised under this Act; and
 - (d) the conduct results in material environmental harm.
- Penalty: environmental offence level 3.
- (5) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct is part of carrying out an action; and
 - (c) the conduct is not authorised under this Act; and
 - (d) the conduct results in environmental harm.
- Penalty: environmental offence level 4.
- (6) Strict liability applies to subsections (1)(c) and (2)(c).
- (7) An offence against subsection (3), (4) or (5) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

78 Section 265 amended (Criminal liability of executive officer of body corporate)

Section 265(8), definition *relevant offence*

omit, insert

relevant offence means:

- (a) a specified environmental offence; or
- (b) an offence against a provision of the regulations prescribed by regulation.

79 Section 269 amended (Alternative verdicts)

Section 269(2), Table, at the end

insert

section 259A(1)	section 259A(2), (3), (4) or (5)
section 259A(2)	section 259A(3), (4) or (5)
section 259A(3)	section 259A(4) or (5)
section 259A(4)	section 259A(5)

80 Section 270 amended (Principles to be applied in imposing a penalty for specified environmental offences)

- (1) Section 270, heading

omit

a

- (2) Section 270

omit

have regard to

insert

consider

- (3) Section 270(b)

omit

or irreversible

insert

, irreversible or cumulative

81 Sections 274A, 274B and 274C inserted

After section 274

insert

274A Notice of defence must be given

A person charged with an offence who intends to rely on a defence specified by or under this Act must give written notice of the intention to the prosecutor at least 10 business days before the charge is heard.

274B Statements of fact

- (1) This section applies to a proceeding under this Act.
- (2) A statement purporting to be signed by a relevant person specifying any of the following matters is evidence of the matter specified in the statement:
 - (a) that, at a specified time, a specified person was, or was not, an approval holder;
 - (b) that, at a specified time, a specified environmental approval had been granted, varied, suspended or revoked.
- (3) A statement purporting to be signed by a relevant person specifying any of the following matters is evidence of the matter specified in the statement:
 - (a) that, at a specified time, a specified environmental approval, a copy of which is attached to the statement, contained specified conditions;
 - (b) that, at a specified time, a direction, instruction or notice, a copy of which is attached to the statement, had been given or imposed or had not been given or imposed under this Act;
 - (c) that, at a specified time, a specified declaration under this Act, a copy of which is attached to the statement, was in force;
 - (d) that, at a specified time, a document, a copy of which is attached to the statement, is a document mentioned in an environmental approval or a statutory instrument under this Act.

- (4) A statement purporting to be signed by the CEO specifying any of the following matters is evidence of the matter specified in the statement:
- (a) that, at a specified time, a specified person was an environmental officer; or
 - (b) that, at a specified time, a specified person was:
 - (i) a registered environmental auditor; or
 - (ii) a registered environmental practitioner; or
 - (iii) a qualified person appointed by the CEO to conduct an environmental audit.
- (5) An instrument, equipment or installation prescribed by regulation that is used by an environmental officer in accordance with the manufacturer's instructions is taken to be accurate and precise in the absence of evidence to the contrary.
- (6) In this section:
- relevant person*** means:
- (a) the CEO; or
 - (b) a person appointed or authorised as an environmental officer under section 159.

274C Reports of analysis

- (1) This section applies to a proceeding under this Act.
- (2) The production in a proceeding of a signed analyst's report specifying any of the following matters is evidence of those matters:
- (a) the analyst took, or received from a specified person, the sample mentioned in the report;
 - (b) the analyst analysed the sample on a specified day, or during a specified period, and at a specified place;
 - (c) the results of the analysis.
- (3) A defendant in a proceeding who intends to produce a signed analyst's report in the proceeding must send a copy of the report to the prosecutor at least 5 business days before the day set down for the hearing.

82 Part 13, Division 2A inserted

After section 280

insert

Division 2A Protection from liability

280A 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 in the exercise of a power or performance of a function as any of the following:
- (a) the CEO;
 - (b) a person who is appointed or authorised as an environmental officer under section 159(1);
 - (c) a person who is authorised under section 163(1)(r) to provide assistance to an environmental officer;
 - (d) a person who is authorised under section 251(4) to exercise a power or perform a function under section 251(1) or (2) on the CEO's behalf;
 - (e) a person who is authorised under section 272(4) to exercise a power or perform a function under section 272(1) or (2) on the CEO's behalf.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.

83 Section 281 amended (Confidential information)

- (1) Section 281(1)(c)

omit

of an action

insert

process

(2) Section 281(1)(d) and (e), after "action"

insert

or strategic proposal

84 Part 13, Division 4A inserted

After section 284

insert

**Division 4A Failure by decision-maker to meet specified time
or publish decision or statement of reasons**

**284A Failure of decision-maker to make decision or do thing within
specified time**

(1) A failure of a decision-maker to make a decision or do a thing under this Act within a specified time does not invalidate the decision or thing done.

(2) Subsection (1) does not affect the operation of section 74(2).

284B Failure to publish decision or statement of reasons

(1) The failure of a decision-maker to publish a decision or a statement of reasons for a decision under this Act does not affect the validity of the decision.

(2) A decision-maker may publish a decision or statement of reasons even if the required time for that publication has expired.

85 Part 13, Division 7A inserted

After section 292

insert

Division 7A Analysts

292A Meaning of *analyst*

(1) ***Analyst*** means a person who:

(a) is appointed as an analyst under subsection (2); or

(b) holds a kind of accreditation, in relation to analysts, prescribed by regulation; or

- (c) is in a class of analysts prescribed by regulation.
- (2) The CEO may appoint a person who, in the CEO's opinion, is appropriately qualified, to be an analyst.
- (3) The regulations may prescribe:
 - (a) kinds of accreditation in relation to analysts; or
 - (b) classes of persons to be analysts.

86 Section 295 amended (Definitions)

Section 295, definition *prescribed Act*, before paragraph (a)

insert

(aa) *Energy Pipelines Act 1981*; or

87 Section 299 amended (Assessment report)

- (1) Section 299, before "An"

insert

(1)

- (2) Section 299, at the end

insert

- (2) In subsection (1), an assessment report includes a report (however described) prepared under the former Act on the completion of an assessment under that Act.

88 Section 300 amended (Assessment report completed under former Act before commencement)

- (1) Section 300(1)(b)

omit, insert

(b) a statutory authorisation is required under a prescribed Act to permit the action.

- (2) Section 300(2), (3) and (4)

omit, insert

- (2) The proponent must notify the NT EPA under section 51(1) of a significant variation to the proposed action.

- (3) Sections 8A and 8B of the former Act continue to apply in relation to the assessment report.

89 Section 300A inserted

After section 300

insert

300A Assessment report completed under former Act and action commenced before commencement

- (1) This section applies if:
- (a) an assessment report for a proposed action was completed under the former Act before the commencement; and
 - (b) the proposed action had commenced before the commencement; and
 - (c) a statutory authorisation is not required under a prescribed Act to permit the proposed action.
- (2) The proponent must notify the NT EPA under section 51(1) of a significant variation to the proposed action.

90 Section 301A inserted

After section 301

insert

301A Assessment report completed under former Act before, and action commenced after, commencement

- (1) This section applies if:
- (a) an assessment report for a proposed action was completed under the former Act before the commencement; and
 - (b) the proposed action had not commenced before the commencement; and
 - (c) a statutory authorisation is not required under a prescribed Act to permit the action.
- (2) An environmental approval is required to be obtained under this Act before commencing the proposed action.

91 Section 302 amended (Process for environmental approval)

Section 302(1)

omit

300(3) and 301(2)

insert

301(2) and 301A(2)

92 Schedule amended

(1) Schedule, after "182"

insert

or 182A

(2) Schedule, after item relating to section 185

insert

A decision of the CEO to issue a
monitoring and management notice
under section 199 or 199A

The person to whom the notice is
issued

(3) Schedule, item relating to section 202

omit

closure

insert

monitoring and management

93 Act further amended

The Schedule has effect.

**Division 2 Amendment of Environment Protection
Regulations 2020**

94 Regulations amended

This Division amends the Environment Protection
Regulations 2020.

95 Regulation 3 amended (Definitions)

Regulation 3

insert

EAA referred action, see regulation 212A.

non-assessed action, see regulation 212A.

non-assessed strategic proposal, see regulation 212A.

submission period, for Part 12, Division 2, Subdivision 1A, see regulation 277A.

96 Regulation 6 amended (Fit and proper person)

(1) Regulation 6(1) and (2)

omit

section 62(b)

insert

section 62(1)(b)

(2) Regulation 6(2)

omit

section 62(a)

insert

section 62(1)(a)

(3) After regulation 6(2)(a)(iii)

insert

(iiia) has contravened a law of the Territory under which a tax or royalty is payable to the Territory; or

(4) Regulation 6(4)

omit

all words from "Without" to "following:"

insert

For section 62(1)(b) of the Act, the following additional matters are prescribed:

- (5) Regulation 6(5)

omit, insert

- (5) If the Minister is considering, under Part 5 of the Act, whether a person is a fit and proper person to hold an environmental approval, the person must provide to the NT EPA or the Minister any information required by the NT EPA or the Minister for that consideration.

97 Regulation 17 amended (Application of Subdivision)

Regulation 17(2)

omit

amendment that is solely of an administrative nature

insert

administrative amendment

98 Regulation 27 amended (Purpose of Division)

Regulation 27(2)

omit

amendment that is solely of an administrative nature

insert

administrative amendment

99 Regulation 47A inserted

After regulation 47

insert

47A Grounds for refusal to accept referral for standard assessment

The NT EPA may refuse to accept a referral of a proposed action for a standard assessment under section 48 or 50(2)(c) of the Act if the NT EPA considers that the referral:

- (a) relates to an area that is covered by a strategic proposal that has been referred for assessment; or
- (b) is of a proposed action of a kind that will be assessed through the assessment of a strategic proposal that has been referred for assessment; or
- (c) is of a proposed action that has been assessed as part of a strategic assessment.

100 Regulation 59 amended (Method of environmental impact assessment)

Regulation 59

omit

have regard to

insert

consider

101 Regulation 77 amended (NT EPA to have regard to environmental objectives)

- (1) Regulation 77, heading

omit

to have regard to

insert

must consider

(2) Regulation 77

omit

have regard to

insert

consider

102 Regulation 78 amended (Proponent to have regard to environmental objectives)

(1) Regulation 78, heading

omit

to have regard to

insert

must consider

(2) Regulation 78

omit

have regard to

insert

consider

103 Regulation 83 amended (Additional information during assessment process)

(1) Regulation 83, heading

omit

assessment process

insert

environmental impact assessment

(2) Regulation 83(1)

omit

undertake

insert

carry out

(3) Regulation 83(3)

omit

environmental impact assessment process

insert

carrying out of the environmental impact assessment

104 Regulation 88 amended (Suspension of process on referral to Commonwealth)

(1) Regulation 88(1)

omit

assessment of

insert

assessment process for

(2) Regulation 88(1)(c)

omit

proposal

insert

proposed action or strategic proposal

(3) Regulation 88(1)(c)(ii)

omit

referral

insert

proposed action or strategic proposal

105 Regulation 88A inserted

After regulation 88

insert

88A Suspension of standard assessment process

- (1) The NT EPA may suspend an environmental impact assessment process for a standard assessment of a proposed action at any time if the NT EPA considers that the proposed action:
 - (a) relates to an area that is covered by a strategic proposal that has been referred for assessment; or
 - (b) is of a kind that will be assessed through the assessment of a strategic proposal that has been referred for assessment.
- (2) If the NT EPA suspends an environmental impact assessment process under subregulation (1), the NT EPA must recommence the assessment process within 10 business days after the Minister:
 - (a) grants an environmental approval for the strategic proposal; or
 - (b) issues a statement of unacceptable impact for the strategic proposal.
- (3) Subject to subregulation (2), if the NT EPA suspends an environmental impact assessment process under subregulation (1), the NT EPA may recommence the assessment process at any time.

106 Regulation 91 amended (Effect of suspension on required period to make decision)

Regulation 91, after "88,"

insert

88A,

107 Regulation 92 amended (Termination of assessment process)

(1) After regulation 92(1)

insert

(1A) The NT EPA may, by written notice to the proponent, terminate the environmental impact assessment process for a standard assessment of a proposed action if the NT EPA considers that the proposed action:

- (a) relates to an area that is covered by a strategic proposal that has been referred for assessment; or
- (b) is of a kind that will be assessed through the assessment of a strategic proposal that has been referred for assessment; or
- (c) has been assessed as part of a strategic assessment and the Minister has granted an environmental approval for the strategic proposal.

(2) Regulation 92(3), after "88"

insert

, 88A

108 Regulation 95 amended (NT EPA may reconsider method of environmental impact assessment)

(1) Regulation 95(2)(b)

omit

granted; or

insert

granted.

(2) Regulation 95(2)(c)

omit

(3) After regulation 95(2)

insert

(2A) The NT EPA must not reconsider a determination that an environmental impact assessment is not required for the proposed action or strategic proposal if another statutory authorisation of the

proposed action or the strategic proposal (other than an authorisation under section 58(3) of the Act) has been granted after that determination.

109 Regulation 104 amended (Decision on terms of reference)

(1) Regulation 104(2), after "58(1)(b),"

insert

66(1)(a),

(2) Regulation 104(3)(c)

omit

draft the

insert

the draft

(3) Regulation 104(5)(b)(ii), after "regulation"

insert

66(1)(a),

110 Regulation 107 amended (Amendment of approved terms of reference)

Regulation 107(3)

omit

amendment that is solely of an administrative nature

insert

administrative amendment

111 Regulation 119A inserted

After regulation 119

insert

119A Publication of direction

The NT EPA must publish a direction under regulation 119 as soon as practicable after the direction is given.

112 Regulation 120 amended (Submission period for supplementary environmental report)

(1) Regulation 120, heading

omit

Submission

insert

Assessment

(2) Regulation 120(1), after "period"

insert

(the **assessment period**)

(3) Regulation 120(2)

omit

submission

insert

assessment

113 Regulation 136A inserted

After regulation 136

insert

136A Publication of direction

The NT EPA must publish a direction under regulation 136 as soon as practicable after the direction is given.

114 Regulation 137 amended (Submission period for supplement)

(1) Regulation 137, heading

omit

Submission

insert

Assessment

(2) Regulation 137(1), after "period"

insert

(the **assessment period**)

(3) Regulation 137(2)

omit

submission

insert

assessment

115 Regulation 155 amended (Proponent to have regard to report)

(1) Regulation 155, heading

omit

to have regard to

insert

must consider

(2) Regulation 155

omit

have regard to

insert

consider

116 Regulation 157 amended (Preparation of assessment report)

After regulation 157(2)(a)

insert

(ab) any other statutory decision-making processes that may mitigate the potential environmental impact of the referred action or strategic proposal;

117 Regulation 173 amended (Decision or recommendation on significant variation)

After regulation 173(1)(c)(i) and (d)(i)

insert

- (ia) if terms of reference have not yet been published for the assessment – the assessment can continue with the approval of terms of reference; or

118 Regulation 177 amended (Assessment to continue without change)

After regulation 177(3)

insert

- (3A) If a decision is made under regulation 173(1)(c)(ia) or (d)(ia) that the assessment can continue with the approval of terms of reference:
 - (a) the NT EPA must commence the process for the approval of terms of reference under regulation 98 within 10 business days after the decision under regulation 173(1)(c)(ia) or (d)(ia) is made; and
 - (b) regulation 101 applies as if it required the terms of reference to be published within 40 business days after the decision under regulation 173(1)(c)(ia) or (d)(ia) is made.

119 Regulation 178 amended (Alternative method of assessment required)

Regulation 178(2)

omit

have regard to

insert

consider

120 Part 7, Division 2A inserted

After regulation 212

insert

Division 2A Process for significant variation notified in other specified circumstances

Subdivision 1 Preliminary matters

212A Definitions

In this Part:

EAA referred action means an action that was referred, notified or submitted (however described) for assessment under the *Environmental Assessment Act 1982*.

non-assessed action means an action referred under section 48 of the Act for which a decision was made under regulation 57(2)(a) or 58(1)(a) that an assessment was not required.

non-assessed strategic proposal means a strategic proposal referred under section 49 of the Act for which a decision was made under regulation 57(2)(a) or 58(1)(a) that an assessment was not required.

212B Application of Division

This Division applies if the NT EPA receives any of the following:

- (a) a notice under section 51(1) of the Act of a significant variation of a non-assessed action;
- (b) a notice under section 51(1) of the Act of a significant variation of an EAA referred action;
- (c) a notice under section 51(2) of the Act of a significant variation of a non-assessed strategic proposal.

Subdivision 2 Initial consideration of notice of significant variation

212C Additional information about significant variation

- (1) On receipt of the notice of significant variation under section 51(1) or (2) of the Act, the NT EPA may direct the proponent to give it additional information in relation to the significant variation.
- (2) The additional information must be:
 - (a) a material omission from the notice of significant variation; and
 - (b) required to enable the NT EPA to properly consider the notice of significant variation and whether the notice was required to be given.
- (3) A direction must be made within 10 business days after the NT EPA receives the notice of significant variation.
- (4) If the NT EPA gives a direction under this regulation, the required period for the NT EPA to make a decision under regulation 212E on the notice of significant variation ceases to run until the information is given.
- (5) Regulations 41 and 42 apply, with the necessary changes, in relation to a failure to comply with a direction under this regulation as if the notice of significant variation were a referral of a proposed action or strategic proposal, as the case requires.

212D Proponent may provide draft terms of reference

- (1) The proponent may provide to the NT EPA, with the notice of significant variation, draft terms of reference that may be appropriate as a result of the significant variation.
- (2) The proponent must provide a statement of reasons stating why the draft terms of reference are appropriate.

212E Decision whether to accept notice of significant variation

- (1) The NT EPA must accept or refuse to accept a notice of significant variation within 15 business days after the notice is given under section 51(1) or (2) of the Act.
- (2) If the NT EPA does not make a decision under subregulation (1) within the required period, the notice of significant variation is taken to be accepted.

- (3) This regulation does not apply if the NT EPA decides under regulation 41 (as applied by regulation 212C(5)) not to proceed with the notice of significant variation.

212F Grounds for refusal to accept notice of significant variation

The NT EPA may refuse to accept a notice of significant variation under regulation 212E if the NT EPA considers that the notice:

- (a) contains insufficient information to make an assessment decision; or
- (b) has not been prepared or certified in accordance with the requirements determined under regulation 263; or
- (c) relates to part of a larger action proposed by the proponent and information on the whole action is required to make an assessment decision; or
- (d) was not required to be given.

212G Notice to proponent of decision

- (1) The NT EPA must give notice of a decision under regulation 212E to the proponent.
- (2) The notice of decision must contain the following information:
 - (a) a statement that the notice of significant variation has been accepted or refused;
 - (b) the name of the proponent;
 - (c) the name of the action or strategic proposal to which the notice relates;
 - (d) the nature of the significant variation.
- (3) If the NT EPA refuses to accept a notice of significant variation, the NT EPA must give the proponent a statement of reasons for the decision.
- (4) The notice of decision and, if the decision is to refuse to accept the notice of significant variation, the statement of reasons must be given to the proponent as soon as practicable after the decision is made.

212H Publication of documents

- (1) The NT EPA must publish the following as soon as practicable after the decision is made:
 - (a) the notice of decision;
 - (b) if the decision is to refuse to accept the notice of significant variation – the statement of reasons for the decision.
- (2) If a notice of significant variation is accepted, the NT EPA must also publish the following as soon as practicable after the decision is made:
 - (a) a copy of the accepted notice of significant variation;
 - (b) any direction given under regulation 212C;
 - (c) any additional information given in response to the direction given under regulation 212C;
 - (d) if the proponent has provided draft terms of reference under regulation 212D – the draft terms of reference and the statement of reasons provided under that regulation.

212J Public consultation

- (1) If a notice of significant variation is accepted, the NT EPA must publish a notice:
 - (a) advising where the documents mentioned in regulation 212H may be inspected and obtained; and
 - (b) inviting interested persons to make a submission to the NT EPA on the significant variation within the period specified in the notice.
- (2) The submission period must be:
 - (a) for a notice relating to a significant variation other than a notice mentioned in paragraph (b) – 20 business days after the date of the notice; or
 - (b) for a notice relating to a significant variation for which the proponent has provided draft terms of reference under regulation 212D – 30 business days after the date of the notice.

212K Consultation with government authorities

If a notice of significant variation is accepted, the NT EPA must:

- (a) give a copy of the documents mentioned in regulation 212H to any government authority that the NT EPA considers may have a view on the matter; and
- (b) invite the government authority to make a submission to the NT EPA on the significant variation within the relevant submission period specified in the notice under regulation 212J.

Subdivision 3 Consideration after acceptance of notice of significant variation

212L NT EPA to consider significant variation

If a notice of significant variation is accepted, the NT EPA must consider whether an environmental impact assessment is required for the significant variation.

212M Matters NT EPA must consider in relation to significant variation

- (1) The NT EPA must consider the following before making a decision under regulation 212N on a significant variation:
 - (a) the notice of significant variation;
 - (b) any additional information given to the NT EPA under regulation 212C;
 - (c) any submissions received under regulation 212J or 212K;
 - (d) in the case of a significant variation of a non-assessed action or non-assessed strategic proposal:
 - (i) the referral made under section 48 or 49 of the Act of the action or strategic proposal; and
 - (ii) any additional information given to the NT EPA under regulation 40 in relation to the referral mentioned in subparagraph (i); and
 - (iii) any submissions received under regulation 52 or 53 in relation to the referral mentioned in subparagraph (i);
 - (e) the matters mentioned in subregulation (2) or (3), as the case requires.

- (2) In assessing a significant variation of an EAA referred action to determine whether or not the variation requires an environmental impact assessment, the NT EPA must consider the following:
- (a) whether the potential for a significant impact on the environment of the significant variation differs in a material way from the impacts already identified in any assessment process under the *Environmental Assessment Act 1982* for the action;
 - (b) whether, and the extent to which, the significant variation will result in a substantial change to the type or amount of any output of the action in a way that significantly changes the potential significant impacts from those already identified in any assessment process under the *Environmental Assessment Act 1982* for the action;
 - (c) whether the objects of the Act and the purpose of the environmental impact assessment process set out in section 42 of the Act would be undermined if the matters raised in the significant variation were not assessed.
- (3) In assessing a significant variation of a non-assessed action or a non-assessed strategic proposal to determine whether or not the variation requires an environmental impact assessment, the NT EPA must consider the following:
- (a) whether the potential for a significant impact on the environment of the significant variation differs in a material way from the impacts already identified in relation to the action or strategic proposal referred under section 48 or 49 of the Act;
 - (b) whether, and the extent to which, the significant variation will result in a substantial change to the type or amount of any output of an action in a way that significantly changes the potential significant impacts from those already identified in relation to the action or strategic proposal referred under section 48 or 49 of the Act;
 - (c) whether the objects of the Act and the purpose of the environmental impact assessment process set out in section 42 of the Act would be undermined if the matters raised in the significant variation were not assessed.

212N Decision on significant variation

- (1) The NT EPA may, in relation to a significant variation:
 - (a) decide that an environmental impact assessment is not required for the matters in the significant variation; or
 - (b) decide:
 - (i) that a standard assessment or strategic assessment is required; and
 - (ii) the required method of environmental impact assessment.
- (2) Regulations 59 and 60 apply (with any necessary changes) to the decision on the method of environmental impact assessment.
- (3) A decision under subregulation (1) must be made within 30 business days after the end of the submission period specified in the notice under regulation 212J.
- (4) The required period for the NT EPA to make a decision under subregulation (1) ceases to run during any period that the NT EPA carries out a consultation under regulation 60.

212P Notice to proponent of decision or recommendation

- (1) The NT EPA must give the proponent:
 - (a) notice of a decision under regulation 212N; and
 - (b) a statement of reasons for the decision.
- (2) The notice of decision and the statement of reasons must be given as soon as practicable after the decision is made.

212Q Notice of decision to be published

The NT EPA must publish the following as soon as practicable after a decision is made under regulation 212N:

- (a) the notice of decision;
- (b) the statement of reasons for the decision.

Subdivision 4 Implementation of decision on assessment

212R Assessment for significant variation

- (1) This regulation applies if the NT EPA makes a decision under regulation 212N(1)(b) that a standard assessment or strategic assessment is required for the matters in the significant variation.
- (2) Subject to subregulation (3), the NT EPA must carry out an environmental impact assessment of the significant variation.
- (3) Subject to regulations 212S and 212T, Parts 5 and 6 apply, with the necessary changes, to the assessment of the significant variation as if:
 - (a) the variation were a proposed action or strategic proposal, as the case requires; and
 - (b) in the case of the significant variation of an EAA referred action – a reference in Part 6 to an assessment report includes an addendum to an existing assessment report under the *Environmental Assessment Act 1982*.

212S Environmental approval for significant variation if specified statutory authorisation granted

- (1) This regulation applies if, at the time the assessment of a significant variation of an action or strategic proposal is carried out under this Subdivision, a statutory authorisation had been granted under any of the following Acts for the action or the actions under the strategic proposal:
 - (a) *Energy Pipelines Act 1981*;
 - (b) *Mining Management Act 2001*;
 - (c) *Petroleum Act 1984*;
 - (d) *Planning Act 1999*;
 - (e) *Waste Management and Pollution Control Act 1998*.
- (2) An environmental approval prepared under Part 6 for the significant variation may only address the significant impacts that relate to the significant variation, which may include the cumulative impacts of the action or actions, any changes to the action or actions and the significant variation.

212T Environmental approval for significant variation if other statutory authorisation granted

- (1) This regulation applies if, at the time the assessment of a significant variation of an action or strategic proposal is carried out under this Subdivision, a statutory authorisation other than a statutory authorisation mentioned in section 212S had been granted under any Act for the action or the actions under the strategic proposal.
- (2) An environmental approval prepared under Part 6 for the significant variation may address all significant impacts that are identified in relation to the action or actions and the significant variation, including, in the case of a significant variation of an EAA referred action, any impacts assessed in the assessment of the action under the *Environmental Assessment Act 1982*.

212U Environmental approval for significant variation if statutory authorisation not required or not granted

- (1) This regulation applies if, at the time the assessment of a significant variation of an action or strategic proposal is carried out under this Subdivision, a statutory authorisation was not required or had not been granted under any Act for the action or the actions under the strategic proposal.
- (2) An environmental approval prepared under Part 6 for the significant variation may address all significant impacts that are identified in relation to the action or actions and the significant variation, including, in the case of a significant variation of an EAA referred action, any impacts assessed in the assessment of the action under the *Environmental Assessment Act 1982*.

212V Application of Part 5 if draft terms of reference for variation already published

- (1) This regulation applies if:
 - (a) the NT EPA has determined under regulation 212N or Part 4, Division 3 that the assessment of a significant variation is to be an assessment by environmental impact statement; and
 - (b) draft terms of reference for the significant variation were published under regulation 212H.
- (2) Except as set out in subregulation (5), regulations 98(1), (3) and (4) and 100 to 104 do not apply to the terms of reference for the significant variation.

- (3) After considering any submissions received under regulations 212J and 212K in relation to the draft terms of reference published under regulation 212H, the NT EPA may:
 - (a) approve the draft terms of reference for the assessment of the significant variation; or
 - (b) approve the draft terms of reference for the assessment of the significant variation with any changes the NT EPA considers appropriate; or
 - (c) refuse to approve the draft terms of reference.
- (4) The NT EPA must make the decision on the draft terms of reference within 35 business days after the end of the submission period specified in the notice under regulation 212J.
- (5) If the NT EPA refuses to approve the draft terms of reference for an assessment under subregulation (3)(c), the NT EPA must prepare terms of reference for the assessment under regulation 98(1).
- (6) Regulations 105 and 106 apply to a decision under subregulation (3) on the draft terms of reference as if it were a decision under regulation 104(1), (3) or (4).

212W Consultation on draft environmental approval

- (1) This regulation applies to the preparation of a draft environmental approval under Part 6 (as applied by regulation 212R) for a significant variation.
- (2) The NT EPA must:
 - (a) consult with the proponent on the proposed draft environmental approval; and
 - (b) invite the proponent to make a submission to the NT EPA on the matters on which the proponent is consulted.
- (3) The NT EPA must:
 - (a) make reasonable efforts to obtain the views of the following:
 - (i) any statutory decision-maker that the NT EPA considers may have a view on the draft environmental approval;
 - (ii) in relation to any conditions of the proposed draft environmental approval that relate to a potential health impact of an action – the Chief Health Officer;

- (iii) in relation to any conditions of the proposed draft environmental approval that relate to a potential impact of an action on a social or cultural matter – the relevant government authority; and
- (b) invite each entity consulted under paragraph (a) to make a submission on matters on which the entity is consulted.
- (4) The NT EPA must specify a period for submissions under subregulations (2) and (3).
- (5) The NT EPA must consider any submissions made under subregulation (2) or (3) within the submission period on the relevant matters.

121 Regulation 264 amended (Proponent or approval holder to have regard to objectives in preparing documents)

- (1) Regulation 264, heading
 - omit*
 - to have regard to**
 - insert*
 - must consider**
- (2) Regulation 264
 - omit*
 - have regard to
 - insert*
 - consider
- (3) Regulation 264(b)
 - omit*
 - under Part 7, Division 1 or 2
 - insert*
 - to which Part 7, Division 1, 2 or 2A applies

(4) Regulation 264(c)

omit

under Part 7, Division 3

insert

to which Part 7, Division 3 applies

**122 Part 12, Division 1, Subdivision 2 heading amended
(Submissions)**

Part 12, Division 1, Subdivision 2, heading, after "**Submissions**"

insert

to NT EPA

123 Regulation 269 amended (Request not to publish submission)

(1) Regulation 269(1), at the end

insert

Note for subregulation (1)

Section 281 of the Act empowers the proponent to request that identified information provided by the proponent not be made public on the basis that it is commercial-in-confidence or for other specified reasons.

(2) Regulation 269(3)

omit, insert

(3) The NT EPA may remove identifying information from any copy of a submission required to be given to the proponent under this Subdivision.

(4) The NT EPA must remove identifying information from any copy of a submission required to be given to the proponent under this Subdivision if a request is made under subregulation (1).

124 Part 12, Division 2, Subdivision 1A inserted

After regulation 277

insert

Subdivision 1A Extension of specified submission period

277A Definition

In this Subdivision:

submission period means any period specified under the Act or these Regulations for making submissions to the NT EPA.

277B Application for extension of submission period

The proponent or approval holder or a transferee may apply to the NT EPA for an extension of a submission period.

277C Decision on application for extension

- (1) On an application under regulation 277B, the NT EPA, after consulting with the applicant, may:
 - (a) extend the submission period for the period applied for; or
 - (b) extend the submission period for a period determined by the NT EPA; or
 - (c) refuse to extend the submission period.
- (2) The NT EPA must make a decision under subregulation (1) within 10 business days after receiving the application under regulation 277B.
- (3) The NT EPA may only extend a submission period under this regulation if the NT EPA reasonably considers that the extension of the period is necessary to meet the objects of the Act.
- (4) The NT EPA must not unreasonably refuse to extend the submission period.
- (5) If, under this regulation, the NT EPA extends a submission period, the submission period as extended is taken to be the submission period under the Act and these Regulations.

277D Statement of reasons

The NT EPA must prepare a statement of reasons for a decision under regulation 277C.

277E Notice to proponent or approval holder of decision

- (1) The NT EPA must give the applicant:
 - (a) notice of a decision under regulation 277C; and
 - (b) the statement of reasons for the decision.
- (2) The notice of decision and statement of reasons must be given as soon as practicable after the decision is made.
- (3) If the specified period is extended under regulation 277C, the notice of decision must include the period of the extension.

277F Notice of decision

The NT EPA must publish the following as soon as practicable after the decision is made under regulation 277C:

- (a) the notice of decision;
- (b) the statement of reasons for the decision.

125 Regulation 282 amended (Public register)

- (1) After regulation 282(1)(i)

insert

- (ia) any environment protection bond provided by an approval holder under an environmental approval, including:
 - (i) details of the site to which the approval applies; and
 - (ii) the name of the approval holder; and
 - (iii) details of the environmental approval; and
 - (iv) the amount of environment protection bond held;

- (2) Regulation 282(1)(l)

omit, insert

- (l) any monitoring and management notice issued under Part 9, Division 4 of the Act;

126 Schedule 2 amended (Infringement notice offences and prescribed amounts)

Schedule 2

omit

and 228(3) and (4)

insert

, 228(3) and (4), 244A(1) and 259A(4) and (5)

Part 3 Chain of responsibility amendments

Division 1 Amendment of Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022

127 Act amended

This Division amends the *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022*.

128 Section 8 amended (Part 9, Division 2, Subdivision 2 and Division 2A inserted)

(1) Section 8, new section 192L

insert

original landowner, see section 192U.

(2) Section 8, new section 192L, definition **prescribed direction**, paragraph (b)

omit, insert

(b) either:

- (i) relates to compliance with a prescribed approval under the prescribed Act; or
- (ii) relates to compliance with, or provides for, a prescribed environmental duty under the prescribed Act; and

(3) Section 8, new sections 192Y and 192Z

repeal, insert

192Y Declarations under section 5F of the *Corporations Act 2001* (Cth)

(1) The regulations may declare any matter relating to compliance notices issued in the circumstances set out in this Division, including any act or omission required by such a compliance notice, to be an excluded matter for section 5F of the *Corporations Act 2001* (Cth) in relation to:

- (a) the whole of the Corporations legislation; or
- (b) a specified provision of the Corporations legislation; or
- (c) the Corporations legislation other than a specified provision; or
- (d) the Corporations legislation other than to a specified extent.

(2) In this section:

matter includes act, omission, body, person or thing.

Note for section 192Y

Section 5F of the Corporations Act 2001 (Cth) provides that if a Territory law declares a matter to be an excluded matter for the purposes of that section in relation to all or part of the Corporations legislation of the Commonwealth the provisions that are the subject of the declaration will not apply in relation to that matter in the Territory.

192Z Declarations under section 5G of the *Corporations Act 2001* (Cth)

(1) The regulations may declare any provision of this Act or a prescribed Act relating to compliance notices to be a Corporations legislation displacement provision for section 5G of the *Corporations Act 2001* (Cth), (either generally or specifically in relation to a provision of the Corporations legislation).

Note for subsection (1)

Section 5G of the Corporations Act 2001 (Cth) provides that if a Territory law declares a provision of a Territory law to be a Corporations legislation displacement provision for the purposes of that section, any provision of the Corporations legislation with which the Territory provision would otherwise be inconsistent does not operate to the extent necessary to avoid the inconsistency.

- (2) To avoid doubt, a compliance notice issued in the circumstances set out in this Division is intended to provide for how a high risk entity, a related person of a high risk entity or an original landowner is to be wound up or otherwise externally administered if:
- (a) the high risk entity, related person of a high risk entity or original landowner is or becomes a Chapter 5 body corporate; and
 - (b) the compliance notice authorises or requires any act or omission by the high risk entity, related person of a high risk entity or original landowner that affects its property, debts or claims within the meaning of the *Corporations Act 2001* (Cth).

129 Section 17 amended (Parts 9A and 9B inserted)

Section 17, new Part 9B

repeal, insert

Part 9B Chain of responsibility

254B Prescribed Act, approval and direction

- (1) For section 192L of the Act, definition ***prescribed Act***, the *Petroleum Act 1984* is prescribed.
- (2) For section 192L of the Act, definition ***prescribed approval***, paragraph (b), the following are prescribed:
 - (a) an approved environment management plan, see section 5(1) of the *Petroleum Act 1984*;
 - (b) a well operations management plan approved under section 61A of the *Petroleum Act 1984*;
 - (c) a petroleum surface infrastructure plan approved under section 61A of the *Petroleum Act 1984*.
- (3) For section 192L of the Act, definition ***prescribed direction***, paragraph (c), the following are prescribed:
 - (a) a direction given under section 71(1) of the *Petroleum Act 1984*;
 - (b) a direction under section 77(1) of the *Petroleum Act 1984*;
 - (c) a compliance direction issued under section 89N of the *Petroleum Act 1984*.

- (4) For section 192L of the Act, definition ***prescribed environmental duty***, a requirement provided for in a direction under section 77 of the *Petroleum Act 1984* is prescribed.

254C Prescribed enactments for section 192N of Act

For section 192N(4)(c) of the Act, the following Acts are prescribed:

- (a) the *Petroleum Act 1984*;
- (b) the *Native Title Act 1993* (Cth);
- (c) the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);
- (d) the repealed Act as defined in section 5 of the *Petroleum Act 1984* and continued by section 119 of that Act.

254D Declaration under section 5F of the Corporations Act 2001 (Cth)

Any act or omission required by a compliance notice issued in the circumstances set out in Part 9, Division 2A of the Act is declared to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* (Cth) in relation to the provisions of Chapter 5 of that Act, otherwise than to the extent to which those provisions would not prevent the carrying out of that act or omission.

Notes for regulation 254D

- 1 See section 192Y of the Act.
- 2 Section 5F of the *Corporations Act 2001* (Cth) provides that if a Territory law declares a matter to be an excluded matter for the purposes of that section in relation to all or part of the Corporations legislation of the Commonwealth the provisions that are the subject of the declaration will not apply in relation to that matter in the Territory.

254E Declaration under section 5G of the Corporations Act 2001 (Cth)

- (1) The provisions of the Act specified in subregulation (2) are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the *Corporations Act 2001* (Cth) in relation to the provisions of Chapter 5 of that Act.
- (2) For the purposes of subregulation (1), the following provisions of the Act are specified:
 - (a) section 176;
 - (b) section 177;

- (c) section 178;
 - (d) section 179;
 - (e) section 189;
 - (f) section 191;
 - (g) section 192;
 - (h) the provisions of Part 9 Division 2A.
- (3) The provisions of the *Petroleum Act 1984* specified in subregulation (4) are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the *Corporations Act 2001* (Cth) in relation to the provisions of Chapter 5 of that Act.
- (4) For the purposes of subregulation (3), the following provisions of the *Petroleum Act 1984* are specified:
- (a) section 71;
 - (b) section 72;
 - (c) section 77;
 - (d) section 89N;
 - (e) section 89Q;

Notes for regulation 254E

1 See section 192Z of the Act.

2 Section 5G of the *Corporations Act 2001* (Cth) provides that if a Territory law declares a provision of a Territory law to be a Corporations legislation displacement provision for the purposes of that section, any provision of the Corporations legislation with which the Territory provision would otherwise be inconsistent does not operate to the extent necessary to avoid the inconsistency.

Division 2 Amendment of Environment Protection Regulations 2020

130 Regulations amended

This Division amends the *Environment Protection Regulations 2020*.

131 Part 12, Division 1A inserted

After regulation 271

insert

Division 1A Environmental offsets – prescribed enactment

271A Environmental offsets framework and guidelines – prescribed enactment

For section 125 of the Act, the *Petroleum Act 1984* is prescribed.

Part 4 Mining amendments

Division 1 Amendment of Environment Protection Act 2019

132 Act amended

This Division amends the *Environment Protection Act 2019*.

133 Section 3 amended (Objects)

(1) After section 3(c)

insert

(ca) to recognise the role of environmental licensing of mining activities in promoting the protection and management of the environment of the Territory; and

(2) Section 3(d)

omit

and environmental approval

insert

, environmental approval and environmental (mining) licensing

134 Section 4 amended (Definitions)

(1) Section 4, definitions ***closure certificate***, ***contractor*** and ***monitor***

omit

(2) Section 4

insert

access authority, see section 8 of the Mineral Titles Act.

action closure certificate means an action closure certificate issued under section 213.

activity site means:

- (a) a site on which an action is carried out; or
- (b) a mining site on which a regulated mining activity is carried out.

associated activity, see section 13A(2).

Atomic Energy Act means the *Atomic Energy Act 1953* (Cth).

care and maintenance period means a period when any of the following mining activities permitted by an environmental (mining) licence for a mining site are not being carried out on that site:

- (a) exploration for minerals or extractive minerals;
- (b) mining of minerals or extractive minerals;
- (c) extraction of extractive minerals;
- (d) processing of minerals, extractive minerals, tailings, spoil heaps or waste dumps;
- (e) operations and works in connection with exploration or mining generally;
- (f) the construction, maintenance and use of infrastructure authorised by an access authority.

closure certificate means an action closure certificate or a mining closure certificate.

Commonwealth Minister means the Commonwealth Minister for the time being administering the Atomic Energy Act.

contaminant, see section 4(1) of the *Waste Management and Pollution Control Act 1998*.

contractor:

- (a) for Part 9, Division 2, Subdivision 2 – see section 192B(1)(b);
or
- (b) otherwise – means, in relation to an activity site, a person who, under a contract, performs work or supplies a service on that site.

engineered feature means a feature of land that is engineered for a purpose related to a mining activity.

*Examples for definition **engineered feature** include the following:*

- 1 waste rock dumps;
- 2 dam walls;
- 3 pits;
- 4 portals;
- 5 shafts;
- 6 tailings storage facilities.

environment protection management system means an environment protection management system established, implemented and maintained under section 124ZZZI.

environmental (mining) licence means a licence granted under Part 5A, Division 4, Subdivision 3 or Subdivision 7 or section 313 to carry out a mining activity and if that licence is amended under this Act, that licence as amended.

environmental (mining) licence process means a process for the granting of an environmental (mining) licence under Part 5A, Division 4, Subdivision 3 that requires public notice to be given of the application for the licence.

exploration means an activity that is carried out under any of the following under the Mineral Titles Act:

- (a) a mineral exploration licence;
- (b) a mineral exploration licence in retention;
- (c) an extractive mineral exploration licence;
- (d) a mineral authority to the extent that it authorises exploration for minerals or extractive minerals;
- (e) a non-compliant existing interest to the extent that it authorises exploration for minerals.

extractive mineral, see section 10 of the Mineral Titles Act.

extractive operation means an activity that is carried out under any of the following under the Mineral Titles Act:

- (a) an extractive mineral lease;
- (b) an extractive mineral permit;
- (c) a mineral authority to the extent that it authorises the extraction of minerals or extractive minerals;
- (d) a non-compliant existing interest to the extent that it authorises the extraction of extractive minerals.

greenhouse gas means any of the following, whether as a gas or a liquid or as a mixture of both:

- (a) carbon dioxide;
- (b) methane;
- (c) nitrous oxide;
- (d) sulphur hexafluoride;
- (e) hydrofluorocarbons;
- (f) perfluorocarbons;
- (g) a substance prescribed by regulation to be a greenhouse gas.

infrastructure includes buildings, workshops, workers camps, processing facilities, storage tanks, fences, roads, pipelines, conveyors and wharfs.

legacy mine feature, see section 5 of the Legacy Mines Remediation Act.

legacy mine site, see section 4 of the Legacy Mines Remediation Act.

Legacy Mines Remediation Act means the *Legacy Mines Remediation Act 2023*.

mineral, see section 9 of the Mineral Titles Act.

mineral interest means one of the following:

- (a) a mineral title;

- (b) a non-compliant existing interest;
- (c) a Part III authority;
- (d) the special mineral lease granted under the *Mining (Gove Peninsula Nabalco Agreement) Act 1968*;
- (e) a mineral lease or exploration licence validated or granted under the *McArthur River Project Agreement Ratification Act 1992*.

mineral title, see section 11(1) of the Mineral Titles Act.

mineral title holder means a title holder as defined in section 8 of the Mineral Titles Act.

Mineral Titles Act means the *Mineral Titles Act 2010*.

mining activity, see section 13A.

mining closure certificate means a mining closure certificate issued under section 214D.

mining levy means the mining remediation levy mentioned in section 12 of the Legacy Mines Remediation Act.

Mining Minister means the Minister administering the Mineral Titles Act.

mining operation means an activity that is carried out under any of the following:

- (a) a mineral authority under the Mineral Titles Act to the extent that it authorises the mining of minerals;
- (b) a mineral lease under the Mineral Titles Act;
- (c) a non-compliant existing interest to the extent that it authorises the mining of minerals;
- (d) a Part III authority.

mining operator, for a mining site, means:

- (a) a mining operator for the mining site appointed by the title holder under section 124D; or
- (b) if the title holder is a mining operator for the mining site under section 124D – the title holder.

mining security means mining security mentioned in Part 7, Division 1A.

mining site, means an area of land:

- (a) in respect of which a person holds a mineral interest and on which a mining activity mentioned in section 13A(1) has been, is being or will be carried out; or
- (b) in respect of which a person holds an access authority; or
- (c) on which an associated activity is being or will be carried out; or
- (d) that is declared by the Minister, by *Gazette* notice, to be a mining site for this Act.

modified condition licence means a modified condition licence granted under section 124ZG(1)(a)(ii) or 124ZZU(2) or 313(2) and if that licence is amended under this Act, that licence as amended.

monitor:

- (a) for Part 5C – means a person engaged by an approval holder or mining operator under section 124ZZZO(2) to monitor the carrying out of works; or
- (b) for Part 9, Division 2, Subdivision 2 – see section 192B(2)(a).

non-compliant existing interest, see section 204(1) of the Mineral Titles Act.

notifiable incident, for Part 9, Division 8 see section 224.

operator:

- (a) for Part 9, Division 2 – see section 224; or
- (b) otherwise – means, in relation to an activity site:
 - (i) the approval holder for a regulated action that is carried out on that site; or
 - (ii) for a mining site – the mining operator.

Part III authority, see section 5(1) of the Atomic Energy Act.

performance improvement program means a performance improvement program under Part 5A, Division 4, Subdivision 4.

plant includes machinery, pressure vessels, equipment, appliances, implements, scaffolding and tools, any component of the plant and anything fitted or connected to the plant.

pollution, see section 4(1) of the *Waste Management and Pollution Control Act 1998*.

prescribed substance, see section 5(1) of the Atomic Energy Act.

Ranger Project Area, see section 5(1) of the Atomic Energy Act.

recordable incident, for Part 9, Division 8, see section 224.

regulated action means an action, including an action under a strategic proposal, that requires environmental approval.

regulated mining activity means a mining activity that requires an environmental (mining) licence.

reserved legacy mine site means a reserved legacy mine site declared under section 14 of the Legacy Mines Remediation Act.

specified person, for Part 9, Division 6, see section 214F.

standard condition licence means a standard condition licence granted under section 124ZG(1)(a)(i) or 313(1).

tailored condition licence means a tailored condition licence granted under section 124ZG(1)(a)(iii), 124ZZU(2) or 313(3) and if that licence is amended under this Act, that licence as amended.

title holder:

- (a) in relation to a mining site mentioned in the definition, **mining site**, paragraph (a):
 - (i) for a mineral title or non-compliant existing interest – see section 8 of the Mineral Titles Act; or
 - (ii) for a mineral interest that is a Part III authority – means a person on whom the authority is conferred or to whom an interest in the authority is assigned under the Atomic Energy Act; or
 - (iii) for the special mineral lease granted under the *Mining (Gove Peninsula Nabalco Agreement) Act 1968* – means the Company, as defined in that Act; or

(iv) for a mineral lease or exploration licence validated or granted under the *McArthur River Project Agreement Ratification Act 1992* – means the Company, as defined in that Act; or

(b) for any other mining site – means the owner of the site.

waste, see section 4(1) of the *Waste Management and Pollution Control Act 1998*.

worker means an individual on an activity site who, under a contract or agreement of any kind (whether express or implied, oral or in writing, or under a law of the Territory or not), performs work or supplies a service on the site and includes:

(a) an employee of an operator for the site; and

(b) a contractor or employee of a contractor.

(3) Section 4, definition **decision-maker**

omit

, for Part 2,

135 Section 7 amended (Meaning of *environmental harm*)

After section 7(2)

insert

(3) Without limiting subsection (1) or (2), environmental harm may be caused by pollution whether the harm:

(a) is a direct or indirect result of the pollution; or

(b) results from the pollution alone or from the combined effects of the pollution and other factors.

136 Section 13A inserted

After section 13, in Part 1, Division 2

insert

13A Meaning of *mining activity*

(1) For this Act, each of the following is a **mining activity**:

(a) exploration for minerals or extractive minerals;

- (b) mining of minerals or extractive minerals;
 - (c) extraction of extractive minerals;
 - (d) processing of minerals, extractive minerals, tailings, spoil heaps or waste dumps;
 - (e) decommissioning, remediation and rehabilitation of a site on which an activity referred to in paragraphs (a) to (d) has been or is being carried out;
 - (f) operations and works in connection with the activities in paragraphs (a), (b), (c), (d) and (e), including:
 - (i) the removal, handling, transport and storage of minerals, extractive minerals, substances, contaminants and waste; and
 - (ii) the construction, operation, maintenance and removal of plant, infrastructure and engineered features;
 - (g) the construction, maintenance and use of infrastructure authorised by an access authority;
 - (h) operations and works in connection with exploration or mining generally;
 - (i) operations for the monitoring, management and maintenance during a care and maintenance period of a site on which an activity in paragraphs (a) to (h) has been or is being carried out.
- (2) In addition to the activities mentioned in subsection (1), an activity (an **associated activity**) is a **mining activity** for this Act if:
- (a) the activity is related to a mining activity mentioned in subsection (1); and
 - (b) is carried out on an area of land other than an area mentioned in the definition of **mining site**, paragraph (a) or (d).
- (3) Despite subsections (1) and (2), aerial surveying is not a mining activity.

137 Parts 5A, 5B and 5C inserted

After section 124

insert

Part 5A Mining activities

Division 1 Preliminary matters

124A Purpose of Part

The purpose of this Part is to provide for:

- (a) the duties and obligations of title holders in relation to mining sites; and
- (b) the duties and obligations of mining operators in relation to mining activities and mining sites; and
- (c) the granting and amendment of environmental (mining) licences; and
- (d) the transfer, suspension, cancellation and revocation of environmental (mining) licences.

124B Application

- (1) This Part applies in relation to mining sites and mining activities whether or not a mining activity requires an environmental impact assessment.
- (2) This Part does not apply in relation to the extraction of material from temporary borrow pits required for the construction or maintenance of a road, railway or other infrastructure unless the extraction is carried out on a mining site in respect of which a person holds a mineral interest.
- (3) This Part does not apply to an area of land on which the port operator, as defined in section 3 of the *Ports Management Act 2015*, of the Port of Darwin, as defined in that section, carries out, or has carried out, operations and works mentioned in section 13A(1)(f).
- (4) This Part does not apply to any activity carried out by or on behalf of the Minister administering the Legacy Mines Remediation Act in relation to a legacy mine site, reserved legacy mine site or legacy mine feature.

124C Mining activities in relation to prescribed substances

- (1) Before a power is exercised or a function is performed under this Part in relation to the licensing of a mining activity or class of mining activities in respect of a prescribed substance:
 - (a) the Minister must consult with the Commonwealth Minister about matters agreed in writing between the Commonwealth and the Territory relating to the mining of prescribed substances; and
 - (b) the Minister must act in accordance with any advice provided by the Commonwealth Minister.
- (2) In granting or varying an environmental (mining) licence that relates to the Ranger Project Area, the Minister must ensure that the environmental (mining) licence incorporates or adopts by reference (with the necessary modifications) any environmental requirements and rehabilitation requirements applying under the Atomic Energy Act to a Part III authority that applies to the site affected by the environmental (mining) licence.

Division 2 Management of mining sites

124D Title holder may be mining operator or may appoint one or more mining operators

- (1) The title holder of a mining site may be a mining operator for the site.
- (2) If the title holder of a mining site is not to be the sole mining operator for the site, the title holder must, in writing, appoint one or more mining operators for the site.
- (3) Subject to subsection (4), a title holder of a mining site must not appoint more than one mining operator in relation to the same kind of mineral or extractive mineral at a mining site.
- (4) A title holder of a mining site may appoint more than one mining operator in relation to the same kind of mineral or extractive mineral at a mining site if each mining operator is carrying out a different kind of mining activity in relation to that mineral or extractive mineral.
- (5) If the title holder appoints a mining operator for a mining site, the title holder must, not later than 10 business days after making the appointment, give the CEO notice in the approved form of the appointment and the date on which it took effect.

- (6) If a mining operator resigns or the appointment is terminated, the title holder must, not later than 10 business days after the date on which the resignation or termination takes effect, give the CEO notice in the approved form of the resignation or termination and the date on which it took effect.
- (7) On the termination of the appointment of a mining operator, the title holder becomes the mining operator responsible for complying with the mining operator's obligations under this Act in relation to the mining site.
- (8) If there is more than one mining operator for a mining site at a particular time, a reference in this Act to the mining operator for the mining site is a reference to each concurrent mining operator for the mining site.

124E Offence to contravene notice requirement

- (1) A person commits an offence if:
 - (a) the person is required under section 124D(5) or (6) to give a notice to the CEO; and
 - (b) the person contravenes that requirement.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Division 3 Environmental obligations in relation to mining sites and mining activities

124F Obligations of title holder who has appointed mining operator

- (1) The title holder of a mining site who has appointed a mining operator for the site under section 124D must provide the mining operator with all relevant information available to the title holder that may assist the mining operator to establish and implement an appropriate environment protection management system for the site.

- (2) The title holder of a mining site who has appointed a mining operator for the site under section 124D must ensure that the mining operator:
- (a) is competent; and
 - (b) provides adequate resources to establish and implement the environment protection management system for the site.

124G General obligations of mining operator

- (1) A mining operator of a mining site must:
- (a) prevent or minimise environmental impacts in the establishment, operation, care and maintenance and closure of the mining site; and
 - (b) design, maintain, operate, decommission remediate and rehabilitate structures and facilities on the mining site in a manner that minimises environmental impacts; and
 - (c) maintain and operate structures and equipment erected or installed at the mining site to a standard that enables their proper and efficient use so as to minimise environmental impacts; and
 - (d) during any care and maintenance period for the mining site, maintain structures and facilities and implement an appropriate program of maintenance to ensure that structures and facilities do not cause environmental impacts.
- (2) Without limiting subsection (1)(a), environmental impacts may include the generation of wastes and pollution and impacts from the clearing of native vegetation.
- (3) Subsection (1) does not limit the power of the Minister to place conditions on an environmental (mining) licence in relation to the matters in that subsection.
- (4) This section does not apply in relation to a legacy mine or a legacy mine feature.

124H Obligations of mining operators – legacy mine feature

- (1) This section applies in relation to a legacy mine feature on a mining site.

- (2) The mining operator of the mining site must:
- (a) monitor the environmental impacts associated with or resulting from the legacy mine feature including any impacts occurring outside the mining site; and
 - (b) manage the environmental impacts associated with or resulting from the legacy mine feature including any impacts occurring outside the mining site; and
 - (c) remediate and rehabilitate the environmental impacts associated with or resulting from the legacy mine feature at the mining site, if:
 - (i) the mining operator has conducted mining activities on the legacy mine feature or any part of the legacy mine feature; or
 - (ii) any action of the mining operator has had an adverse impact on the legacy mine feature; and
 - (d) undertake post-closure monitoring, management and reporting activities required for the legacy mine feature if the mining operator is responsible, under paragraph (c), for the remediation and rehabilitation of the environmental impacts associated with or resulting from the legacy mine feature.

124J Environmental obligations – environmental offences

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct is engaged in on a mining site; and
 - (c) the conduct contravenes an obligation under this Division and the person is reckless in relation to that result; and
 - (d) the conduct is not authorised under this Act; and
 - (e) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct is engaged in on a mining site; and

- (c) the conduct contravenes an obligation under this Division and the person is reckless in relation to that result; and
- (d) the conduct is not authorised under this Act; and
- (e) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct is engaged in on a mining site; and
- (c) the conduct contravenes an obligation under this Division; and
- (d) the conduct is not authorised under this Act; and
- (e) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct is engaged in on a mining site; and
- (c) the conduct contravenes an obligation under this Division; and
- (d) the conduct is not authorised under this Act; and
- (e) the conduct results in material environmental harm.

Penalty: environmental offence level 3.

(5) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct is engaged in on a mining site; and
- (c) the conduct contravenes an obligation under this Division; and
- (d) the conduct is not authorised under this Act.

Penalty: environmental offence level 4.

(6) Strict liability applies to subsections (1)(b) and (d) and (2)(b) and (d).

- (7) An offence against subsection (3), (4) or (5) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

Division 4 Environmental (mining) licensing

Subdivision 1 Preliminary matters

124K Purpose of environmental (mining) licence

The purpose of an environmental (mining) licence is to prevent, minimise and monitor the environmental impacts of a mining activity including in relation to any of the following:

- (a) the planning and design of the mining activity and any preliminary activities relating to the mining activity;
- (b) the construction or carrying out of works for the mining activity;
- (c) the operation of the mining activity;
- (d) the remediation and rehabilitation requirements resulting from the mining activity;
- (e) the completion of the mining activity and the closure of the mining site.

124L Requirement for environmental (mining) licence

- (1) The mining operator for a mining site may carry out a mining activity on a mining site only if:
 - (a) the mining operator holds an environmental (mining) licence that authorises that activity; or
 - (b) the mining activity is exempt under section 124Q or the regulations.
- (2) However, subsection (1) applies in relation to the carrying out of exploration for minerals or extractive minerals on a mining site only if the exploration will involve substantial disturbance of the mining site.

- (3) Without limiting subsection (2), the regulations may specify activities that do or do not constitute substantial disturbance of a mining site for that subsection.
- (4) The mining operator for a mining site is not entitled to hold an environmental (mining) licence for a mining activity for which an environmental approval is required under this Act unless the mining operator is the approval holder.
- (5) A person is not entitled to hold an environmental (mining) licence for a mining activity at a mining site unless the person is the mining operator for the mining site.
- (6) Nothing in this Act prevents the granting of more than one environmental (mining) licence for a mining site.

124M Environmental (mining) licence for exploration activities

An environmental (mining) licence granted for mining activities relating to exploration applies to any phase of mining activity associated with exploration, including:

- (a) exploration activities; and
- (b) remediation and rehabilitation of land as a result of exploration activities; and
- (c) closure of those parts of a mining site that are not required for mining operations; and
- (d) post-closure monitoring, management and reporting of the parts of the mining site that have been rehabilitated and closed.

124N Environmental (mining) licence for mining operations

An environmental (mining) licence granted for mining activities relating to mining operations applies to any phase of mining activity associated with the mining or processing of minerals, including:

- (a) mining operations; and
- (b) remediation and rehabilitation of the mining site; and
- (c) care and maintenance periods; and
- (d) closure of the mining site; and
- (e) post-closure monitoring, management and reporting.

124P Environmental (mining) licence for extractive operations

An environmental (mining) licence granted for mining activities relating to extractive operations applies to any phase of mining activity associated with the extraction of extractive minerals, including:

- (a) extractive operations; and
- (b) remediation and rehabilitation of the mining site; and
- (c) care and maintenance periods; and
- (d) closure of the mining site; and
- (e) post-closure monitoring, management and reporting.

124Q Exemption from licensing requirements

- (1) The Minister may, by *Gazette* notice, grant an exemption from a requirement under this Part to hold an environmental (mining) licence in relation to a class of mining activities.
- (2) The Minister, on the application of the mining operator, may grant an exemption from a requirement under this Part to hold an environmental (mining) licence for a mining activity.
- (3) Without limiting subsections (1) and (2), an exemption may be granted under this section from the requirement to hold an environmental (mining) licence in relation to the obligations in section 124H.
- (4) In determining whether to grant an exemption under this section, the Minister may consider any of the following:
 - (a) whether the environmental risks associated with the proposed mining activity are insignificant;
 - (b) whether the environmental risks associated with the proposed mining activity can be appropriately managed through compliance with the duties and obligations under Division 3 and Part 5B;
 - (c) whether failure to license the proposed mining activity will undermine the objects of this Act;
 - (d) any other matter the Minister considers appropriate in the circumstances.

- (5) The Minister must consult with the Commonwealth Minister before an exemption is granted, or provided for under the regulations, for a mining activity or class of mining activities in respect of a prescribed substance.
- (6) Despite subsections (1) and (2), the Minister must not exempt a mining activity mentioned in subsection (5) otherwise than in accordance with the advice of the Commonwealth Minister.

124R Fit and proper person to hold environmental (mining) licence

- (1) In considering under this Part whether a person is or is not a fit and proper person to hold an environmental (mining) licence, the Minister:
 - (a) may consider whether there are reasonable grounds to believe that the person:
 - (i) has contravened a law of the Territory or another jurisdiction that relates to the physical or biological environment, including matters relating to pollution, biodiversity, natural resources, planning, development or waste; or
 - (ii) has contravened a law of the Territory or another jurisdiction that relates to heritage, health or cultural matters, including matters relating to sacred sites; or
 - (iii) has contravened a law of the Territory or another jurisdiction that relates to work health and safety; or
 - (iv) has contravened a law of the Territory under which a tax or royalty is payable to the Territory; or
 - (v) has committed an offence against any law of the Territory or another jurisdiction that involves an element of fraud or dishonesty; or
 - (vi) has behaved or is likely to behave in a way that is inconsistent with the person's duties as a mining operator; and
 - (b) may consider the matters prescribed by regulation; and
 - (c) may consider any other matters the Minister considers relevant.
- (2) Nothing in this Part requires the Minister to conduct an investigation to determine whether a person is a fit and proper person.

124S General duties of mining operator

A mining operator of a mining site has the following general duties in applying for an environmental (mining) licence for a mining activity and in carrying out a mining activity under the environmental (mining) licence:

- (a) to provide communities that may be affected by the mining activity with information and opportunities for consultation to assist each community's understanding of the mining activity and its potential impacts and benefits, including:
 - (i) any proposal for the remediation and rehabilitation of land as a result of the mining activity; and
 - (ii) any proposal for the closure of extractive operations or mining operations, including the proposed final land use for the mining site;
- (b) to consult with affected communities, including Aboriginal communities, in a culturally appropriate manner;
- (c) to consider the principles of ecologically sustainable development in the design of the mining activity;
- (d) to apply the environmental decision-making hierarchy in the design of the mining activity;
- (e) to consider the waste management hierarchy in the design of the mining activity.

Subdivision 2 Risk criteria, standard conditions and conditions generally

124T Risk criteria

- (1) The Minister may declare risk criteria for the environmental impacts and environmental risks of mining activities.
- (2) The Minister may declare different risk criteria for different types of mining activity and for different phases of a mining activity.
- (3) A declaration of risk criteria must be prepared in accordance with the regulations.
- (4) The Minister must publish the risk criteria as soon as practicable after they are declared under this section.

124U Standard conditions

- (1) The Minister may approve standard conditions for this Part.
- (2) The standard conditions may provide for the management of the environmental impacts of any aspect of the environment associated with a mining activity.
- (3) The Minister may approve different standard conditions for different types of mining activity and for different phases of a mining activity.
- (4) A standard condition providing for the management of the environmental impact of a mining activity may apply inside or outside a mining site.
- (5) The Minister must publish standard conditions as soon as practicable after the conditions are approved under this section.

124V Review of risk criteria and standard conditions

- (1) The Minister may conduct a review of the risk criteria or standard conditions at any time.
- (2) The purpose of a review is to ensure that the risk criteria or the standard conditions (as the case requires) appropriately reflect the environmental impacts and environmental risks of the mining activity or phase of mining activity to which the risk criteria or standard conditions relate.
- (3) A review of risk criteria or standard conditions must be carried out in accordance with the regulations.

124W Amendment of risk criteria and standard conditions

- (1) The Minister may amend the risk criteria or standard conditions on completion of a review.
- (2) The Minister may amend the risk criteria or standard conditions without conducting a review if the amendment is an administrative amendment.
- (3) The Minister must publish the amended risk criteria or standard conditions as soon as practicable after the risk criteria or standard conditions are amended.
- (4) The amended risk criteria or standard conditions take effect on the date that they are published or on a later date specified in the publication.

124X Conditions to manage environmental impacts

Conditions imposed on an environmental (mining) licence may include any conditions that are necessary to manage the environmental impacts associated with the mining activities including requiring the mining operator to:

- (a) minimise and manage greenhouse gas emissions arising from the mining activities; and
- (b) undertake mine closure planning at all stages of a mining activity to ensure that the following are informed by the proposed final land use for the mining site:
 - (i) exploration activities;
 - (ii) site design;
 - (iii) mining and processing methodologies;
 - (iv) waste management technologies and other processes and technologies used; and
- (c) for any area of a mining site where no further mining activity is proposed – prepare and implement remediation and rehabilitation and closure plans that maximise the progressive remediation and rehabilitation of the area as soon as practicable after mining activity ceases; and
- (d) prepare and implement post-closure monitoring, management and reporting plans; and
- (e) comply with any other requirement prescribed by regulation.

124Y Conditions relating to management of social and cultural impacts

- (1) Conditions on an environmental (mining) licence may include any conditions that are necessary to manage the potential social and cultural impacts of the mining activity.
- (2) A condition mentioned in subsection (1) must not be imposed in relation to a mining activity if a similar condition could be imposed on a licence, permit or other authority issued or granted under another enactment.

124Z Conditions relating to activities regulated by prescribed enactments

- (1) Conditions imposed on an environmental (mining) licence may authorise or regulate the environmental impacts of the following activities associated with a mining activity for which an authorisation under a prescribed enactment is required:
 - (a) the clearing of native vegetation;
 - (b) interference with a waterway;
 - (c) discharge of waste to water;
 - (d) the impact of emissions of contaminants or waste on nearby communities;
 - (e) the carrying out of bore work (see section 4 of the *Water Act 1992*);
 - (f) an activity prescribed by regulation.
- (2) If a condition of an environmental (mining) licence authorises an activity mentioned in subsection (1)(a) to (f), an authorisation for that activity under the prescribed enactment is not required, despite anything to the contrary in the prescribed enactment.
- (3) A condition of an environmental (mining) licence cannot authorise the extraction of water for which a licence is required under the *Water Act 1992*.
- (4) In this section:

authorisation means a permit, approval or other authorisation.

prescribed enactment means an Act or statutory instrument, or a provision of an Act or statutory instrument, prescribed by regulation.

124ZA Conditions requiring reporting of activity and independent preparation or review of reports and documents

- (1) A condition may be imposed on an environmental (mining) licence to require a mining operator to provide reports to the Minister in the manner and within the times specified in the licence.
- (2) A condition under subsection (1) may require a report to the Minister on the mining operator's compliance with the environmental (mining) licence and with any other requirements imposed by this Act in relation to the licence.

- (3) The Minister may direct the mining operator to publish a report mentioned in subsection (1) in the manner the Minister directs.
- (4) A condition may be imposed on an environmental (mining) licence to require that specified information or reports required to be provided by the mining operator to the Minister under the licence or this Part must be prepared or reviewed by a qualified person in accordance with Part 13, Division 3A.

124ZB Conditions relating to care and maintenance periods

Conditions may be imposed on an environmental (mining) licence that require any of the following in relation to a care and maintenance period for a mining site:

- (a) that the mining site and its structures and facilities are managed and maintained in a way that minimises the environmental impacts at the mining site;
- (b) that remediation activities are carried out on the mining site;
- (c) that rehabilitation activities are carried out on the mining site.

124ZC Conditions may apply after mining activity completed

- (1) A condition on an environmental (mining) licence may be expressed to continue to apply in relation to the mining activity to which the licence applies after the completion of the mining activity.
- (2) Without limiting subsection (1), the conditions of an environmental (mining) licence may include requirements for:
 - (a) remediation and rehabilitation of the mining site after the mining activity is completed or the site of the mining activity is closed; and
 - (b) ongoing monitoring, management and reporting of the mining site after the mining activity is completed or the site of the mining activity is closed.
- (3) Without limiting subsection (1), the conditions of an environmental (mining) licence may require that the availability of a mining security extend beyond the period to which the environmental (mining) licence relates to include any period for which post-closure monitoring, management and reporting are required.

Subdivision 3 Environmental (mining) licences

124ZD Application of Subdivision

- (1) This Subdivision applies to the grant of an environmental (mining) licence for a mining activity.
- (2) An environmental (mining) licence may be:
 - (a) a standard condition licence; or
 - (b) a modified condition licence; or
 - (c) a tailored condition licence.

124ZE Application for environmental (mining) licence

- (1) A mining operator may apply to the Minister for an environmental (mining) licence for a mining activity or mining activities.
- (2) The application may relate to all or any of the following:
 - (a) a single mining activity on a single mining site;
 - (b) more than one mining activity or kind of mining activity on a single mining site;
 - (c) a single kind of mining activity on more than one mining site;
 - (d) more than one kind of mining activity on more than one mining site.
- (3) The application must:
 - (a) be in the approved form; and
 - (b) specify the mining activity or mining activities for which an environmental (mining) licence is sought; and
 - (c) specify whether the application is for:
 - (i) a standard condition licence; or
 - (ii) a modified condition licence; or
 - (iii) a tailored condition licence; and
 - (d) for an application for a modified condition licence or a tailored condition licence – be accompanied by an assessment of the environmental risks and impacts associated with the mining activity; and

- (e) be accompanied by information required by the Minister to enable the Minister to calculate or recalculate any mining security required under this Act; and
 - (f) for an application for a tailored condition licence for an exploration activity – be accompanied by a plan for the rehabilitation of any area of the mining site that is not required for an extractive operation or a mining operation; and
 - (g) for an application for a tailored condition licence for an extractive operation or a mining operation – be accompanied by a closure plan for the mining site and a costing of the proposed closure activities; and
 - (h) be accompanied by any other information required by the Minister to assess the application; and
 - (i) be accompanied by the fee prescribed by regulation.
- (4) The Minister may require specified information to be included in the application to be prepared or reviewed by a qualified person in accordance with Part 13, Division 3A.
 - (5) The Minister must publish and assess the application in accordance with the regulations.
 - (6) The Minister may refuse to accept an application if it does not include the required information.

124ZF Requirement for additional information

- (1) The Minister may direct the mining operator to give the Minister, within a specified period, any additional information the Minister considers reasonably necessary to assess the application for an environmental (mining) licence to meet the objects of this Act.
- (2) A direction to give information may be made at any time during the assessment of the application.
- (3) If the Minister gives a direction under this section, the required time under section 124ZM for the Minister to decide the application for an environmental (mining) licence ceases to run until the information is provided.

124ZG Decision on application

- (1) After assessing the application in accordance with this section and the regulations, the Minister may:
 - (a) grant:
 - (i) a standard condition licence; or
 - (ii) a modified condition licence; or
 - (iii) a tailored condition licence; or
 - (b) decide not to grant an environmental (mining) licence.
- (2) If the Minister decides not to grant a standard condition licence, the Minister may treat the application as an application for a modified condition licence or a tailored condition licence and grant a modified condition licence or a tailored condition licence instead.
- (3) The Minister may grant a modified condition licence or a tailored condition licence regardless of which of those types of licence is applied for.
- (4) If an application relates to more than one mining activity, the Minister may grant:
 - (a) a separate environmental (mining) licence for each mining activity; or
 - (b) a composite environmental (mining) licence covering all of the mining activities; or
 - (c) a separate environmental (mining) licence for any of the mining activities and a composite environmental (mining) licence covering some or all of the remaining mining activities.
- (5) The Minister may grant an environmental (mining) licence relating to more than one mineral interest if the mining operator:
 - (a) is the title holder for each mineral interest; or
 - (b) has been appointed under section 124D by the title holder for each mineral interest.
- (6) In addition to the matters set out in Part 2, the Minister must consider the following in deciding whether to grant or not to grant an environmental (mining) licence:
 - (a) the objects of this Act;

- (b) whether the mining operator is a fit and proper person to hold an environmental (mining) licence;
 - (c) the type of mineral interest applying to the mining site and whether the mining activity is authorised under the mineral interest;
 - (d) any other matters the Minister considers relevant.
- (7) Subsection (6) does not apply if the mining operator:
- (a) holds an environmental approval for the mining activity for which the environmental (mining) licence is sought; or
 - (b) has applied to the Minister for the transfer of an environmental approval for the mining activity for which the environmental (mining) licence is sought.
- (8) The Minister is not required to comply with subsection (6)(b) if, under section 70(4) of the Mineral Titles Act, the Mining Minister considered the mining operator to be a fit and proper person to hold the mineral interest.

124ZH Restrictions on grant of environmental (mining) licence

- (1) The Minister must refuse to grant an environmental (mining) licence for a mining activity if the Minister has refused to approve an environmental approval relating to the mining activity for which the licence is sought.
- (2) If a referred action or strategic proposal relating to a mining activity is being assessed under Part 4, Division 3, the Minister must not grant an environmental (mining) licence for the mining activity until:
 - (a) the determination by the NT EPA as to whether the referred action or strategic proposal requires an environmental impact assessment under this Act; and
 - (b) if an environmental impact assessment is required for the referred action or strategic proposal – the completion of the environmental impact assessment and environmental approval process for the action or strategic proposal.
- (3) Subsection (2) does not prevent the Minister from considering the application for the environmental (mining) licence while the environmental impact assessment of the referred action or strategic proposal relating to the mining activity is being carried out under this Act.

- (4) If the mining operator has applied to the Minister for approval of the transfer of an environmental approval for the mining activity for which an environmental (mining) licence is sought, the Minister must not grant the licence until the transfer of the environmental approval is approved by the Minister.

124ZI Environmental (mining) licence not to be inconsistent with environmental approval

- (1) An environmental (mining) licence for a mining activity is of no effect to the extent that it is inconsistent with an environmental approval applying to that activity.
- (2) For subsection (1):
- (a) an environmental (mining) licence that contains conditions that are more stringent than the environmental approval is not inconsistent with the environmental approval in relation to those conditions; and
 - (b) an environmental (mining) licence that contains conditions to address matters that are not included in the environmental approval is not inconsistent with the environmental approval in relation to those conditions.

124ZJ Standard condition licence

- (1) A standard condition licence for a mining activity may be granted at any time if standard conditions have been approved for that mining activity and the risk criteria for the mining activity are met.
- (2) A standard condition licence for a mining activity is subject to:
- (a) the standard conditions applying to the mining activity; and
 - (b) a condition that the mining operator must provide to the Minister a mining security in the amounts or values and at the times required by the Minister by written notice to the mining operator; and
 - (c) a condition that the mining operator must pay the mining levy payable by the mining operator under the Legacy Mines Remediation Act.
- (3) If a standard condition applying to a mining activity is amended the standard condition licence is subject to the amended standard condition when the amendment takes effect.

124ZK Modified condition licence

- (1) A modified condition licence may be granted for a mining activity if the mining activity meets the risk criteria applying to the mining activity, but:
 - (a) the mining operator cannot comply with some of the standard conditions for the mining activity; or
 - (b) conditions are required to be imposed that modify the standard conditions; or
 - (c) additional conditions are required to appropriately manage the environmental impacts of the mining activity; or
 - (d) the standard conditions for the mining activity are amended under section 124W and the mining operator cannot comply with the amended standard conditions.
- (2) A modified condition licence is subject to:
 - (a) the risk criteria applying to the mining activity; and
 - (b) the standard conditions applying to the mining activity subject to any modifications determined by the Minister to ensure that the environmental risks and impacts of the mining activity are appropriately managed; and
 - (c) a condition that the mining operator must provide to the Minister a mining security in the amounts or values and at the times required by the Minister by written notice to the mining operator; and
 - (d) a condition that the mining operator must pay the mining levy payable by the mining operator under the Legacy Mines Remediation Act; and
 - (e) any other condition imposed by the Minister under this Division.
- (3) The Minister may determine any modifications under subsection (2)(b) that the Minister thinks fit.
- (4) If a standard condition that applies to a modified condition licence is amended, the modified condition licence is subject to the amended standard condition when the amendment takes effect to the extent that the amended condition is not inconsistent with the existing modifications in the licence.

- (5) If a modified condition licence is granted in place of an existing standard condition licence, the standard condition licence is revoked.

124ZL Tailored condition licence

- (1) A tailored condition licence may be granted for a mining activity if:
- (a) no risk criteria have been declared for the mining activity; or
 - (b) the risk criteria applying to the mining activity cannot be met or the mining operator cannot comply with the standard conditions for the mining activity; or
 - (c) conditions are required to be imposed that differ from the conditions to which a standard condition licence or modified condition licence is subject; or
 - (d) standard conditions have not been approved for the mining activity; or
 - (e) the standard conditions for the mining activity are amended under section 124W and the mining operator cannot comply with the amended standard conditions.
- (2) A tailored condition licence is subject to:
- (a) the conditions specified in the tailored condition licence; and
 - (b) a condition that the mining operator must provide to the Minister a mining security in the amounts or values and at the times required by the Minister by written notice to the mining operator; and
 - (c) a condition that the mining operator must pay the mining levy payable by the mining operator under the Legacy Mines Remediation Act.
- (3) The Minister may specify in a tailored condition licence any conditions the Minister determines are necessary or convenient to manage the environmental risks and impacts of the mining activity.
- (4) If a tailored condition licence is granted in place of an existing standard condition licence or modified condition licence, the standard condition licence or modified condition licence is revoked.

124ZM Time for decision on environmental (mining) licence

- (1) The Minister must make a decision to grant or refuse to grant an environmental (mining) licence within the required time.

(2) In this section:

prescribed period means:

- (a) for a standard condition licence:
 - (i) for an exploration activity – 30 business days; and
 - (ii) for extractive operations – 30 business days; and
 - (iii) for mining operations – 40 business days; or
- (b) for a modified condition licence:
 - (i) for an exploration activity – 40 business days; and
 - (ii) for extractive operations – 50 business days; and
 - (iii) for mining operations – 80 business days; or
- (c) for a tailored condition licence:
 - (i) for an exploration activity – 60 business days; and
 - (ii) for extractive operations – 80 business days; and
 - (iii) for mining operations – 120 business days.

required time means:

- (a) if a referred action or strategic proposal relating to the mining activity is being assessed under Part 4, Division 3 at the time the Minister receives the application for the environmental (mining) licence for the mining activity – the prescribed period after:
 - (i) the determination by the NT EPA as to whether the referred action or strategic proposal requires an environmental impact assessment under this Act; and
 - (ii) if an environmental impact assessment is required for the referred action or strategic proposal – the completion of the environmental impact assessment and the environmental approval process for the action or strategic proposal; or
- (b) if an application has been made for approval to transfer the environmental approval for the mining activity and the application is not decided at the time the Minister receives the application for the environmental (mining) licence for the mining activity – the prescribed period after the decision to

approve, or refuse to approve, the transfer of the environmental approval is made; or

- (c) otherwise – the prescribed period after the Minister receives the application for the environmental (mining) licence.

124ZN Notice of decision

- (1) The Minister must give notice to the mining operator of a decision to grant or refuse to grant an environmental (mining) licence.
- (2) The notice must include a statement of reasons for the decision if the decision is:
 - (a) to refuse to grant a standard condition licence; or
 - (b) to grant or refuse to grant:
 - (i) a modified condition licence; or
 - (ii) a tailored condition licence.
- (3) Subsection (2) does not apply to a decision to refuse to grant an environmental (mining) licence if the decision to refuse was made because the Minister has refused to approve an environmental approval or the transfer of an environmental approval.
- (4) The Minister must publish a decision mentioned in subsection (1) and a statement of reasons for the decision notified under subsection (2) as soon as practicable after the decision is made.
- (5) The Minister must publish an environmental (mining) licence as soon as practicable after it is granted.

Note for section 124ZN

An environmental (mining) licence will be recorded in the public register.

124ZO Period of environmental (mining) licence

- (1) Subject to this Act, an environmental (mining) licence is in force for the period of the mining activity.
- (2) An environmental (mining) licence does not take effect for a mining activity until:
 - (a) any required mining security has been paid in relation to that mining activity; and
 - (b) a notice of authority to commence the mining activity is issued under the Mineral Titles Act.

- (3) If an amendment is made to an environmental (mining) licence under section 124ZS to permit a change to a mining activity and as a result an additional amount of mining security is payable, the amendment to the licence does not take effect until:
- (a) the additional mining security has been paid in relation to that change to the mining activity; and
 - (b) any required notice of authority to continue the mining activity is issued under the Mineral Titles Act.

124ZP Environmental (mining) licence not personal property

For section 8(1)(k) of the *Personal Property Securities Act 2009* (Cth), an environmental (mining) licence is not personal property for that Act.

Note for section 124ZP

A law of the Commonwealth, a State or a Territory may declare a right, licence or authority granted by or under that law not to be personal property for the Personal Property Securities Act 2009 (Cth)

124ZQ Mining operator cannot comply with amended standard conditions

- (1) This section applies if:
- (a) a mining operator holds a standard condition licence or a modified condition licence; and
 - (b) the standard conditions applying to the standard condition licence or modified condition licence are amended after the grant of the licence; and
 - (c) the mining operator cannot comply with the amended standard conditions.
- (2) If the mining operator holds a standard condition licence, the mining operator may apply to the Minister:
- (a) under section 124ZE for a modified condition licence or a tailored condition licence; or
 - (b) to participate in a performance improvement program.
- (3) If the mining operator holds a modified condition licence, the mining operator may apply to the Minister:
- (a) to amend the conditions of the modified condition licence; or

- (b) under section 124ZE for a tailored condition licence; or
 - (c) to participate in a performance improvement program.
- (4) An application under subsection (2) or (3) must be made before, or not later than 30 business days after, the amended standard condition takes effect.

124ZR Review of licence conditions

- (1) A modified condition licence and a tailored condition licence are to be reviewed to ensure that the conditions of the licence:
- (a) are appropriate to manage the environmental risks and impacts of the mining activity; and
 - (b) reflect the environmental risks associated with the different phases of a mining activity.
- (2) An environmental (mining) licence may specify a period for the review of the licence.
- (3) In addition to any review for which a period is specified in an environmental (mining) licence, the Minister may review the conditions of an environmental (mining) licence in the following circumstances:
- (a) if the Minister becomes aware of information that was not available to the Minister at the time of granting the licence and the Minister would have imposed different conditions on the licence if the information had been so available;
 - (b) if, in the reasonable opinion of the Minister, the mining operator has contravened a provision of this Act, or a condition of the licence, and an amendment to the conditions is necessary or convenient to prevent environmental harm (whether or not any enforcement action has been taken in relation to the contravention);
 - (c) if mining activities under the licence have been suspended for 12 months or longer during a care and maintenance period;
 - (d) if there is a change in the mining activity to which the licence relates or in the methods for conducting the mining activity or the mining activity is entering a different phase of activity;
 - (e) if the results of monitoring of the mining activity indicate that a change in the level of environment protection or management is required for the mining activity;

- (f) a circumstance prescribed by regulation.
- (4) A review under this section is not required to include a review of the standard conditions applying to an environmental (mining) licence.

124ZS General powers of Minister to amend environmental (mining) licence conditions

- (1) The Minister may amend the conditions (other than the standard conditions) of an environmental (mining) licence during the period of the licence in the following circumstances:
 - (a) on the application of the mining operator;
 - (b) if in the reasonable opinion of the Minister – an amendment to the conditions is necessary or convenient as a result of a review of licence conditions under section 124ZR;
 - (c) if in the reasonable opinion of the Minister – an amendment to the conditions is necessary or convenient as a result of a review of standard conditions under section 124V;
 - (d) if the amendment is an administrative amendment.
- (2) The Minister must consult with the mining operator before amending an environmental (mining) licence on the Minister's own initiative.
- (3) The Minister must publish a proposed amendment to the conditions of an environmental (mining) licence and invite public comment in accordance with the regulations if the Minister considers that the proposed amendment is required as a result of a substantial alteration to any mining activity to which the licence relates.
- (4) Before making a decision to amend the conditions of an environmental (mining) licence, the Minister must consider any written comments received:
 - (a) within the time specified by the Minister from the mining operator consulted under subsection (2); and
 - (b) during any public comment period under subsection (3).
- (5) In deciding whether to amend the conditions of an environmental (mining) licence, the Minister must be satisfied that:
 - (a) the environmental impacts associated with the mining activity will be managed; and

- (b) the amendments to the conditions will not undermine the objects of this Act.
- (6) Subsections (2) and (4) do not apply to an administrative amendment.

Subdivision 4 Performance improvement programs

124ZT Application of Subdivision

This Subdivision applies in relation to a mining operator if:

- (a) the mining operator holds a standard condition licence or a modified condition licence; and
- (b) the standard conditions applying to the licence are amended after the grant of the licence; and
- (c) the mining operator cannot comply with the amended standard conditions.

124ZU Power to agree to participation in performance improvement program

The Minister may agree to a mining operator participating in a performance improvement program to give the mining operator time to improve the mining operator's ability to comply with the mining operator's standard condition licence or modified condition licence.

124ZV Minister requirement to participate in performance improvement program

The Minister may require a mining operator to participate in a performance improvement program if the Minister is satisfied that the mining operator is not complying with the amended standard conditions of the mining operator's standard condition licence or modified condition licence but will be able to comply over time.

124ZW Mining operator request to participate in performance improvement program

The Minister, at the request of a mining operator, may permit the mining operator to participate in a performance improvement program if the Minister is satisfied that the mining operator is not likely to comply with the standard conditions applying to the mining operator's standard condition licence or modified condition licence when the amendments to the standard conditions commence.

124ZX Termination of performance improvement program by Minister

- (1) The Minister may terminate a performance improvement program if, in the reasonable opinion of the Minister, the mining operator is not complying with the requirements of the performance improvement program.
- (2) The Minister must not terminate a performance improvement program unless the Minister:
 - (a) gives notice to the mining operator of the intention to terminate the program; and
 - (b) gives the mining operator the opportunity to make submissions to the Minister within the period (being not less than 10 business days) specified in the notice; and
 - (c) considers any submissions made by the mining operator within the period specified in the notice.

124ZY Termination of performance improvement program at request of mining operator

The Minister may terminate a performance improvement program at the request of a mining operator if the Minister is satisfied that:

- (a) the obligations under the program have been complied with; and
- (b) the mining operator is able to comply with the amended standard conditions.

124ZZ Termination of performance improvement program on grant of environmental (mining) licence

A performance improvement program for a mining operator is terminated if the Minister grants to the mining operator:

- (a) a modified condition licence or a tailored condition licence in place of a standard condition licence; or
- (b) an amended modified condition licence in place of a modified condition licence; or
- (c) a tailored condition licence in place of a modified condition licence.

124ZZA No criminal or civil proceedings while performance improvement program is in place

The Minister must not commence a criminal proceeding or civil proceeding under this Act in relation to an alleged contravention of the conditions of an environmental (mining) licence that relates to a matter covered by a performance improvement program while the performance improvement program is in place.

Subdivision 5 Revocation and suspension of environmental (mining) licence

124ZZB Revocation of environmental (mining) licence

The Minister may revoke an environmental (mining) licence for a mining activity:

- (a) if the Minister reasonably considers that the mining operator has not complied with the conditions of the environmental (mining) licence; or
- (b) if the mining operator has contravened a provision of this Act; or
- (c) if any enforcement action has been taken against the mining operator:
 - (i) under this Act, for a failure to comply with an environmental approval; or
 - (ii) under the *Mining Management Act 2001* for a failure to comply with a mining authorisation or an obligation under that Act before its repeal; or
- (d) if any enforcement action has been taken against the title holder under the Mineral Titles Act for failure to comply with an obligation or requirement under that Act; or
- (e) if the Minister reasonably considers that the mining operator is no longer a fit and proper person to hold the environmental (mining) licence; or
- (f) in a circumstance prescribed by regulation.

124ZZC Suspension of environmental (mining) licence

- (1) The Minister may, by written notice to the mining operator, suspend an environmental (mining) licence instead of revoking the licence.
- (2) The suspension must be for a period specified in the notice.

124ZZD Revocation of standard condition licence and issue of other environmental (mining) licence

The Minister may revoke a standard condition licence for a mining activity and grant a modified condition licence or a tailored condition licence to the mining operator:

- (a) if the Minister reasonably considers that the mining operator has not complied with the conditions of the standard condition licence; or
- (b) if the mining operator has contravened a provision of this Act; or
- (c) if any enforcement action has been taken against the mining operator:
 - (i) under this Act for a failure to comply with an environmental approval; or
 - (ii) under the *Mining Management Act 2001* for a failure to comply with a mining authorisation or an obligation under that Act before its repeal; or
- (d) if any enforcement action has been taken against the title holder under the Mineral Titles Act for failure to comply with an obligation or requirement under that Act; or
- (e) in a circumstance prescribed by regulation.

124ZZE Show cause process

- (1) The Minister must not revoke or suspend an environmental (mining) licence under section 124ZZB, 124ZZC or 124ZZD unless the Minister has first complied with this section.
- (2) The Minister must give written notice (a **show cause notice**) to the mining operator and if the proposed revocation or suspension is on a ground set out in section 124ZZB(d) or 124ZZD(d), the title holder under the Mineral Titles Act:
 - (a) stating the Minister's intention to revoke or suspend the environmental (mining) licence; and
 - (b) asking the mining operator or title holder to show cause why the environmental (mining) licence should not be revoked or suspended.
- (3) The show cause notice must specify the date by which the mining operator or title holder may show cause.

- (4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.
- (5) The Minister must consider any response given by the mining operator or the title holder to the show cause notice in making a decision under section 124ZZB, 124ZZC or 124ZZD.
- (6) The Minister may suspend an environmental (mining) licence under section 124ZZC instead of revoking the licence without giving a further show cause notice if a show cause notice has been given for the intention to revoke the licence.

124ZZF Automatic revocation or suspension of environmental (mining) licence

- (1) An environmental (mining) licence for a mining activity is revoked if the environmental approval for the mining activity is revoked.
- (2) An environmental (mining) licence for a mining activity is suspended during any period that the environmental approval for the mining activity is suspended.

124ZZG Compliance with environmental (mining) licence to continue

- (1) This section applies if an environmental (mining) licence for a mining activity is revoked or suspended or ceases to have effect.
- (2) The person who is or was the mining operator must continue to:
 - (a) comply with the environmental (mining) licence in relation to the management of the mining site to which the licence applies to minimise or remediate the environmental impact of the mining activity; and
 - (b) comply with the environmental (mining) licence in relation to the remediation and rehabilitation of the environment; and
 - (c) undertake any necessary environmental monitoring and reporting activities at the mining site to which the environmental (mining) licence applies.
- (3) The person required to comply with subsection (2) may apply to the Minister to waive the requirement to comply with that subsection.
- (4) The Minister may waive compliance with any of the requirements of subsection (2) if the Minister considers it appropriate to do so.

Subdivision 6 Notice and cancellation at request of mining operator

124ZZH When mining activity is completed

For this Subdivision, a mining activity for which an environmental (mining) licence is granted is completed:

- (a) for exploration activities – when any rehabilitation, monitoring, management and reporting requirements of the licence are completed; and
- (b) for mining operations and extractive operations – when any post-closure monitoring, management and reporting requirements of the licence are completed.

124ZZI Notice to Minister of completion of mining activity

- (1) A mining operator who holds an environmental (mining) licence for a mining activity must notify the Minister of the completion of the mining activity.
- (2) The notice must be given within the required time after the mining activity is completed.
- (3) The notice must:
 - (a) be in an approved form; and
 - (b) be accompanied by a final report setting out:
 - (i) the mining activities undertaken; and
 - (ii) the environmental impacts associated with the mining activities; and
 - (iii) the remediation and rehabilitation activities completed as part of the mining activity; and
 - (iv) the post-closure monitoring, management and reporting of the mining site undertaken under the environmental (mining) licence.
- (4) The notice may request the Minister to cancel the environmental (mining) licence.
- (5) In this section:

required time means 30 business days.

124ZZJ Offence to contravene notice requirement

- (1) A mining operator commits an offence if:
 - (a) the mining operator is required to give a notice and final report to the Minister under section 124ZZI; and
 - (b) the mining operator intentionally engages in conduct; and
 - (c) the conduct contravenes section 124ZZI and the mining operator is reckless in relation to that circumstance.

Maximum penalty: 200 penalty units.

- (2) A mining operator commits an offence if:
 - (a) the mining operator is required to give a notice and final report to the Minister under section 124ZZI; and
 - (b) the mining operator contravenes that requirement.

Maximum penalty: 100 penalty units.

- (3) Strict liability applies to subsection (1)(a).
- (4) An offence against subsection (2) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

124ZZK Requirement for additional information

The Minister may direct the mining operator to give the Minister, within a specified period, any additional information the Minister considers reasonably necessary to assess the proposed cancellation of the environmental (mining) licence to meet the objects of this Act.

124ZZL Decision in relation to cancellation

- (1) The Minister may consider a notice and any request under this Subdivision and decide:
 - (a) to cancel the environmental (mining) licence; or

- (b) to refuse to cancel the environmental (mining) licence and direct the mining operator to undertake specified activities to complete the mining activity.
- (2) Before deciding to cancel an environmental (mining) licence, the Minister must be satisfied that:
- (a) any environmental risks and impacts at the mining site have been appropriately avoided, mitigated and managed; and
 - (b) all necessary remediation and rehabilitation actions have been undertaken at the mining site; and
 - (c) the cancellation will not undermine the objects of this Act.

124ZZM Notice of decision

- (1) The Minister must give notice to the mining operator of a decision under section 124ZZL and a statement of reasons for the decision.
- (2) The Minister must publish a decision under section 124ZZL and a statement of reasons for the decision as soon as practicable after the decision is made.

Subdivision 7 Transfer of environmental (mining) licence

124ZZN Transfer of environmental (mining) licence

An environmental (mining) licence may be transferred in accordance with this Subdivision.

124ZZO Application for approval to transfer

- (1) The proposed transferee must apply to the Minister to approve the transfer.
- (2) The application must:
 - (a) be in the approved form; and
 - (b) be accompanied by any information required by the Minister to assess the application; and
 - (c) be accompanied by the fee prescribed by regulation.
- (3) In the application the transferee must:
 - (a) agree to comply with the conditions of the environmental (mining) licence; and

- (b) agree to take responsibility for all existing environmental impacts associated with the mining site that are the responsibility of the mining operator, including responsibility for any remediation and rehabilitation activities relating to legacy mine features that are required to be undertaken by the mining operator; and
 - (c) agree to fulfil all remediation and rehabilitation obligations specified in the environmental (mining) licence and in any mining closure plan for the mining site; and
 - (d) comply with any other obligations prescribed by regulation.
- (4) An application cannot be made unless the mining operator and the title holder consent in writing to the transfer.
- (5) The Minister may refuse to accept an application if it does not include the required information.

124ZZP Minister may request information

- (1) The Minister may ask the following persons for information to assist the Minister in assessing the application:
- (a) the mining operator;
 - (b) the proposed transferee;
 - (c) any other person who the Minister considers may have relevant information.
- (2) If the Minister asks for information under this section, the required time under section 124ZZT for the Minister to make a decision ceases to run until the information is given.

124ZZQ Minister to consider certain matters

- (1) In addition to the matters set out in Part 2, in deciding whether to approve a transfer of an environmental (mining) licence, the Minister:
- (a) must consider:
 - (i) the objects of this Act; and
 - (ii) whether the proposed transferee is a fit and proper person to hold an environmental (mining) licence; and
 - (b) may consider any other matters the Minister considers relevant.

- (2) Subsection (1) does not apply if the proposed transferee:
- (a) holds an environmental approval for the mining activity for which the transfer of the mining licence is sought; or
 - (b) has applied to the Minister for the transfer of an environmental approval for the mining activity for which the environmental (mining) licence is sought.
- (3) The Minister is not required to comply with subsection (1)(a)(ii) if:
- (a) the proposed transferee holds a mineral interest authorising the mining activity for which the transfer of the environmental (mining) licence is sought; and
 - (b) under section 70(4) of the Mineral Titles Act, the Mining Minister considered the proposed transferee to be a fit and proper person to hold the mineral interest.

124ZZR Consultation on transfer

- (1) Subject to subsection (2), the Minister must consult with the proposed transferee if the Minister proposes to:
- (a) amend the environmental (mining) licence; or
 - (b) refuse to approve the transfer.
- (2) The Minister is not required to consult with the proposed transferee if the Minister proposes to refuse to approve the transfer because the Minister has refused to approve the transfer of the environmental approval.
- (3) The required time under section 124ZZT for the Minister to make a decision ceases to run during any period that the Minister carries out a consultation under subsection (1).

124ZZS Decision on transfer

- (1) The Minister may:
- (a) approve the transfer of an environmental (mining) licence; or
 - (b) refuse to approve the transfer of an environmental (mining) licence.
- (2) The Minister must approve the transfer of an environmental (mining) licence for a mining activity if the Minister has approved the transfer of an environmental approval relating to the mining activity.

- (3) The Minister must refuse to transfer an environmental (mining) licence for a mining activity if the Minister has refused to approve the transfer of an environmental approval relating to the mining activity.
- (4) The Minister must not make a decision on the transfer of an environmental (mining) licence for a mining activity to which an environmental approval applies unless the Minister makes a decision whether or not to approve the transfer of the environmental approval.
- (5) The Minister's approval may be subject to a condition that the transfer does not take effect until the transfer of assets or other matters related to the mining activity have occurred.
- (6) Until a transfer of an environmental (mining) licence takes effect the mining operator must comply with the environmental (mining) licence.

124ZZT Time for decision on request

- (1) The Minister must make a decision to approve or refuse to approve a transfer of an environmental (mining) licence within the required time.
- (2) In this section:

required time means:

- (a) if the Minister has approved the transfer of an environmental approval relating to the mining activity – 15 business days after the Minister receives the application for approval of the transfer of the environmental (mining) licence; or
- (b) if the Minister has refused the transfer of an environmental approval relating to the mining activity – 15 business days after the Minister receives the application for approval of the transfer of the environmental (mining) licence; or
- (c) if an application has been made for approval to transfer the environmental approval for the mining activity and the application is not decided at the time the Minister receives the application for approval of the transfer of the environmental (mining) licence – 15 business days after the decision to approve, or refuse to approve, the transfer of the environmental approval is made; or

- (d) otherwise – the following period after the Minister receives the application for approval of the transfer of the environmental (mining) licence:
 - (i) for an exploration activity – 20 business days;
 - (ii) for extractive operations – 20 business days;
 - (iii) for mining operations – 30 business days.

124ZZU Amendment of environmental (mining) licence or grant of environmental (mining) licence instead

- (1) If the Minister approves the transfer of a modified condition licence or tailored condition licence, the Minister may, in accordance with section 124ZR and 124ZS, amend the licence by amending or removing any condition applying to the licence or by imposing a new condition.
- (2) If the Minister considers the conditions of a standard condition licence to be transferred should be amended, the Minister may grant a modified condition licence or tailored condition licence to the transferee in place of the transfer of the standard condition licence.
- (3) An amendment or grant of an environmental (mining) licence under this section may be made on the Minister's own initiative or at the request of the transferee.
- (4) In deciding whether or not to amend an environmental (mining) licence or grant a modified condition licence or tailored condition licence under this section, the Minister must be satisfied that:
 - (a) the environmental impacts associated with the mining activity will be managed; and
 - (b) the amendments to the environmental (mining) licence or the grant of the environmental (mining) licence will not undermine the objects of the Act.
- (5) If the Minister amends an environmental (mining) licence or grants a modified condition licence or tailored condition licence under this section, the obligations agreed to under section 124ZZO continue and extend to the amended environmental (mining) licence or the modified condition licence or tailored condition licence.
- (6) If the Minister grants a modified condition licence or tailored condition licence in place of a standard condition licence under this section, the standard condition licence is revoked.

124ZZV Notice of decision

- (1) The Minister must give notice to the mining operator and the transferee of a decision on an application for a transfer of an environmental (mining) licence and a statement of reasons for the decision.
- (2) The Minister must publish a decision to do the following, and a statement of reasons for the decision, as soon as practicable after the decision is made:
 - (a) to approve or refuse to approve a transfer of an environmental (mining) licence;
 - (b) to grant a modified condition licence or a tailored condition licence to the transferee in place of the transfer of a standard condition licence.
- (3) The Minister must publish:
 - (a) a transferred environmental (mining) licence as soon as practicable after it is transferred; and
 - (b) a modified condition licence or a tailored condition licence as soon as practicable after it is granted under section 124ZZU.

Note for section 124ZZV

A transfer or grant of an environmental (mining) licence is recorded in the public register.

Division 5 Environmental offences – licensing

124ZZW Licensing – environmental offences

- (1) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the conduct is part of carrying out a mining activity for which an environmental (mining) licence is required under this Act and the person is reckless in relation to that circumstance; and
 - (c) the mining activity is not authorised by an environmental (mining) licence; and
 - (d) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct is part of carrying out a mining activity for which an environmental (mining) licence is required under this Act and the person is reckless in relation to that circumstance; and
 - (c) the mining activity is not authorised by an environmental (mining) licence; and
 - (d) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

- (3) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct is part of carrying out a mining activity for which an environmental (mining) licence is required under this Act; and
 - (c) the mining activity is not authorised by an environmental (mining) licence; and
 - (d) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

- (4) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct is part of carrying out a mining activity for which an environmental (mining) licence is required under this Act; and
 - (c) the mining activity is not authorised by an environmental (mining) licence.

Penalty: environmental offence level 3.

- (5) Strict liability applies to subsections (1)(b) and (c) and (2)(b) and (c).
- (6) An offence against subsection (3) or (4) is an offence of strict liability.

- (7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

124ZZX Contravention of environmental (mining) licence – environmental offences

- (1) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the person is the holder of an environmental (mining) licence; and
 - (c) the conduct contravenes the environmental (mining) licence and the person is reckless in relation to that circumstance; and
 - (d) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

- (2) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the person is the holder of an environmental (mining) licence; and
 - (c) the conduct contravenes the environmental (mining) licence and the person is reckless in relation to that circumstance; and
 - (d) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

- (3) A person commits an offence if:
 - (a) the person engages in conduct; and
 - (b) the person is the holder of an environmental (mining) licence; and
 - (c) the conduct contravenes the environmental (mining) licence; and

(d) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person engages in conduct; and

(b) the person is the holder of an environmental (mining) licence;
and

(c) the conduct contravenes the environmental (mining) licence.

Penalty: environmental offence level 3.

(5) Strict liability applies to subsections (1)(b) and (2)(b).

(6) An offence against subsection (3) or (4) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (7).

124ZZY Contravention of requirements of performance improvement program – environmental offences

(1) A mining operator commits an offence if:

(a) the mining operator is required to participate in a performance improvement program; and

(b) the mining operator intentionally engages in conduct; and

(c) the conduct contravenes the requirements of the performance improvement program and the mining operator is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

(a) the mining operator is required to participate in a performance improvement program; and

- (b) the mining operator contravenes the requirements of the performance improvement program.

Penalty: environmental offence level 3.

- (3) Strict liability applies to subsection (1)(a).
- (4) An offence against subsection (2) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

Division 6 Release of waste or contaminant

124ZZZ Obligations relating to release of waste or contaminant

- (1) A person on a mining site must not release waste or a contaminant from that site unless the release is authorised under this Act.
- (2) A mining operator, worker or contractor on a mining site must prevent the release of waste or a contaminant from that site unless the release is authorised under this Act.

124ZZZA No unauthorised release of waste or contaminant

- (1) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the conduct is engaged in on a mining site; and
 - (c) the conduct results in the release of waste or a contaminant; and
 - (d) the release is not authorised under this Act; and
 - (e) the release results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

- (2) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the conduct is engaged in on a mining site; and

- (c) the conduct results in the release of waste or a contaminant;
and
- (d) the release is not authorised under this Act; and
- (e) the release results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct is engaged in on a mining site; and
- (c) the conduct results in the release of waste or a contaminant;
and
- (d) the release is not authorised under this Act; and
- (e) the release results in significant environmental harm.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct results in the release of waste or a contaminant
from a mining site; and
- (c) the release is not authorised under this Act.

Penalty: environmental offence level 3.

(5) A mining operator, worker or contractor on a mining site commits an offence if:

- (a) waste or a contaminant is released from a mining site; and
- (b) the mining operator, worker or contractor fails to prevent the release of the waste or contaminant from the mining site; and
- (c) the release is not authorised under this Act.

Penalty: environmental offence level 3.

(6) Strict liability applies to subsections (1)(b), (c) and (d) and (2)(b), (c) and (d).

- (7) An offence against subsection (3), (4) or (5) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

Division 7 General provisions

Subdivision 1 Publication of reports

124ZZZB Publication of reports

- (1) The Minister may direct a mining operator to publish, in the manner and within the time determined by the Minister, any report given to the Minister by the mining operator under:
 - (a) this Act; or
 - (b) an environmental (mining) licence.
- (2) A mining operator must comply with a direction given under subsection (1).

124ZZZC Offence to contravene direction

- (1) A person commits an offence if:
 - (a) the person has been directed to publish a report under section 124ZZZB(1); and
 - (b) the person contravenes the direction.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Subdivision 2 Extension of specified periods

124ZZD Regulations may provide for extension of period for mining operator or transferee to do thing

- (1) The regulations may provide for a process for the extension of any period within which a mining operator or a transferee is required under this Part to prepare a document or information or give a document or information to the Minister.
- (2) If a period mentioned in subsection (1) is extended in accordance with the regulations, the period as extended is taken to be the period under this Part.

124ZZE Regulations may provide for extension of period for Minister to do thing

- (1) The regulations may provide for a process for the extension of any period under this Part within which the Minister is required under this Part to make a decision or to do another thing.
- (2) If a period mentioned in subsection (1) is extended in accordance with the regulations, the period as extended is taken to be the period under this Part.

Part 5B General obligations

Division 1 Preliminary matters

124ZZF Purpose of Part

The purpose of this Part is to provide for general obligations in relation to:

- (a) any action that requires environmental approval; or
- (b) any mining activity that requires an environmental (mining) licence.

Division 2 Environmental obligations

124ZZG General obligation to take care of environment

Every person on an activity site has an obligation to take care of the environment.

124ZZZH Obligations in respect of site

- (1) A person on an activity site must comply with instructions and procedures applying to the person that are included in the environment protection management system for the site.
- (2) A person on an activity site must follow all reasonable directions given by a person having the duty to give directions about preventing environmental harm.
- (3) A person must not interfere with or misuse anything provided on an activity site for environment protection.

124ZZZI Obligations of operator – management system

- (1) The operator for an activity site must:
 - (a) establish and maintain an appropriate management structure of competent persons for the site; and
 - (b) as far as practicable, ensure that workers on the site are competent to perform their duties; and
 - (c) establish, implement and maintain an environment protection management system that is appropriate to the nature, scale and environmental impacts of the regulated action or regulated mining activity being carried out on the site; and
 - (d) provide adequate resources for the implementation and maintenance of the environment protection management system; and
 - (e) ensure, by regular assessment, that the environment protection management system operates effectively.
- (2) For subsection (1)(c), an environment protection management system for an activity site must comply with the requirements prescribed by regulation.
- (3) The operator of an activity site must display in a prominent place on the activity site any environmental approval or environmental (mining) licence applying to the activity site and make the approval or licence available to a contractor or worker on request.

124ZZZJ Consultation and cooperation for taking care of environment

- (1) For section 124ZZZI(1)(c), the operator for an activity site must facilitate consultation and cooperation between the operator, contractors and workers in initiating, developing and implementing environment protection measures for the activity site's environment

protection management system.

- (2) Without limiting subsection (1), the measures may include one or more of the following:
 - (a) establishing one or more environment protection committees for the activity site or for a particular action or mining activity;
 - (b) establishing appropriate policies and procedures for dealing with issues involving risk of environmental harm;
 - (c) ensuring, as far as practicable, that adequate information is available about environmental risks involved in operations on the activity site;
 - (d) planning appropriate strategies for dealing with environmental incidents and serious environmental incidents on the activity site.

124ZZZK Obligations of worker

- (1) A worker must keep informed about, and comply with, work instructions and procedures applying to the worker that are included in the environment protection management system for the activity site.
- (2) A worker must, as soon as practicable, report to the operator for the activity site or, if employed by a contractor, to the contractor:
 - (a) the occurrence of an incident required to be reported or recorded under Part 9, Division 8 or the regulations; and
 - (b) a situation the worker has reason to believe may present a risk to the environment.

124ZZZL Obligations of contractor who is not worker

- (1) A contractor (other than a worker) must ensure that the provisions of this Act and the environment protection management system for the activity site are complied with to the extent that they relate to the work performed or service provided by the contractor.
- (2) A contractor (other than a worker) must, as soon as practicable, report to the operator for the activity site:
 - (a) the occurrence of an incident required to be reported or recorded under Part 9, Division 8 or the regulations; and
 - (b) a situation the contractor has reason to believe may present a risk to the environment; and

- (c) any matter reported to the contractor by a worker under section 124ZZZK.

124ZZZM Environmental obligations – environmental offences

- (1) A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the conduct is engaged in on an activity site; and
- (c) the conduct contravenes an obligation under this Division and the person is reckless in relation to that circumstance; and
- (d) the conduct is not authorised under this Act; and
- (e) the conduct results in significant environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 1.

- (2) A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the conduct is engaged in on an activity site; and
- (c) the conduct contravenes an obligation under this Division and the person is reckless in relation to that circumstance; and
- (d) the conduct is not authorised under this Act; and
- (e) the conduct results in material environmental harm and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

- (3) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct is engaged in on an activity site; and
- (c) the conduct contravenes an obligation under this Division; and
- (d) the conduct is not authorised under this Act; and
- (e) the conduct results in significant environmental harm.

Penalty: environmental offence level 2.

- (4) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct is engaged in on an activity site; and
 - (c) the conduct contravenes an obligation under this Division; and
 - (d) the conduct is not authorised under this Act; and
 - (e) the conduct results in material environmental harm.

Penalty: environmental offence level 3.

- (5) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct is engaged in on an activity site; and
 - (c) the conduct contravenes an obligation under this Division; and
 - (d) the conduct is not authorised under this Act.

Penalty: environmental offence level 4.

- (6) Strict liability applies to subsections (1)(b) and (d) and (2)(b) and (d).
- (7) An offence against subsection (3), (4) or (5) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (9) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (8).

Part 5C Power to enter land to comply with specified conditions

124ZZZN Application

This Part applies if:

- (a) either:
 - (i) an environmental approval is subject to a condition mentioned in section 85; or

- (ii) an environmental (mining) licence is subject to a condition mentioned in section 124ZC; and
- (b) the approval holder or the mining operator:
 - (i) is not the owner or occupier of the land or premises to which the condition applies; or
 - (ii) does not have a right of access to the land or premises to which the condition applies.

124ZZZO Power to enter land

- (1) The following persons may enter land or premises to which the condition under section 85 or 124ZC applies:
 - (a) the approval holder or an employee of the approval holder;
 - (b) the mining operator or an employee of the mining operator;
 - (c) a contractor engaged by the approval holder or mining operator to carry out works on the land or premises or an employee of the contractor.
- (2) The following persons may enter land or premises to which a condition under section 85 or 124ZC applies to monitor the carrying out of the works on the land or premises to which the condition applies:
 - (a) a person engaged by the approval holder or mining operator to monitor the carrying out of the works or an employee of the monitor;
 - (b) the CEO.
- (3) A person permitted to enter land or premises under this section may only enter:
 - (a) with the consent of the owner or occupier of the land; or
 - (b) if the person gives at least 10 business days prior written notice to the owner or occupier of the land; or
 - (c) in an emergency, if there is a risk of environmental harm if works are not carried out immediately.
- (4) A person entering land or premises under subsection (3)(c) must:
 - (a) if possible, give oral notice of the entry to the owner or occupier of the land as soon as possible before, on or after that entry; and

- (b) give written notice of the entry to the owner or occupier within 10 business days after that entry or the giving of the oral notice, whichever occurs first.
- (5) The notice under subsection (3)(b) or (4) must inform the owner or occupier of the land of the matters prescribed by regulation.
- (6) Despite subsection (3), a person must not enter residential premises under this section without the consent of the owner or occupier of the land.
- (7) The power of a person to enter land or premises under this section may be exercised, despite:
 - (a) the land being, or the premises being on, Aboriginal land; and
 - (b) the person not holding a permit under the *Aboriginal Land Act 1978* to enter or remain on Aboriginal land.

124ZZZP Notice to CEO and Mining Minister

- (1) The approval holder or mining operator must give written notice to the CEO of the intention of the approval holder or mining operator, a contractor or monitor engaged by the approval holder or mining operator or an employee of any of them, to enter land or premises under section 124ZZZO.
- (2) The notice must be given at least 10 business days before entry to the land or premises.
- (3) Despite subsection (2), if entry to the land or premises is made in an emergency under section 124ZZZO(3)(c), the approval holder or mining operator must:
 - (a) give oral notice of the entry to the CEO as soon as possible before, on or after that entry; and
 - (b) give written notice of the entry to the CEO within 10 business days after that entry or the giving of the oral notice, whichever occurs first.
- (4) A notice under subsection (1) or (3) must also be given to the Mining Minister if it relates to an environmental (mining) licence that is granted on an application under this Act.
- (5) The notice given by a person under subsection (1), (3) or (4) must inform the CEO and the Mining Minister, as the case requires, of the matters prescribed by regulation.

124ZZZQ Powers on entry

A person who is authorised under section 124ZZZO to enter land or premises may on entry do any of the following to comply with the condition of the environmental approval or environmental (mining) licence or to monitor the carrying out of works under that condition:

- (a) inspect the land or premises and anything found there;
- (b) dig up any land and operate any machinery or equipment on the land;
- (c) bring equipment, machinery and materials onto the land or premises and install and maintain any equipment, machinery or materials;
- (d) take photographs and make sketches or other records of the land or premises;
- (e) measure anything, or take samples of anything, on the land or premises;
- (f) take any other action reasonably required to comply with that condition or monitor the carrying out of works.

124ZZZR Duties on entry

A person who is authorised under section 124ZZZO to enter land or premises:

- (a) must take reasonable steps to minimise disruption to the owner or occupier of the land or premises caused by the entry to the land or premises or the taking of an action specified in the condition mentioned in section 85 or 124ZC; and
- (b) must not remain on the land or premises any longer than is reasonably necessary to comply with the condition of the environmental approval or environmental (mining) licence or to monitor the carrying out of works under that condition.

124ZZZS Recovery of costs

- (1) A person is entitled to be paid reasonable compensation under this section for loss or damage incurred because of action taken under this Part by:
 - (a) an approval holder or mining operator or an employee of that person; or

- (b) a contractor or monitor engaged by an approval holder or mining operator or an employee of a contractor or monitor.
- (2) The approval holder or mining operator is liable to pay the compensation for the loss or damage.
- (3) No action lies against the Territory for the loss or damage.

124ZZZT Offence to obstruct

- (1) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the conduct obstructs another person from taking any action that is authorised under this Part to comply with a condition of an environmental approval or environmental (mining) licence and the person is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

- (2) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the conduct obstructs another person from carrying out the monitoring of works that is authorised under this Part and the person is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

- (3) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

124ZZZU Offence to fail to give notice

- (1) A person commits an offence if:
 - (a) the person is required to give a notice under section 124ZZZO or 124ZZZP; and
 - (b) the person contravenes that requirement.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

124ZZZV Offence to fail to comply with duty on entry

- (1) A person commits an offence if:
 - (a) the person has a duty under section 124ZZZR; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct contravenes that duty and the person is reckless in relation to that circumstance.

Maximum penalty: 100 penalty units.

- (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 took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

138 Section 129 amended (Amount of bond)

After section 129(6)

insert

- (6A) An environment protection bond must not be imposed on a person in relation to a mining activity.

139 Part 7, Division 1A inserted

After section 132

insert

Division 1A Mining security

132A Application of Division

- (1) Subject to subsection (2), this Division applies if a mining operator is required under an environmental (mining) licence under section 124ZJ(2)(b), 124ZK(2)(c) or 124ZL(2)(b) to provide a mining security.
- (2) This Division and sections 124ZJ(2)(b), 124ZK(2)(c) and 124ZL(2)(b) do not apply in relation to an environmental (mining) licence that applies to the Ranger Project Area.

132B Purpose of mining security

The purpose of a mining security is to secure:

- (a) the mining operator's obligation to comply with this Act and the environmental (mining) licence and any applicable environmental approval; and
- (b) the payment of the reasonable costs and expenses of the Minister or the CEO taking action to prevent, minimise or remediate environmental harm resulting from any phase of the mining activity to which the environmental (mining) licence and any environmental approval applies; and
- (c) the payment of the reasonable costs and expenses of the Minister or the CEO taking action to complete remediation and rehabilitation or closure of the mining site to which the environmental (mining) licence and any environmental approval applies or any area affected by the mining activity; and
- (d) the payment of the reasonable costs of post-closure monitoring, management and reporting.

132C Amount of mining security

- (1) The Minister must determine and publish the methodology for calculating the amount or value of the mining security to be provided.
- (2) In determining the methodology for calculating an amount or value of a mining security, the Minister may consider all or any of the following:
 - (a) the environmental risks and impacts of the mining activity to be carried out under the environmental (mining) licence and any environmental approval applying to the activity;
 - (b) the level of uncertainty in assessing those risks and impacts and the management measures to deal with them;
 - (c) the level of environmental disturbance that has been caused, is caused or is likely to be caused by the mining activities that have been or are to be carried out under the environmental (mining) licence and any environmental approval applying to the activity;

- (d) the level of environmental disturbance that has been caused by mining activities carried out on a mining site by:
 - (i) the mining operator or a previous mining operator appointed by the title holder for the mining site; or
 - (ii) an operator of the mining site under an authorisation under the *Mining Management Act 2001* under which a mining security was paid before the repeal of that Act;
 - (e) any proposed phase of the mining activity (including the development of the mining site) to be carried out under the environmental (mining) licence;
 - (f) any matter prescribed by regulation.
- (3) If the regulations prescribe a minimum amount of mining security in relation to a mining activity or class of mining activities or in a circumstance or class of circumstances, the Minister may determine that the amount of the mining security is or includes the prescribed minimum amount.
- (4) The Minister may determine the nature of the mining security to be provided, which may include:
- (a) cash; or
 - (b) a bank guarantee; or
 - (c) any other form of financial accommodation acceptable to the Minister.
- (5) The amount of mining security required for an environmental (mining) licence may be recalculated:
- (a) in accordance with the environmental (mining) licence; or
 - (b) if the environmental (mining) licence or any applicable environmental approval is amended; or
 - (c) if the Minister is satisfied that there is a substantial change in the circumstances on the basis of which the mining security was calculated; or
 - (d) at the request of the mining operator.
- (6) The Minister may consider all or any of the matters in subsection (2) in recalculating an amount of mining security under subsection (5).

- (7) The regulations may prescribe a minimum amount of mining security in relation to a mining activity or class of mining activities or in a circumstance or class of circumstances.

132D Mining security account

- (1) The Minister must establish a mining security account.
- (2) The account must be a trust account.
- (3) The Minister must ensure that an amount of mining security paid in cash (including by cheque) is paid into the mining security account.
- (4) An amount may only be paid from the mining security account for one of the following purposes:
 - (a) for a payment as a result of a claim under section 132E;
 - (b) for a refund of all or any part of the mining security.

132E Claim on mining security

- (1) The Minister or the CEO may make a claim on a mining security for any purpose mentioned in section 132B.
- (2) The claim must be made in accordance with the regulations.
- (3) The amount claimed cannot exceed the reasonable costs and expenses of the Minister or the CEO in carrying out any action mentioned in section 132B.
- (4) Costs and expenses may be recovered under this section even if they were incurred as a result of an act or matter that occurred before the mining security was provided.
- (5) A claim may be made on mining security after a request is made by the mining operator for the return of the mining security.

132F Unused mining security refundable

- (1) Subject to subsection (2), any amount of a mining security not used for a purpose mentioned in section 132B is refundable if:
 - (a) a mining closure certificate is issued for the mining site or the part of the mining site to which the mining security applies; or
 - (b) remediation, rehabilitation and closure requirements of the environmental (mining) licence for the site or the part of the site for which the refund is requested have been completed to the Minister's satisfaction.

- (2) If an amount of a mining security held is reduced as a result of a recalculation under section 132C, the amount of mining security that is the difference between the mining security held and the recalculated security is refundable to the mining operator.
- (3) Any amount owing to the Territory by the mining operator under this Act, the Mineral Titles Act or the Legacy Mines Remediation Act may be deducted from the mining security at the time of the refund of the security.
- (4) A mining operator may apply to the Minister for a refund of an amount of mining security to which they are entitled under this section.

140 Section 140 amended (Relationship of this Part to other provisions)

Section 140, after "environmental approval"

insert

or an environmental (mining) licence

141 Section 141 amended (Environmental audit)

- (1) Section 141, after "action" (*all references*)

insert

or mining activity

- (2) After section 141(c)

insert

(ca) to assess:

- (i) whether the action or mining activity is a prohibited action or is being, or has been, carried out in a protected environmental area and is prohibited in that area; and
- (ii) if so, the nature and environmental impact of the action or mining activity;

142 Section 142 amended (Direction by CEO to carry out environmental audit)

(1) Section 142, before "The"

insert

(1)

(2) Section 142, at the end

insert

(2) The CEO may direct a mining operator who is the holder of an environmental (mining) licence to cause an environmental audit to be carried out by a qualified person if the CEO believes or suspects on reasonable grounds that:

(a) the mining operator has contravened, or is likely to contravene, the environmental (mining) licence; or

(b) the mining operator, in carrying out a mining activity, is carrying out, or has carried out, a prohibited action or an action in a protected environmental area that is prohibited in that area; or

(c) the mining operator has otherwise contravened, or is likely to contravene, this Act; or

(d) the environmental impacts that the mining activity authorised by the environmental (mining) licence has, has had, or is likely to have are significantly greater than was indicated in the information that was available to the Minister when the environmental (mining) licence was granted.

(3) The CEO may direct a person to cause an environmental audit to be carried out by a qualified person if the CEO believes or suspects on reasonable grounds that the person is carrying out, or has carried out, a prohibited action or an action in a protected environmental area that is prohibited in that area.

143 Section 148 amended (Nature of conflict of interest)

Section 148(1)(b)(ii), after "action"

insert

or mining activity

144 Section 149 amended (Qualified person may direct information to be provided)

Section 149, after "action"

insert

or mining activity

145 Section 163 amended (General powers of environmental officers)

(1) Section 163(1)(o)

omit, insert

(o) require a person to produce for inspection an environmental approval, environmental (mining) licence or environmental audit report or a document of a class prescribed by regulation or a copy of the document;

(2) Section 163(2), definition **relevant person**, after paragraph (c)

insert

(ca) a person who the environmental officer reasonably suspects is the mining operator if the land or premises is part of a mining site; or

146 Section 176 amended (Environment protection notice – purpose and issue)

(1) Section 176(1)(a)

omit, insert

(a) a declaration under section 35, 36 or 38; or

(ab) an environmental approval; or

(ac) an environmental (mining) licence; or

(ad) Part 5A or 5B; or

(2) After section 176(2)

insert

(3) Without limiting subsection (1), an environment protection notice can be made on the revocation or ceasing to have effect of a notice under section 182, 182A or 183.

147 Section 177 amended (Content of environment protection notice)

- (1) After section 177(2)(a)
- insert*
- (ab) if the notice is issued for the purpose of securing compliance with a declaration under section 35, 36 or 38:
- (i) state that purpose; and
 - (ii) specify the non-compliance to be rectified; and
- (2) Section 177(2)(b), after "approval"
- insert*
- or an environmental (mining) licence
- (3) After section 177(2)(b)
- insert*
- (ba) if the notice is issued for the purpose of securing compliance with Part 5A or 5B:
- (i) state that purpose; and
 - (ii) specify the non-compliance to be rectified; and

148 Section 182 amended (Emergency environment protection notice issued by CEO)

- (1) After section 182(1)
- insert*
- (1A) The CEO may issue an emergency environment protection notice to a person if:
- (a) an environmental (mining) licence has been granted for a mining activity; and
 - (b) the CEO believes on reasonable grounds that the mining activity is causing significant environmental harm; and
 - (c) the CEO believes on reasonable grounds that urgent action is required for the protection of the environment and to meet the objects of this Act; and

- (d) the CEO believes on reasonable grounds that a ground specified in section 124ZZB for revocation of an environmental (mining) licence exists.
- (2) Section 182(4)
- omit*
- this section
- insert*
- subsection (1)
- (3) After section 182(5)
- insert*
- (6) An emergency environment protection notice issued to a person under subsection (1A) ceases to have effect at the end of 10 business days after it is issued unless before the end of that period:
- (a) the Minister commences to amend the environmental (mining) licence under section 124ZS; or
 - (b) a show cause notice is issued to the person under section 124ZZE.
- (7) If subsection (6)(a) or (b) applies, the emergency environment protection notice continues in effect until:
- (a) the process of amendment of the environmental (mining) licence under section 124ZS is completed; or
 - (b) the show cause process is completed under section 124ZZE; or
 - (c) the CEO revokes the emergency environment protection notice under section 184.

149 Section 199AB inserted

After section 199A

insert

199AB Monitoring and management notice – environmental (mining) licence

- (1) This section applies to a mining site to which an environmental (mining) licence applies or has applied.
- (2) This section does not apply to a legacy mine site or in relation to a legacy mine feature at a mining site except in relation to an obligation under section 124H.
- (3) This section does not apply to a mining site if a mining closure certificate has been issued in relation to that site.
- (4) The CEO may issue a monitoring and management notice in relation to a mining site if the CEO considers, on reasonable grounds, that ongoing investigation, monitoring, management and reporting of the mining site is or will be required following the expiry, revocation or cancellation of the environmental (mining) licence as a result of anything done or that has occurred at the site in relation to a mining activity before the expiry, revocation or cancellation.
- (5) If the environmental (mining) licence is in force, the monitoring and management notice must be issued to the mining operator.
- (6) If the environmental (mining) licence is no longer in force, the monitoring and management notice must be issued to:
 - (a) the person who was the mining operator immediately before the environmental (mining) licence expired or was revoked or cancelled; or
 - (b) the title holder or occupier of the mining site.
- (7) In this section:

occupier, of a mining site, does not include:

 - (a) for land for which there is a native title holder under the *Native Title Act 1993* (Cth) – any registered native title party in relation to the land; or

- (b) for Aboriginal land as defined in the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) – a person who has an obligation in relation to the land only because of a connection to the land; or
- (c) a person who occupies the site for a purpose that does not relate to a mining activity or former mining activity.

150 Section 199B amended (Monitoring and management notice – form and giving of notice)

- (1) Section 199B(2), after "each"

insert

title holder,

- (2) Section 199B(2)

omit

or 199A(3)

insert

, 199A(3) or 199AB(5)

151 Section 204 amended (Notice to owners and occupiers of land)

Section 204(5)

omit

or 199A

insert

, 199A or 199AB

152 Part 9, Division 5, Subdivision 1 heading and section 210A inserted

Before section 211, in Part 9, Division 5

insert

Subdivision 1 Closure certificates – environmental approvals

210A Application of Subdivision

This Subdivision applies to an approval holder in relation to an action.

153 Section 211 amended (Criteria for closure certificate)

- (1) Section 211, heading, before "**closure**"

insert

action

- (2) Section 211(1)

omit

a closure

insert

an action closure

- (3) Section 211(3)

omit

closure

insert

action closure

154 Section 212 amended (Application for closure certificate)

- (1) Section 212, heading, before "**closure**"

insert

action

(2) Section 212(1) and (4)

omit

a closure

insert

an action closure

155 Section 213 amended (Issue of closure certificate)

(1) Section 213, heading, before "**closure**"

insert

action

(2) Section 213, before "closure certificate"

insert

action

156 Section 214 amended (Effect of closure certificate)

(1) Section 214, heading, before "**closure**"

insert

action

(2) Section 214

omit

a closure

insert

an action closure

157 Part 9, Division 5, Subdivision 2 inserted

After section 214

insert

Subdivision 2 Mining closure certificates

214A Application of Subdivision

- (1) This Subdivision applies to a mining operator who holds or has held an environmental (mining) licence for a mining site.
- (2) This Subdivision does not apply in relation to a legacy mine site or in relation to a legacy mine feature at a mining site.

214B Criteria for mining closure certificate

- (1) The Minister may, by *Gazette* notice, determine criteria to be met by a mining operator before a mining closure certificate can be issued in relation to a mining site.
- (2) The Minister may determine different criteria for different classes of mining sites.
- (3) This section does not prevent the Minister from imposing different or additional criteria in relation to a particular mining closure certificate.

214C Application for mining closure certificate

- (1) A mining operator may apply to the Minister for a mining closure certificate for all or part of a mining site if the mining operator has completed the requirements set out in section 214D(1)(a).
- (2) An application must:
 - (a) be in the approved form; and
 - (b) be accompanied by the information required by the Minister.
- (3) The Minister may require specified information to be included in the application to be prepared or reviewed by a qualified person in accordance with Part 13, Division 3A.
- (4) The Minister may require the mining operator to provide any further information required by the Minister to determine the application.

- (5) An application may be made for the issue of a mining closure certificate in relation to a mining site even if a determination has not been made under section 214B in relation to that class of mining site.

214D Issue of mining closure certificate

- (1) The Minister may issue the mining closure certificate to the mining operator if the Minister is satisfied that:
- (a) the following have been completed in accordance with this Act and the environmental (mining) licence:
 - (i) in the case of an environmental (mining) licence for an exploration activity – the rehabilitation requirements of the environmental (mining) licence for any area of the mining site that is not required for an extractive operation or a mining operation;
 - (ii) in the case of an environmental (mining) licence for an extractive operation or a mining operation – the remediation and rehabilitation requirements of the environmental (mining) licence for that mining site or part of a mining site;
 - (iii) the post-closure monitoring, management and reporting requirements of the environmental (mining) licence relating to the mining site or the part of the mining site;
 - (iv) the closure requirements of the environmental (mining) licence relating to the mining site or the part of the mining site; and
 - (b) the mining operator has complied with any requirements of section 214C.
- (2) The Minister must not issue a mining closure certificate for a mining site or part of a mining site if:
- (a) a monitoring and management notice under section 199AB applies to the mining site; or
 - (b) the mining site is subject to an environment protection notice, a stop work notice or an enforceable undertaking; or
 - (c) the mining site is the subject of proceedings under this Act against the mining operator.
- (3) The Minister must give a copy of the mining closure certificate to the title holder for the mining site.

214E Effect of mining closure certificate

- (1) If a mining closure certificate is issued for a mining site or a part of a mining site:
 - (a) the mining operator ceases to be liable for any future environmental impact associated with the former use of the mining site or the part of the mining site; and
 - (b) the liability for the future environmental impact associated with the former use of the mining site or the part of the mining site becomes a liability of the Territory; and
 - (c) the environmental (mining) licence ceases to be in force in relation to the mining site or the part of the mining site.
- (2) This section does not apply in relation to a mining closure certificate that applies to the Ranger Project Area.

158 Section 214F inserted

Before section 215, in Part 9, Division 6

insert

214F Definition *specified person*

In this Division:

specified person means any of the following:

- (a) a proponent of an action or strategic proposal;
- (b) an approval holder;
- (c) a mining operator;
- (d) a related person of a high risk entity.

159 Section 215 amended (CEO may accept enforceable undertaking)

- (1) Section 215(1)

omit

or an approval holder

insert

, an approval holder or a mining operator

- (2) Section 215(1)(a)
omit
or the approval holder
insert
, the approval holder or the mining operator
- (3) Section 215(1)(a), after "environmental approval"
insert
or an environmental (mining) licence
- (4) Section 215(2) and (3)
omit
proponent, the approval holder or the related person
insert
specified person
- (5) Section 215(3)
omit
proponent, approval holder or related person
insert
specified person

160 Section 216 amended (Enforcement orders)

- (1) Section 216(1)
omit
proponent, an approval holder or a related person
insert
specified person

- (2) Section 216(2)
omit (all references)
proponent, the approval holder or the related person
insert
specified person

161 Section 217 amended (CEO may do specified acts or things)

- Section 217(1), (2)(a), (b) and (c), (3)(b) and (4)
omit (all references)
proponent, the approval holder or the related person
insert
specified person

162 Section 218 amended (Withdrawal or variation of enforceable undertaking by proponent, approval holder or related person)

- (1) Section 218(1), heading
omit
by proponent, approval holder or related person
- (2) Section 218(1)
omit
proponent, an approval holder or a related person
insert
specified person

163 Section 219 amended (Withdrawal of acceptance by CEO of enforceable undertaking)

- Section 219(2)(a), (b) and (c)
omit
proponent, the approval holder or the related person

insert

specified person

164 Section 220 amended (No criminal proceedings while enforceable undertaking is in force)

Section 220, after "environmental approval"

insert

or environmental (mining) licence

165 Section 223 amended (Emergency authorisations)

Section 223(1) and (2), after "environmental approval"

insert

or environmental (mining) licence

166 Section 224 replaced

Section 224

repeal, insert

Subdivision 1 Preliminary matters

224 Definitions

In this Division:

notifiable incident means:

- (a) an incident that causes or threatens material environmental harm or significant environmental harm and that occurs at a site at which:
 - (i) an action is being carried out under an environmental approval; or
 - (ii) a proposed action or strategic proposal is undergoing environmental impact assessment; or
 - (iii) a mining activity is being carried out under an environmental (mining) licence; or
- (b) an incident prescribed by regulation to be a notifiable incident.

operator, in relation to a site at which a recordable incident occurs, means:

- (a) the approval holder for the action; or
- (b) the proponent of the proposed action or strategic proposal; or
- (c) the mining operator who holds the environmental (mining) licence to carry out the mining activity.

recordable incident means an incident, other than a notifiable incident, that:

- (a) occurs at a site at which:
 - (i) an action is being carried out under an environmental approval; or
 - (ii) a proposed action or strategic proposal is undergoing environmental impact assessment; or
 - (iii) a mining activity is being carried out under an environmental (mining) licence; and
- (b) causes or threatens environmental harm.

Subdivision 2 Notification of notifiable incidents

167 Section 225 amended (Duty to notify CEO of incidents)

- (1) Section 225, heading

omit

incidents

insert

notifiable incidents

- (2) Section 225(1)

omit

the incident must

insert

a notifiable incident must

- (3) Section 225(2), definition ***specified person***, after paragraph (a)
insert
- (ab) the mining operator who holds the environmental (mining) licence to carry out the mining activity;
- (4) Section 225(2), definition ***specified person***, after paragraph (b)
insert
- (ba) a qualified person preparing or reviewing information or a report in relation to the site under Part 13, Division 3A;

168 Section 226 amended (Manner and form of notice)

- (1) Section 226
omit
- an incident
insert
- a notifiable incident
- (2) Section 226
omit
- Division
insert
- Subdivision

169 Section 227 amended (Incidents not required to be reported)

- (1) Section 227, heading
omit
- Incidents**
insert
- Notifiable incidents**

(2) Section 227(1)

omit

an incident under this Division

insert

a notifiable incident under this Subdivision

(3) Section 227(2)

omit, insert

(2) A person is not required to notify a notifiable incident under this Subdivision if the incident is an ordinary result of:

- (a) an action required to be taken to comply with an environmental approval; or
- (b) an action required to be taken to comply with an environmental (mining) licence; or
- (c) another requirement of this Act.

170 Section 228 replaced

Section 228

repeal, insert

228 Failure to notify notifiable incident – environmental offences

(1) A person commits an offence if:

- (a) a notifiable incident occurs in the course of carrying out an action or a mining activity; and
- (b) the person:
 - (i) is an approval holder for the action; or
 - (ii) is the mining operator for the mining activity; or
 - (iii) is carrying out an environmental audit of a site at which the notifiable incident is occurring or has occurred; or
 - (iv) is a qualified person preparing or reviewing information or a report in relation to the site under Part 13, Division 3A; and

- (c) the person intentionally fails to notify the CEO of the notifiable incident; and
- (d) the failure to notify the CEO of the notifiable incident contravenes section 225 and the person is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

(2) A person commits an offence if:

- (a) a notifiable incident occurs in the course of carrying out an action or mining activity; and
- (b) the person:
 - (i) is an approval holder for the action; or
 - (ii) is the mining operator for the mining activity; or
 - (iii) is carrying out an environmental audit of the site at which the notifiable incident is occurring or has occurred; or
 - (iv) is an owner or occupier of the site at which the notifiable incident occurred; or
 - (v) is a qualified person preparing or reviewing information in relation to the site under Part 13, Division 3A; and
- (c) the person fails to notify the CEO of the notifiable incident; and
- (d) the failure to notify the CEO of the notifiable incident contravenes section 225.

Penalty: environmental offence level 3.

- (3) Strict liability applies to subsection (1)(a) and (b).
- (4) An offence against subsection (2) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

228A Offence to interfere with place of notifiable incident

- (1) A person commits an offence if:
- (a) a notifiable incident occurs at a place; and
 - (b) the person intentionally alters the place where the incident occurred; and
 - (c) the person does not have the permission of the CEO or an environmental officer to make that alteration.

Maximum penalty: 200 penalty units.

- (2) Strict liability applies to subsection (1)(a) and (c).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) It is a defence to a prosecution for an offence against subsection (1) if the alteration was made to prevent or minimise environmental harm resulting from the incident.
- (5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3) or (4).

171 Section 229 amended (Incriminating information)

- (1) Section 229(1)

omit

an incident under this Division

insert

a notifiable incident under this Subdivision

- (2) Section 229(2) and (3)

omit

Division

insert

Subdivision

172 Part 9, Division 8, Subdivision 3 inserted

After section 229

insert

Subdivision 3 Recording and reporting of incidents

229A Record of notifiable incidents

- (1) An approval holder or mining operator must record all notifiable incidents required to be notified by the approval holder or mining operator under Subdivision 2 as soon as practicable after the incident occurs.
- (2) The record must comply with the requirements prescribed by regulation.
- (3) An approval holder or mining operator who is required to make a record under subsection (1) must make the record of notifiable incidents available at the activity site for inspection by an environmental officer.

229B Report of notifiable incidents

- (1) The CEO may direct an approval holder or mining operator to prepare a report of all notifiable incidents required to be notified by the approval holder or mining operator under Subdivision 2.
- (2) The report must, to the extent required in the direction of the CEO, include the information required to be recorded under section 229A.
- (3) The approval holder or mining operator must give the report to the CEO in accordance with the direction of the CEO.

229C Record of recordable incidents

- (1) An operator of a site at which a recordable incident occurs must record the recordable incident as soon as practicable after the incident occurs.
- (2) The record must comply with the requirements prescribed by regulation.
- (3) An operator of a site who is required to make a record under subsection (1) must make the record of recordable incidents available at the site for inspection by an environmental officer.

229D Report of recordable incidents

- (1) At the written direction of the CEO, the operator of a site must prepare a report of all recordable incidents required to be recorded by the operator under section 229C.
- (2) The report must, to the extent required in the direction of the CEO, include the information required to be recorded under section 229C.
- (3) The operator must give the report to the CEO in accordance with the direction of the CEO.

229E Failure to keep required record

- (1) A person commits an offence if the person fails to keep a record in accordance with section 229A.

Maximum penalty: 200 penalty units

- (2) A person commits an offence if the person fails to keep a record in accordance with section 229C.

Maximum penalty: 100 penalty units.

- (3) An offence against subsection (1) or (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

229F Contravention of direction – environmental offence

- (1) A person commits an offence if:
 - (a) the person is given a direction under section 229B(1) or 229D(1); and
 - (b) the person contravenes that direction.

Penalty: environmental offence level 3.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

173 Section 260 amended (Offence to provide false or misleading information)

After section 260(5)(b)

insert

(ba) a function under Part 13, Division 3A; or

174 Section 264 amended (Liability of owner)

Section 264(1), after "an owner of land"

insert

(other than the owner of land that is subject to a mineral interest)

175 Section 264A inserted

After section 264

insert

264A Liability of title holder or mining operator of mining site

- (1) A title holder or mining operator of a mining site must take reasonable steps and exercise due diligence to prevent a specified environmental offence occurring on the mining site.
- (2) A title holder or mining operator of a mining site is taken to have committed a specified environmental offence if:
- (a) a person (the **offender**) commits a specified environmental offence; and
 - (b) the offence occurs wholly or partly on the mining site or part of the mining site.
- (3) It is a defence to a prosecution for an offence taken to have been committed by subsection (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).
- (5) This section does not affect the liability of the offender.

- (6) This section applies whether or not the offender is prosecuted for, or found guilty of, the specified environmental offence.

176 Section 269 amended (Alternative verdicts)

- (1) Section 269(2), Table, after item for section 117(3)

insert

section 124J(1)	section 124J(2), (3), (4) or (5)
section 124J(2)	section 124J(3), (4) or (5)
section 124J(3)	section 124J(4) or (5)
section 124J(4)	section 124J(5)
section 124ZZW(1)	section 124ZZW(2), (3) or (4)
section 124ZZW(2)	section 124ZZW(3) or (4)
section 124ZZW(3)	section 124ZZW(4)
section 124ZZX(1)	section 124ZZX(2), (3) or (4)
section 124ZZX(2)	section 124ZZX(3) or (4)
section 124ZZX(3)	section 124ZZX(4)
section 124ZZY(1)	section 124ZZY(2)
section 124ZZZA(1)	section 124ZZZA(2), (3), (4) or (5)
section 124ZZZA(2)	section 124ZZZA(3), (4) or (5)
section 124ZZZA(3)	section 124ZZZA(4), or (5)
section 124ZZZA(4)	section 124ZZZA(5)
section 124ZZZM(1)	section 124ZZZM(2), (3), (4) or (5)
section 124ZZZM(2)	section 124ZZZM(3), (4) or (5)
section 124ZZZM(3)	section 124ZZZM(4) or (5)
section 124ZZZM(4)	section 124ZZZM(5)

- (2) Section 269(2), Table, items for section 228(1), 228(2) and 228(3)

omit, insert

section 228(1)	section 228(2)
section 283H(1)	section 283H(2)

177 Section 274B amended (Statements of fact)

(1) Section 274B(2)(b)

omit

revoked.

insert

revoked;

(2) After section 274B(2)(b)

insert

(c) that, at a specified time, a specified place was a mining site or a place where specified mining activities were being carried out;

(d) that, at a specified time, a specified person was:

(i) the mining operator for a specified mining site; or

(ii) the title holder of a specified mining site; or

(iii) an employer of workers at a specified mining site; or

(iv) a worker at a specified mining site;

(e) that, at a specified time, a mining operator was, or was not, the holder of an environmental (mining) licence;

(f) that, at a specified time, a specified environmental (mining) licence had been granted, amended, suspended, revoked or cancelled;

(g) that, at a specified time, a specified substance was a contaminant, waste or greenhouse gas.

(3) After section 274B(3)(a)

insert

(ab) that, at a specified time, a specified environmental (mining) licence, a copy of which is attached to the statement, contained specified conditions;

(4) Section 274B(3)(d), after "approval"

insert

, an environmental (mining) licence

178 Section 276 amended (Standing for judicial review)

(1) Section 276(1)(d)

omit, insert

(d) a person who has made a genuine and valid submission during an environmental impact assessment process or environmental approval process under this Act to which the decision relates; or

(e) a person who has made a genuine and valid submission during an environmental (mining) licence process under this Act to which the decision relates.

(2) Section 276(2)(a)

omit

letter

insert

response

179 Section 281 amended (Confidential information)

(1) Section 281(1)

omit

a proponent or an approval holder

insert

a specified person

(2) Section 281(1)

omit

the Minister or the NT EPA

insert

a decision-maker

(3) After section 281(1)(h)

insert

(ha) an application for an environmental (mining) licence; or

(hb) the granting of an environmental (mining) licence; or

(hc) the variation of the conditions of an environmental (mining) licence; or

(hd) the suspension, cancellation or revocation of an environmental (mining) licence; or

(he) the transfer of an environmental (mining) licence; or

(4) Section 281(2)

omit

the proponent or approval holder

insert

the specified person

(5) After section 281(2)

insert

(2A) The decision-maker may suspend an environmental impact assessment process or environmental approval process or an environmental (mining) licence process while considering a request under this section that relates to that process.

(2B) The decision-maker must recommence the suspended process as soon as practicable and not more than 5 business days after the decision is made on the request.

(2C) The required time for making any decision under a suspended process ceases to run during the period of the suspension.

(6) After section 281(3)

insert

(4) In this section:

specified person means any of the following:

- (a) a proponent;
- (b) an approval holder;
- (c) a mining operator.

180 Part 13, Division 3A inserted

After section 283

insert

Division 3A Independent preparation or review of information

283A Application of Division

This Division applies in relation to information or reports to be provided to the Minister if Part 5A or Part 9, Division 5, Subdivision 2 enables the Minister to require the specified information or specified report to be prepared or reviewed by a qualified person under this Division.

283B Independent review of information

The Minister may:

- (a) require a mining operator:
 - (i) to give to the Minister a report prepared by a qualified person reviewing that specified information or specified report; or
 - (ii) to meet the reasonable costs of the Minister in obtaining a report prepared by a qualified person reviewing that specified information or specified report; or
- (b) require the specified information or specified report to be prepared by a qualified person.

283C Offence relating to conflict of interest

- (1) A person commits an offence if the person:
- (a) is a qualified person; and
 - (b) intentionally prepares or reviews specified information or a specified report for this Division; and
 - (c) has a conflict of interest and is reckless in relation to that circumstance; and
 - (d) does not have the authorisation of the Minister to engage in the conduct despite the conflict of interest.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

- (2) Strict liability applies to subsection (1)(a) and (d).

283D Authorisation of conduct despite conflict

The Minister may authorise a qualified person to prepare or review specified information or a specified report despite a conflict of interest if the Minister considers it appropriate to do so in the particular circumstances of the case.

283E Nature of conflict of interest

- (1) For sections 283C and 283D, a person has a ***conflict of interest*** if the person:
- (a) is an associate of another person who owns or occupies any part of the site to which the specified information or specified report relates; or
 - (b) has a direct or indirect pecuniary or personal interest in:
 - (i) any part of the site to which the specified information or specified report relates; or
 - (ii) any action carried out or proposed to be carried out on the site or part of the site to which the specified information or specified report relates; or
 - (c) has been involved in, or is an associate of another person who has been involved in, an assessment or remediation under this Act of the site to which the specified information or specified report relates.

- (2) For this section, a person is an **associate** of another person if:
- (a) they are partners; or
 - (b) one is a spouse, de facto partner, parent, step-parent, child or stepchild of the other; or
 - (c) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or
 - (d) one is a body corporate or other entity (whether inside or outside Australia) and the other is a director or member of the governing body of the body corporate or other entity; or
 - (e) one is a body corporate or other entity (whether inside or outside Australia) and the other is a person who has a legal or equitable interest in 5% or more of the share capital of the body corporate or other entity; or
 - (f) they are related bodies corporate; or
 - (g) a relationship of a kind prescribed by regulation exists between them; or
 - (h) a chain of relationships can be traced between them under any one or more of paragraphs (a) to (g).

- (3) In this section:

beneficiary, of a trust, includes an object of a discretionary trust.

related body corporate, see section 9 of the *Corporations Act 2001* (Cth).

283F Qualified person may direct information to be provided

A qualified person preparing or reviewing specified information or a specified report under section 283B may direct the mining operator, or another person, to provide all relevant information to the qualified person to carry out the preparation or review of the specified information or specified report.

283G Declarations in relation to information prepared or reviewed by qualified person

If specified information or a specified report given to the Minister has been prepared or reviewed by a qualified person as required by the Minister, the information or report given to the Minister must be accompanied by:

- (a) a declaration signed by the person stating that the person:
 - (i) has not knowingly given any false or misleading information to the qualified person; and
 - (ii) has given all relevant information to the qualified person; and
- (b) a declaration signed by the qualified person certifying that:
 - (i) the information or report prepared by the qualified person or the report of the review by the qualified person is accurate; and
 - (ii) the qualified person has not knowingly included any false or misleading information in the prepared information or report or the report of the review or failed to include any relevant information in the prepared information or report or the report of the review.

283H Contravention of direction to provide relevant information – environmental offences

- (1) A person commits an offence if:
 - (a) the person is given a direction under section 283F; and
 - (b) the person contravenes that direction and is reckless in relation to that circumstance.

Penalty: environmental offence level 2.

- (2) A person commits an offence if:
 - (a) the person is given a direction under section 283F; and
 - (b) the person contravenes that direction.

Penalty: environmental offence level 3.

- (3) Strict liability applies to subsection (1)(a).
- (4) An offence against subsection (2) is an offence of strict liability.

- (5) It is a defence to a prosecution for an offence against this section if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

283J Offence if false or misleading information in report or missing information

- (1) A qualified person commits an offence if:
 - (a) the qualified person intentionally signs a declaration under section 283G(b) in relation to specified information or a specified report prepared by the qualified person; and
 - (b) the information or report contains false or misleading information or does not contain all relevant information and the qualified person is reckless in relation to that circumstance.

Maximum penalty: 500 penalty units or imprisonment for 2 years.

- (2) Subsection (1) does not apply if the qualified person when giving the information or report:
 - (a) draws the false or misleading aspect of the information or report to the Minister's attention; and
 - (b) to the extent to which the qualified person can reasonably do so – gives the Minister or CEO the information necessary to remedy the false or misleading aspect of the information or report.

181 Section 300 amended (Assessment report completed under former Act before commencement and action regulated under prescribed Act)

Section 300(1)(b)

omit, insert

- (b) either:
 - (i) a statutory authorisation is required under a prescribed Act to permit the action; or
 - (ii) an environmental (mining) licence is required under this Act to permit the action.

182 Part 15 inserted

After section 302

insert

**Part 15 Transitional matters for Environment
Protection Legislation Amendment Act 2023**

Division 1 Preliminary matters

303 Definitions

In this Part:

amending Act means the *Environment Protection Legislation Amendment Act 2023*.

commencement means the day on which Part 4 of the amending Act commences.

deemed mining licence means an environmental (mining) licence created under section 304(1) or 308(4) and if that licence is varied under section 304(2) or 308(6) that licence as so varied.

existing mining authorisation means an Authorisation granted under Part 4 Division 2 of the former Mining Management Act that is in existence immediately before the commencement.

existing mining management plan means a mining management plan approved under Part 4, Division 2 of the former Mining Management Act that is in existence immediately before the commencement.

former Mining Management Act means the *Mining Management Act 2001* as in force before the commencement.

mining waste means waste that comes into contact with water, or water that is polluted, in the course of carrying out a mining activity.

replacement environmental (mining) licence means a replacement environmental (mining) licence granted under section 313.

transition period, in relation to a deemed mining licence, means the period of operation of the licence set out in section 305.

Division 2 Mining Management Act 2001

Subdivision 1 Deemed mining licence

304 Existing mining authorisation and existing mining management plan taken to be environmental (mining) licence

- (1) An existing mining authorisation and an existing mining management plan relating to that authorisation are together taken on and from the commencement to be an environmental (mining) licence under this Act for the mining activity to which the authorisation and plan relate.
- (2) If a deemed mining licence requires the submission or provision by the mining operator of a revision of a document, report or plan or security amount, the deemed mining licence is taken to be varied in accordance with the revised document, report, plan or security.

305 Duration of deemed mining licence

- (1) Subject to this section, a deemed mining licence has effect for a period of 4 years from the commencement.
- (2) A deemed mining licence ceases to have effect before the end of the 4 year period if:
 - (a) it is cancelled or revoked; or
 - (b) a replacement environmental (mining) licence is granted.
- (3) If an application for a replacement environmental (mining) licence is made under this Division before the end of the 4 year period, the deemed mining licence continues to have effect until the replacement environmental (mining) licence is granted.
- (4) If the Minister commences a process under section 312(3) before the end of the 4 year period for the grant of a replacement environmental (mining) licence, the deemed mining licence continues to have effect until the replacement environmental (mining) licence is granted.

306 Prohibition of variation of deemed mining licence

Except as provided in section 304(2) or 308, a deemed mining licence cannot be varied so as to:

- (a) include a new mining activity; or

- (b) amend an existing mining activity so as to substantially alter the environmental impacts, risks, location or extent of the mining activity.

307 Prohibition of transfer of deemed mining licence

A deemed mining licence cannot be transferred.

308 Pending applications for Authorisation

- (1) This section applies to an application under the former Mining Management Act made but not determined before the commencement for the following:
 - (a) the grant of an Authorisation;
 - (b) the approval of a mining management plan;
 - (c) the variation or revocation of an Authorisation;
 - (d) the approval of an amendment to a mining management plan.
- (2) Subject to this section, the application must be determined as if the former Mining Management Act had not been repealed.
- (3) For the determination of an application referred to in subsection (2):
 - (a) the former Mining Management Act applies as if any reference to the Minister were a reference to the Minister administering the *Environment Protection Act 2019*; and
 - (b) the Minister administering the *Environment Protection Act 2019* may have regard to, continue and complete any thing done by the Minister administering the former Mining Management Act in relation to the application before the commencement.
- (4) The application must be determined within 2 years after the commencement.
- (5) If an application mentioned in subsection (1)(a) is granted, the Authorisation is taken to be a deemed mining licence.
- (6) If an application mentioned in subsection (1)(b) is approved, the approved mining management plan is taken to be part of the deemed mining licence to which it applies.
- (7) If an application for variation of an Authorisation mentioned in subsection (1)(c) is granted, the deemed mining licence is taken to be varied in accordance with that variation.

- (8) If an application for revocation of an Authorisation mentioned in subsection (1)(c) is granted, the deemed mining licence is revoked.
- (9) If an application mentioned in subsection (1)(d) is approved, the mining management plan in the deemed mining licence is taken to be amended in accordance with that approval.

309 Existing security

Any security held under the former Mining Management Act immediately before the commencement in respect of an existing mining authorisation is taken on and after the commencement:

- (a) to be a mining security held under Part 7, Division 1A in relation to:
 - (i) the deemed mining licence corresponding to that authorisation; and
 - (ii) an environmental (mining) licence granted after the commencement for the mining activity to which the deemed mining licence relates; and
- (b) to form part of the mining security account kept under that Division; and
- (c) in the case of a security in the form of a bank guarantee – to be an agreement entered into on behalf of the Territory for the purposes of section 37(a) of the *Interpretation Act 1978*.

310 Publication of deemed mining licences

- (1) The Minister must publish the following details of each deemed mining licence:
 - (a) details of the mining site to which the deemed mining licence applies;
 - (b) the name of the mining operator;
 - (c) a summary of the mining activities authorised under the deemed mining licence unless the existing management plan is published or notified under subsection (2) or (3);
 - (d) the amount of mining security held in relation to the mining activities authorised under the deemed mining licence.
- (2) If an existing mining management plan that forms part of a deemed mining licence was published before the commencement, the Minister must publish the existing mining management plan or

publish information about where the existing mining management plan may be viewed.

- (3) If an existing mining management plan that forms part of a deemed mining licence was not published before the commencement, the Minister may, at the Minister's discretion:
 - (a) publish the existing mining management plan; or
 - (b) direct a mining operator to publish the existing mining management plan.

311 Cancellation of deemed mining licence

- (1) A mining operator may apply to the Minister during the transition period to cancel a deemed mining licence.
- (2) An application must be in the approved form.
- (3) The Minister may direct the mining operator to give the Minister, within a specified period, any additional information the Minister considers reasonably necessary to assess the proposed cancellation of the deemed mining licence to meet the objects of this Act.
- (4) The Minister may consider the application and decide:
 - (a) to cancel the deemed licence; or
 - (b) to refuse to cancel the deemed licence.
- (5) Before deciding to cancel a deemed mining licence, the Minister must be satisfied that:
 - (a) any environmental risks and impacts at the mining site have been appropriately avoided, mitigated and managed in accordance with the licence; and
 - (b) all necessary remediation and rehabilitation actions have been undertaken at the mining site to comply with the licence; and
 - (c) the cancellation will not undermine the objects of this Act.

Subdivision 2 Replacement environmental (mining) licence

312 Replacement of deemed mining licence

- (1) A mining operator may apply to the Minister within the transition period to grant an environmental (mining) licence for a mining activity in place of the deemed mining licence applying to that mining activity.
- (2) An application must be in the approved form.
- (3) The Minister may, on the Minister's own initiative, commence a process, within the transition period, to grant an environmental (mining) licence for a mining activity in place of the deemed mining licence applying to that mining activity.
- (4) The Minister must give written notice to the mining operator of the Minister's intention to commence a process to grant an environmental (mining) licence in place of the deemed mining licence.
- (5) On an application under subsection (1) or the completion of a process referred to in subsection (3), the Minister must grant the mining operator a replacement environmental (mining) licence in accordance with this Subdivision.
- (6) A replacement environmental (mining) licence may be for a mining activity relating to all or any of the following:
 - (a) an exploration activity as set out in section 124M;
 - (b) mining operations as set out in section 124N;
 - (c) extractive operations as set out in section 124P.

313 Grant of replacement environmental (mining) licence

- (1) The Minister may grant a standard condition licence to the mining operator in place of a deemed mining licence if:
 - (a) the Minister reasonably considers the mining activity meets the risk criteria and that the mining operator is able to comply with the standard conditions associated with the mining activity for which the licence is to be granted; and
 - (b) the mining operator consents to the grant of a standard condition licence.
- (2) The Minister may grant a modified condition licence in place of a deemed mining licence if:

- (a) the Minister reasonably considers the mining activity meets the risk criteria and that the mining operator is able to comply with the standard conditions as modified for the mining activity; and
 - (b) the mining operator consents to the grant of a modified condition licence.
- (3) In any other case, subject to section 314, the Minister may grant a tailored condition licence in place of a deemed mining licence on substantially the same terms and conditions and requirements that applied to the deemed mining licence.
- (4) In granting a replacement environmental (mining) licence under this section, the Minister is not required to consider:
- (a) Part 2; or
 - (b) the objects of this Act; or
 - (c) whether the mining operator is a fit and proper person to hold an environmental (mining) licence.
- (5) The Minister is not required to:
- (a) publish an application under section 312 for a replacement environmental (mining) licence; or
 - (b) publish a notice of a proposal under section 312 to grant a replacement environmental (mining) licence; or
 - (c) publish an application under section 314 for a condition to be included in a replacement environmental (mining) licence.

314 Amendment of conditions for replacement environmental (mining) licence

- (1) A mining operator may apply to the Minister to grant a modified condition licence or tailored condition licence under section 313 with amended conditions.
- (2) The amended conditions may include conditions of a kind and to the same effect as a condition mentioned in sections 124X to 124ZC.
- (3) The Minister may grant the modified condition licence or tailored condition licence with the amendments sought in the application.

- (4) The Minister may, on the Minister's own initiative, include in a modified condition licence or a tailored condition licence a condition requiring monitoring and reporting of specified matters and the publication of the results of the monitoring and reports.
- (5) After consulting with the mining operator, the Minister may, on the Minister's own initiative, include in a modified condition licence or a tailored condition licence a condition referred to in section 124Z that:
 - (a) relates to a matter to which a permit, licence or other authorisation under a prescribed enactment under section 124Z applied immediately before the grant of the modified condition licence or tailored condition licence; and
 - (b) that imposes substantially the same requirements as that permit, licence or authorisation.

Division 3 Waste Management and Pollution Control Act 1998

315 Compliance plans approved before commencement

- (1) This section applies to a compliance plan that:
 - (a) is approved under section 61 of the *Waste Management and Pollution Control Act 1998*; and
 - (b) is in force immediately before the commencement; and
 - (c) relates to a mining operator and a mining activity.
- (2) The compliance plan has effect on and after the commencement as if:
 - (a) the plan were an enforceable undertaking; and
 - (b) any reference in the plan to the NT EPA were a reference to the CEO.

316 Performance agreements

- (1) This section applies to a performance agreement that:
 - (a) is entered into with a mining operator under section 66 of the *Waste Management and Pollution Control Act 1998*; and
 - (b) is in force immediately before the commencement; and
 - (c) relates to a mining activity.

- (2) The performance agreement has effect on and after the commencement as if:
 - (a) the agreement were an enforceable undertaking; and
 - (b) any reference in the agreement to the NT EPA were a reference to the CEO.

317 Pollution abatement notice

- (1) This section applies to a pollution abatement notice that:
 - (a) is issued to a mining operator under section 77 or 78 of the *Waste Management and Pollution Control Act 1998*; and
 - (b) is in force immediately before the commencement; and
 - (c) relates to a mining activity.
- (2) The pollution abatement notice has effect on and after the commencement as if the notice were an environment protection notice issued under this Act.

Division 4 Water Act 1992

318 Written notice by Controller of Water Resources in relation to environmental matter

- (1) This section applies if a written notice served on a person by the Controller of Water Resources under section 20(5) of the *Water Act 1992*:
 - (a) is in force immediately before the commencement; and
 - (b) relates to a mining activity; and
 - (c) relates to a kind of matter for which a direction can be given by an environmental officer under section 172 of this Act.
- (2) The written notice is taken on or after the commencement to be a direction by an environmental officer under section 172 to the person in relation to the environmental matter.

319 Saving of existing waste discharge licences under section 74

- (1) This section applies to a waste discharge licence granted under section 74(1) of the *Water Act 1992* that:
 - (a) relates to mining waste; and

- (b) is in force immediately before the commencement.
- (2) Without limiting section 121 of the *Water Act 1992* and subject to subsection (3), the waste discharge licence continues in force and may be renewed or a new waste discharge licence may be granted in its place as if section 230 of the amending Act had not commenced.
- (3) The waste discharge licence or a new waste discharge licence granted in its place ceases to have effect when the first of the following occurs:
- (a) the waste discharge licence expires without being renewed or a new waste discharge licence being granted in its place;
- (b) a deemed mining licence applying to the mining activity ceases to have effect;
- (c) an environmental (mining) licence is granted for the mining activity under Part 5A or section 313 of this Act.
- (4) Nothing in this section prevents an application for, and the granting of, an environmental (mining) licence under Part 5A or section 313 of this Act before the expiry of the waste discharge licence.

320 Waste discharge licences issued under section 74 after commencement

- (1) Without limiting section 121 of the *Water Act 1992*, a waste discharge licence may be granted under section 74(1) of that Act after the commencement in relation to mining waste that relates to a mining activity to which a deemed mining licence applies as if section 230 of the amending Act had not commenced.
- (2) A waste discharge licence may be granted under section 74(1) of that Act after the commencement in relation to mining waste that relates to a mining activity for which an application to which section 308 applies is still pending as if section 230 of the amending Act had not commenced.
- (3) Subject to subsection (4), a waste discharge licence referred to in subsection (1) or (2) is in force and may be renewed or a new waste discharge licence may be granted in its place as if section 230 of the amending Act had not commenced.

- (4) A waste discharge licence referred to in subsection (1) or (2) or a new waste discharge licence granted in its place ceases to have effect when the first of the following occurs:
- (a) the waste discharge licence expires without being renewed or a new waste discharge licence being granted in its place;
 - (b) a deemed mining licence applying to the mining activity ceases to have effect;
 - (c) an environmental (mining) licence is granted for the mining activity under Part 5A or section 313 of this Act.
- (5) Nothing in this section prevents an application for, and the granting of, an environmental (mining) licence under Part 5A or section 313 of this Act before the expiry of the waste discharge licence.

183 Schedule replaced

Schedule

repeal, insert

Schedule Reviewable decisions and affected persons

section 277

Item	Reviewable decision	Affected person
1	A decision of the CEO to give a direction to carry out an environmental audit under section 142	The person to whom the direction is given
2	A decision of an environmental officer to issue a direction under section 172	The person to whom the direction is given
3	A decision of the CEO to issue an environment protection notice under section 176(1) or (2) or an emergency environment protection notice under section 182 or 182A	The person to whom the notice is issued
4	A decision of an environmental officer to issue an emergency environment protection notice under section 183	The person to whom the notice is issued

Item	Reviewable decision	Affected person
5	A decision to lodge a copy of an environment protection notice with the Registrar-General under section 185	An owner or occupier of the land
6	A decision of the CEO to issue a monitoring and management notice under section 199, 199A or 199AB	The person to whom the notice is issued
7	A decision to lodge a copy of a monitoring and management notice with the Registrar-General under section 202	An owner or occupier of the land
8	A decision of the CEO to impose a condition on an emergency authorisation issued under section 223	The person to whom the emergency authorisation is issued
9	A decision of the CEO to refuse to issue an emergency authorisation under section 223	The applicant for the authorisation
10	A decision of the CEO to give a direction under section 244	The person to whom the direction is given
11	A decision under this Act prescribed by regulation	A person prescribed by regulation in relation to that decision

Division 2 Amendment of Environment Protection Regulations 2020

184 Regulations amended

This Division amends the *Environment Protection Regulations 2020*.

185 Regulation 3 amended (Definitions)

Regulation 3

insert

environmental (mining) licence matter, for Part 12, Division 1, Subdivision 2A, see regulation 269A.

specified period, for Part 12, Division 2, Subdivision 3, see regulation 279A.

186 Regulation 6 amended (Fit and proper person)

- (1) Regulation 6(1) and (2)
omit
section 62(1)(b)
insert
section 62(1)(b) or 124R(1)(b)
- (2) Regulation 6(2)
omit
section 62(1)(a)
insert
section 62(1)(a) or 124R(1)(a)
- (3) Regulation 6(2)(a)(v), after "holder"
insert
or a mining operator (as the case requires)
- (4) Regulation 6(4)
omit
section 62(1)(b)
insert
sections 62(1)(b) and 124R(1)(b)
- (5) Regulation 6(4)(d) and (e), after "approval"
insert
or environmental (mining) licence (as the case requires)
- (6) After regulation 6(5)
insert
- (6) If the Minister is considering, under Part 5A of the Act, whether the person is a fit and proper person to hold an environmental (mining) licence, the person must give the Minister any information required by the Minister for that consideration.

187 Parts 7A and 7B inserted

After regulation 233

insert

Part 7A Mining activities

Division 1 Risk criteria, standard conditions and prescribed enactments

Subdivision 1 Purpose of Division

233A Purpose of Division

This Division:

- (a) sets out processes for the following:
 - (i) the declaration of risk criteria under section 124T of the Act;
 - (ii) a review of risk criteria under section 124V of the Act;
 - (iii) a review of standard conditions under section 124V of the Act; and
- (b) prescribes enactments for section 124Z of the Act.

Subdivision 2 Declaration of risk criteria

233B Application of Subdivision

This Subdivision applies if the Minister proposes to declare risk criteria for the environmental impacts or environmental risks of mining activities.

233C Draft declaration to be prepared

The Minister must prepare a draft declaration of the risk criteria.

233D Public consultation

- (1) The Minister must publish a notice of the draft declaration prepared under regulation 233C.

- (2) The notice must:
 - (a) state where the draft declaration, and a statement of reasons for the draft declaration, may be inspected and obtained; and
 - (b) invite interested persons to make written comments to the Minister on the draft declaration within the period specified in the notice.
- (3) The comment period must be not less than 30 business days after the date of the notice.

233E Decision on draft declaration

- (1) The Minister must consider any written comments received on the draft declaration within the comment period specified in the notice under regulation 233D.
- (2) After considering the comments, the Minister may decide:
 - (a) to declare the risk criteria; or
 - (b) to amend the draft risk criteria and declare the amended risk criteria; or
 - (c) not to declare the risk criteria.

Subdivision 3 Review of risk criteria

233F Application of Subdivision

This Subdivision applies if the Minister conducts a review of the risk criteria under section 124V of the Act.

233G Public consultation

- (1) The Minister must publish a notice of the review of the risk criteria.
- (2) The notice:
 - (a) may include any proposed revised risk criteria; and
 - (b) must invite interested persons to make written comments to the Minister on the risk criteria and any proposed revised risk criteria within the period specified in the notice.
- (3) The comment period must be not less than 30 business days after the date of the notice.

233H Consultation with mining operators

- (1) The Minister must make reasonable efforts to notify any mining operator whose environmental (mining) licence is subject to the risk criteria of the proposal to review the risk criteria.
- (2) The notice:
 - (a) may include any proposed revised risk criteria; and
 - (b) must invite the mining operator to make written comments to the Minister on the risk criteria and any proposed revised risk criteria within the period specified in the notice.
- (3) The comment period must be not less than 30 business days after the date of the notice.

233J Decision on review of risk criteria

- (1) The Minister must consider any written comments received on the risk criteria and any proposed revised risk criteria within the comment period specified in the relevant notice under regulations 233G and 233H.
- (2) After considering the comments and completing the review, the Minister may decide:
 - (a) if proposed revised risk criteria were published with the notice:
 - (i) to accept the revised risk criteria; or
 - (ii) to amend the revised risk criteria and accept the amended risk criteria; or
 - (iii) to develop new risk criteria; or
 - (iv) not to amend the risk criteria; or
 - (b) if proposed revised risk criteria were not published with the notice:
 - (i) to develop new risk criteria; or
 - (ii) to amend the risk criteria; or
 - (iii) not to amend the risk criteria.

233K Decision on review to be published

The Minister must publish the decision on a review of the risk criteria together with a statement of reasons, as soon as practicable after the decision is made.

233L Public consultation on new or amended risk criteria

- (1) If the Minister does not publish or provide proposed revised risk criteria under regulations 233G and 233H, the Minister must publish a notice of any proposed new or amended risk criteria before making a decision to accept the new or amended risk criteria.
- (2) Regulations 233G, 233H and 233J apply to the publication or provision of the notice and the consideration of comments on the proposed new or amended risk criteria.

Subdivision 4 Review of standard conditions

233M Application of Subdivision

This Subdivision applies if the Minister conducts a review of the standard conditions under section 124V of the Act.

233N Consultation with mining operators

- (1) The Minister must make reasonable efforts to notify any mining operator whose environmental (mining) licence is subject to the standard conditions of the proposal to review the standard conditions.
- (2) The notice must:
 - (a) include any proposed amendments to the standard conditions; and
 - (b) invite the mining operator to make written comments to the Minister on the proposed amendments to the standard conditions within the period specified in the notice.
- (3) The comment period must be not less than 30 business days after the date of the notice.

233P Decision on proposed amendments to standard conditions

- (1) The Minister must consider any written comments received on the proposed amendments to the standard conditions within the comment period specified in the notice under regulation 233N.

- (2) After considering the comments and completing the review, the Minister may decide:
- (a) to amend the standard conditions in accordance with the proposed amendments to the standard conditions; or
 - (b) to amend the proposed amendments to the standard conditions and amend the standard conditions accordingly; or
 - (c) not to amend the standard conditions.

Subdivision 5 Prescribed enactments

233Q Prescribed enactments

For section 124Z of the Act, the following Acts are prescribed:

- (a) the *Pastoral Land Act 1992*;
- (b) the *Planning Act 1999*;
- (c) the *Waste Management and Pollution Control Act 1998*;
- (d) the *Water Act 1992*.

Division 2 Environmental (mining) licensing

Subdivision 1 Preliminary matters

233R Substantial disturbance of mining site

- (1) For section 124L(2) of the Act, substantial disturbance of a mining site includes any of the following:
- (a) land clearing;
 - (b) earthworks, including cutting, filling, excavating or trenching;
 - (c) aboveground works, including works for building roads, buildings, bridges, railways or airstrips or works for establishing conveyors, pipelines, telephone lines or power lines;
 - (d) underground works, including works in connection with tunnels, wells, pipelines, conduits or cables;
 - (e) waterworks, including works in connection with dams, impoundments, canals or the drainage or alteration of river or creek banks, water courses or shorelines;

- (f) extracting resources from the surface of the land, underground, riverbeds or under the sea;
 - (g) stockpiling ore, overburden, waste materials or by-products;
 - (h) establishing seismic lines, drill pads, drill holes, grids, tracks or costeans;
 - (i) establishing a camp for the workers;
 - (j) blasting;
 - (k) active remote sensing and seismic techniques in water, including seismic surveys in the marine environment;
 - (l) an activity that is likely to have a significant impact on flora or fauna.
- (2) For section 124L(2) of the Act, a seismic survey carried out in relation to land other than in water or in the marine environment does not constitute substantial disturbance of a mining site if the survey does not involve land clearing or any other environmental impact.

Subdivision 2 Process for assessment of environmental (mining) licence

233S Publication of documents

- (1) The Minister must publish the following as soon as practicable after an application for a modified condition licence or a tailored condition licence is received:
- (a) the application for the environmental (mining) licence;
 - (b) any additional information given in response to a direction given under section 124ZF of the Act.
- (2) Subregulation (1) does not apply if the application relates to a mining activity for which an environmental approval has been granted or is required.
- (3) For this regulation, an application for a standard condition licence that the Minister has determined, under section 124ZG(2) of the Act, to treat as an application for a modified condition licence or a tailored condition licence is taken to have been received on the making of that determination.

233T Public consultation

- (1) The Minister must publish notice of an application for an environmental (mining) licence published under regulation 233S.
- (2) The notice must:
 - (a) state where a copy of the application and any additional information mentioned in regulation 233S(1)(b) may be inspected and obtained; and
 - (b) invite interested persons to make written comments to the Minister within the period specified in the notice on whether the licence should be granted or refused.
- (3) The comment period must be not less than the prescribed period after the date of the notice.
- (4) The notice must be published as soon as practicable after the application and any additional information are received.
- (5) In subsection (3):

prescribed period means:

- (a) for a modified condition licence:
 - (i) for an exploration activity – 15 business days; and
 - (ii) for extractive operations – 15 business days; and
 - (iii) for mining operations – 25 business days; or
- (b) for a tailored condition licence:
 - (i) for an exploration activity – 25 business days; and
 - (ii) for extractive operations – 25 business days; and
 - (iii) for mining operations – 30 business days.

233U Assessment of application

The Minister must consider the following in assessing an application for an environmental (mining) licence:

- (a) the application;
- (b) any information given to the Minister with the application;

- (c) any additional information given to the Minister under section 124ZF of the Act;
- (d) if regulation 233T applies to the application – any submissions received under that regulation.

Subdivision 3 Process for publication of amendment of conditions of environmental (mining) licence

233V Publication of proposed or requested amendments

If the Minister determines, under section 124ZS(3) of the Act, that proposed or requested amendments to an environmental (mining) licence should be published, the Minister must publish the following as soon as practicable after making the determination:

- (a) any request for the amendments;
- (b) the proposed amendments.

233W Public consultation

- (1) The Minister must publish notice of a request and proposed amendments published under regulation 233V.
- (2) The notice must:
 - (a) state where a copy of the request and the proposed amendments may be inspected and obtained; and
 - (b) invite interested persons to make written comments to the Minister on the proposed amendments within the period specified in the notice.
- (3) The comment period must be not less than 20 business days after the date of the notice.
- (4) The notice must be published as soon as practicable after the application and any additional information are received.

Part 7B Notice of entry to land to comply with specified condition

233X Information to be given in notice of entry to land

For sections 124ZZZO(5) and 124ZZZP(5) of the Act, a notice under section 124ZZZO(3)(b) or (4) or 124ZZZP(1), (3) or (4) of the Act must inform the owner or occupier of the land or the CEO or Mining Minister (as the case requires) of the following:

- (a) the intention to enter the land or premises;
- (b) the name of each person who is to enter the land or premises;
- (c) the condition of the environmental approval or environmental (mining) licence that must be complied with;
- (d) the purpose of the entry and proposed works on the land or premises;
- (e) the days and times when the entry is to be made and the expected duration of the proposed works;
- (f) the equipment, machinery or materials to be brought onto the land or premises;
- (g) the changes to infrastructure and the surrounding environment that are expected as a result of the proposed works.

188 Part 8 heading amended (Environment protection bonds)

Part 8, heading, after "**bonds**"

insert

and mining securities

189 Regulation 234A inserted

After regulation 234, in Part 8

insert

234A Claim on mining security

- (1) For section 132E(2) of the Act, if the Minister or the CEO intends to make a claim on a mining security, the Minister or CEO must give the mining operator a written notice including:
 - (a) the reason for making the claim; and

- (b) the amount of the security that is to be claimed.
- (2) The mining operator may make submissions to the Minister or the CEO, as the case requires, in relation to the matters in the notice within the period specified in the notice.
- (3) The submission period must be not less than 10 business days after the date of the notice.
- (4) The Minister or the CEO may make a claim on the mining security if the Minister or CEO has:
 - (a) given the mining operator a notice under sub regulation (1); and
 - (b) considered any submission made by the mining operator within the submission period under subsection (2); and
 - (c) notified the mining operator of the decision to make a claim on the security.
- (5) If the amount of the mining security is less than the reasonable costs and expenses incurred by the Minister or the CEO to which the claim applies, the recovery of an amount of mining security does not prevent the Minister or CEO from recovering the remaining costs and expenses from the mining operator.

190 Part 10 heading amended (Notice of environmental incidents)

Part 10, heading, after "**Notice**"

insert

, **recording and reporting**

191 Part 10, Division 1 heading inserted

Before regulation 255, in Part 10

insert

Division 1 Notice of incidents

192 Regulation 255 amended (Relevant information to be given)

(1) Regulation 255(1), after "Division 8"

insert

, Subdivision 2

(2) Regulation 255(1), (3) and (5)

omit

an incident

insert

a notifiable incident

(3) Regulation 255(1)(a), (d) and (e) and (2)

omit (all references)

the incident

insert

the notifiable incident

193 Part 10, Division 2 inserted

After regulation 255

insert

Division 2 Recording and reporting of incidents

255A Records of notifiable incidents

For section 229A(2) of the Act, a record of notifiable incidents must include the following information:

- (a) the time, date, nature and location of the incident;
- (b) the time and date the incident was notified to the Minister.

255B Records of recordable incidents

For section 229C(2) of the Act, a record of recordable incidents must include the following information:

- (a) the time, date, nature and location of the recordable incident;
- (b) the circumstances in which the recordable incident occurred (including the cause of the incident, if known);
- (c) the action taken or proposed to be taken to deal with the recordable incident and any resulting environmental harm;

- (d) the action taken or proposed to be taken to prevent similar incidents.

194 Part 12, Division 1, Subdivision 2A inserted

After regulation 269

insert

Subdivision 2A Submissions to Minister

269A Definition

In this Subdivision:

environmental (mining) licence matter means:

- (a) an application for an environmental (mining) licence published under regulation 233S; or
- (b) a proposed amendment of an environmental (mining) licence published under regulation 233V.

269B Form of submissions to Minister

A submission to the Minister under these regulations in relation to an environmental (mining) licence matter may be made:

- (a) in writing; or
- (b) orally in person or by audio or audio-visual communication or recording; or
- (c) in any other manner approved by the Minister.

269C Minister to give copies of submissions to mining operator

Subject to regulations 269E and 269F, the Minister must give the mining operator:

- (a) a copy of all written submissions the Minister receives in relation to an environmental (mining) licence matter that affects the mining operator; and
- (b) a statement of the substance of each oral submission the Minister receives in relation to an environmental (mining) licence matter that affects the mining operator.

269D Publication of submissions received during assessment process

Subject to regulations 269E and 269F, the Minister must publish all submissions the Minister receives in relation to an environmental (mining) licence matter as soon as practicable after they are received.

269E Publication relating to form response or petition

- (1) If the Minister receives a number of submissions in the form of a form response prepared by a body or organisation, it is sufficient for the Minister to publish:
 - (a) at least one of the submissions or the substance of one of the submissions; and
 - (b) the total number of submissions received.
- (2) If the Minister receives a submission in the form of a petition, it is sufficient for the Minister to publish:
 - (a) the substance or intent of the petition; and
 - (b) the total number of persons who signed the petition.

269F Request not to publish submission

- (1) A person making a submission, other than the mining operator who is affected by the environmental (mining) licence matter or a person acting on behalf of the mining operator, may request that the submission or part of the submission not be published.

Note for subregulation (1)

Section 281 of the Act empowers the mining operator to request that identified information given by the mining operator not be made public on the basis that it is confidential information or for other specified reasons.

- (2) On receipt of a request under subregulation (1), the Minister may:
 - (a) withhold the submission or part of the submission from publication; or
 - (b) remove any identifying information from the submission before publication.
- (3) The Minister may remove identifying information from any copy of a submission required to be given to the mining operator under this Subdivision.

- (4) The Minister must remove identifying information from any copy of a submission required to be given to the mining operator under this Subdivision if a request is made under subregulation (1).

195 Part 12, Division 2, Subdivisions 3 and 4 inserted

After regulation 279

insert

Subdivision 3 Extension of specified period under Part 5A of Act for mining operator or transferee

279A Definition

In this Subdivision:

specified period means any period within which a mining operator or a transferee of an environmental (mining) licence is required under Part 5A of the Act to prepare a document or information or give a document or information to the Minister.

279B Application for extension of specified period

The mining operator or transferee may apply to the Minister for an extension of a specified period.

279C Decision on application for extension

- (1) On an application under regulation 279B, the Minister, after consulting with the applicant, may:
- (a) extend the specified period for the period applied for; or
 - (b) extend the specified period for a period determined by the Minister; or
 - (c) refuse to extend the specified period.
- (2) The Minister must make a decision under subregulation (1) within 10 business days after receiving the application under regulation 279B.
- (3) The Minister may only extend a specified period under this regulation if the Minister reasonably considers that the extension of the period is necessary to meet the objects of the Act.
- (4) The Minister must not unreasonably refuse to extend the specified period.

279D Statement of reasons

The Minister must prepare a statement of reasons for a decision under regulation 279C.

279E Notice to mining operator or transferee of decision

- (1) The Minister must give the mining operator or transferee:
 - (a) notice of a decision under regulation 279C; and
 - (b) the statement of reasons for the decision.
- (2) The notice of decision and statement of reasons must be given as soon as practicable after the decision is made.
- (3) If the specified period is extended under regulation 279C, the notice of decision must include the period of the extension.

279F Notice of decision

The Minister must publish the following as soon as practicable after the decision is made under regulation 279C:

- (a) the notice of decision;
- (b) the statement of reasons for the decision.

Subdivision 4 Required period for Minister to do thing under Part 5A of Act

279G Extension of period for Minister to do thing under Part 5A

- (1) This regulation applies if the Minister is required, under Part 5A of the Act, to make a decision or to do another thing within a specified period.
- (2) The Minister, after consulting the mining operator or transferee of an environmental (mining) licence (as the case requires), may extend the specified period.
- (3) The Minister may only extend a specified period under this regulation if the Minister reasonably considers that the extension of the specified period is necessary to meet the objects of the Act.

196 Regulation 282 amended (Public register)

- (1) After regulation 282(1)(ia)
- insert*
- (ib) any environmental (mining) licence granted by the Minister under the Act;
 - (ic) any transfer of an environmental (mining) licence under the Act;
 - (id) any plan or report submitted to the Minister or the CEO by a mining operator under the Act or an environmental (mining) licence;
 - (ie) any mining security provided by a mining operator under an environmental (mining) licence, including:
 - (i) details of the site to which the environmental (mining) licence applies; and
 - (ii) the name of the mining operator; and
 - (iii) details of the environmental (mining) licence; and
 - (iv) the amount of mining security held;
- (2) Regulation 282(1)(m)
- omit, insert*
- (m) any action closure certificate issued under Part 9, Division 5 Subdivision 1 of the Act;
 - (ma) any mining closure certificate issued under Part 9, Division 5 Subdivision 2 of the Act;
- (3) After regulation 282(2)
- insert*
- (3) The CEO may remove an environmental (mining) licence from the public register if the licence has been revoked or cancelled under the Act.

197 Schedule 2 replaced

Schedule 2

repeal, insert

Schedule 2 Infringement notice offences and prescribed amounts

regulation 256(1) and (2)

Environment Protection Act 2019

Environmental offences

sections 34(4) and (5), 40(4), 41(4), 89(4), 117(4), 124J(4) and (5), 124ZZW(4), 124ZZX(4), 124ZZY(2), 124ZZZA(3), (4) and (5), 124ZZZM(5), 145(1), 151(2), 154(2), 191(4), 198(4), 208(1), 228(3) and (4), 229F(1), 244A(1), 259A(4) and (5) and 283H(2)

Other offences

Provision Prescribed amount in penalty units

	for individual	for body corporate
section 229E(1)	40	200
sections 54(1), 124ZZJ(2), 124ZZZC(1), 155(1), 157(1), 173(1) and 229E(2)	20	100
sections 124ZZZU, 146(1) and 192H(1)	10	50
sections 169(1), 189(1), 206(1) and 287(1)	2	10

Division 3 Other Acts amended

Subdivision 1 Australasia Railway (Special Provisions) Act 1999

198 Act amended

This Subdivision amends the *Australasia Railway (Special Provisions) Act 1999*.

199 Section 16 amended (Authority to mine extractive minerals on reservation from occupation)

Section 16(4)

omit

The Mining Management Act 2001

insert

Part 5A of the *Environment Protection Act 2019*

Subdivision 2 Electrical Workers and Contractors Act 1978

200 Act amended

This Subdivision amends the *Electrical Workers and Contractors Act 1978*.

201 Section 43 amended (Grounds for suspension or cancellation, &c.)

Section 43(1)(b)

omit

the Mining Management Act 2001

insert

Part 5A of the *Environment Protection Act 2019*

Subdivision 3 McArthur River Project Ratification Agreement Act 1992

202 Act amended

This Subdivision amends the *McArthur River Project Ratification Agreement Act 1992*.

203 Section 4AB amended (Ratification of certain instruments)

Section 4AB(4), definition *mining activity*

omit

the *Mining Management Act 2001*

insert

section 13A of the *Environment Protection Act 2019*

204 Section 4AC inserted

After section 4AB

insert

4AC Application of Part 15 of the *Environment Protection Act 2019*

Despite section 4AB, if there is any inconsistency between section 4AB and Part 15 of the *Environment Protection Act 2019*, Part 15 of the *Environment Protection Act 2019* prevails.

Subdivision 4 Mineral Royalty Act 1982

205 Act amended

This Subdivision amends the *Mineral Royalty Act 1982*.

206 Section 4B amended (Meaning of *operating costs*)

Section 4B(1)(wa)

omit, insert

(wa) costs associated with the provision of a mining security required under an environmental (mining) licence under section 124ZJ(2)(b), 124ZK(2)(c) or 124ZL(2)(b) of the *Environment Protection Act 2019*; or

Subdivision 5 Mineral Titles Act 2010

207 Act amended

This Subdivision amends the *Mineral Titles Act 2010*.

208 Section 4 amended (Application of Act may be affected by other legislation)

Section 4(2)

omit

Mining Management Act 2001

insert

Environment Protection Act 2019

209 Section 8 amended (Definitions)

Section 8, definition ***authorised officer***, paragraph (b)

omit, insert

(b) an environmental officer as defined in section 4 of the *Environment Protection Act 2019*.

210 Section 13 amended (Technical work program)

(1) Section 13(1)(b)

omit

the proposed

insert

in relation to an EL or ELR – the proposed

(2) Section 13(3)(b)

omit

or extractive mineral resource

(3) Section 13(3)(d)

omit

or extractive minerals

211 Section 41 amended (Application for and grant of ML)

(1) Section 41(2)(c)

omit, insert

(c) a technical work program for the first operational year of the ML.

(2) After section 41(2)

insert

(2A) An application for an ML may be accompanied by a copy of a report to the Australian Securities Exchange Limited that:

(a) relates to the proposed title area of the ML; and

(b) complies with the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves published by the Joint Ore Reserves Committee as that Code is in force from time to time.

212 Section 45 amended (Conditions of ML)

After section 45(a)

insert

(ab) conduct authorised activities in relation to the title area substantially in accordance with the technical work program for the ML; and

213 Section 47 amended (Application for and grant of EMEL)

Section 47(2)(b)

omit

technical work program

insert

summary of the work proposed to be carried out for conducting authorised activities under the EMEL

214 Section 70A inserted

After section 70

insert

70A Fit and proper person to hold mineral title

- (1) In considering under section 70(4) whether a person is or is not a fit and proper person to hold a mineral title, the Minister:
 - (a) may have regard to whether there are reasonable grounds to believe that the person:
 - (i) has contravened a law of the Territory or another jurisdiction that relates to the physical or biological environment, including matters relating to pollution, biodiversity, natural resources, planning, development or waste; or
 - (ii) has contravened a law of the Territory or another jurisdiction that relates to heritage, health or cultural matters, including matters relating to sacred sites; or
 - (iii) has contravened a law of the Territory or another jurisdiction that relates to work health and safety; or
 - (iv) has contravened a law of the Territory under which a tax or royalty is payable to the Territory; or
 - (v) has committed an offence against any law of the Territory or another jurisdiction that involves an element of fraud or dishonesty; or
 - (vi) has behaved or is likely to behave in a way that is inconsistent with the person's duties as a title holder; and
 - (b) may have regard to the matters prescribed by regulation; and
 - (c) may have regard to any other matters the Minister considers relevant.
- (2) Nothing in section 70(4) requires the Minister to conduct an investigation to determine whether a person is a fit and proper person.

215 Part 5, Division 2A inserted

After section 79

insert

Division 2A Notice of authority to commence or continue mining activity

79A Notice of authority to commence or continue authorised activity

- (1) If a mining security is paid under Part 7, Division 1A of the *Environment Protection Act 2019*, in respect of a mining activity that relates to a prescribed mineral title or a prescribed interest, the Minister must issue a notice of authority to commence the mining activity to which the mining security relates.
- (2) A notice of authority to commence a mining activity must be issued within 10 business days after the mining security is accepted.
- (3) If as a result of a recalculation of a mining security, an additional amount of mining security is paid, the Minister must issue a notice of authority to continue the mining activity to which the mining security relates.
- (4) A notice of authority to continue a mining activity must be issued within 10 business days after the additional mining security is accepted.
- (5) If the mining security is paid in respect of part of a mining activity, the notice must specify the part of the mining activity for which the mining security has been paid.
- (6) Before issuing a notice of authority to commence or continue a mining activity, the Minister may consider:
 - (a) whether the mining activity to which the mining security relates is an authorised activity under the prescribed mineral title or is authorised under the prescribed interest; and
 - (b) whether the environmental (mining) licence to which the mining security relates is consistent with any relevant technical work program applying to the mining site.
- (7) The Minister may request further information from the Minister administering the *Environment Protection Act 2019* or the mining operator when considering any matter under subsection (6).

- (8) If the Minister requests information under subsection (7), the required time under subsection (2) or (4) to issue a notice ceases to run until the information is given.
- (9) A notice of authority to commence or continue a mining activity must be published on the public register kept under the *Environment Protection Act 2019*.
- (10) A notice of authority to commence or continue a mining activity ceases to have effect:
- (a) if the environmental (mining) licence authorising that mining activity ceases to have effect; or
 - (b) a new notice of authority to commence or continue a mining activity is issued for the mining activity.

216 Section 94 amended (Reports)

- (1) Section 94(3)(c)

omit

regulation;

insert

regulation.

- (2) Section 94(3)(d)

omit

217 Section 103 amended (Application for acceptance of surrender)

- (1) After section 103(3)

insert

- (3A) The Minister must consult with the Minister administering the *Environment Protection Act 2019* before accepting the surrender of the whole or part of the title area to which an environmental (mining) licence under the *Environment Protection Act 2019* applies or has applied.

(2) Section 103(4)(b)

omit, insert

- (b) if the mineral title was subject to the *Mining Management Act 2001* before its repeal – all of the provisions of that Act as in force before its repeal applicable to the title; and
- (c) if the mineral title is subject to the *Environment Protection Act 2019*, Part 5A – all of the provisions of that Part applicable to the title.

218 Section 186 amended (Prescribed substance – royalty payments)

Section 186(1)

omit

section 41

insert

Part III

219 Section 187 amended (Prescribed substance – Minister's exercise of powers)

Section 187(3), definition ***Commonwealth Minister***

omit, insert

Commonwealth Minister means the Minister for the Commonwealth administering the *Atomic Energy Act 1953* (Cth).

Subdivision 6 Nuclear Waste Transport Storage and Disposal (Prohibition) Act 2004

220 Act amended

This Subdivision amends the *Nuclear Waste Transport Storage and Disposal (Prohibition) Act 2004*.

221 Section 5 amended (Application of Act)

Section 5(3)(c)

omit

Mining Management Act 2001

insert

Environment Protection Act 2019

Subdivision 7 Radiation Protection Act 2004

222 Act amended

This Subdivision amends the *Radiation Protection Act 2004*.

223 Section 9 amended (Act does not apply to certain activities)

Section 9(1)(a)

omit

Mining Management Act 2001

insert

Environment Protection Act 2019

224 Section 47A amended (definitions)

(1) Section 47A, definition **operator**

omit, insert

operator, for a mining site, means a mining operator as defined in section 4 of the *Environment Protection Act 2019*.

(2) Section 47A, definitions **mining site** and **radiation worker**

omit

Mining Management Act 2001

insert

Environment Protection Act 2019

Subdivision 8 Waste Management and Pollution Control Act 1998

225 Act amended

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

226 Section 6 amended (Application)

(1) Section 6(2)(a)

omit, insert

(a) that results from, directly or indirectly, the carrying out of a petroleum exploration activity, or petroleum extraction activity, by a person on land on which the activity is authorised by or under the *Petroleum Act 1984*, the *Petroleum (Submerged Lands) Act 1981* or an Act of the Commonwealth; and

(2) After section 6(2)

insert

(2A) This Act does not apply in relation to a contaminant or waste that results from, directly or indirectly, the carrying out of a mining activity which is authorised under an environmental (mining) licence under the *Environment Protection Act 2019*.

(3) Section 6(9), definition ***mining activity***

omit, insert

mining activity, see section 13A of the *Environment Protection Act 2019*.

227 Part 17 inserted

After section 126

insert

Part 17 Transitional matters for Environment Protection Legislation Amendment Act 2023

127 Application of Act to mining activities

(1) Section 6 as in force immediately before the commencement continues to apply in relation to a mining activity that is authorised under a deemed mining licence while the deemed mining licence is in effect.

(2) In this section:

amending Act means the *Environment Protection Legislation Amendment Act 2023*.

commencement means the day on which Part 4, Division 3, Subdivision 8 of the amending Act commences.

deemed mining licence, see section 303 of the *Environment Protection Act 2019*.

Subdivision 9 Water Act 1992

228 Act amended

This Subdivision amends the *Water Act 1992*.

229 Section 4 amended (Interpretation)

(1) Section 4(1), definitions **mining activity** and **mining site**
omit

(2) Section 4(1)
insert

mining activity, see section 13A of the *Environment Protection Act 2019*.

mining site, see section 4 of the *Environment Protection Act 2019*.

230 Section 7 replaced

Section 7
repeal, insert

7 Application of Act to mining activity or petroleum activity

- (1) Section 16 does not apply to waste that comes into contact with water, or water that is polluted, if the contact or pollution occurs in the course of carrying out a mining activity which is authorised under an environmental (mining) licence under the *Environment Protection Act 2019*.
- (2) Section 16 does not apply to waste that comes into contact with water, or water that is polluted, if:
 - (a) the contact or pollution occurs in the course of carrying out a petroleum activity; and
 - (b) the waste or polluted water is confined within the petroleum site on which the activity is being carried out.

- (3) Part 6, Division 5 applies to the disposal underground of waste in the course of carrying out a petroleum activity on a petroleum site if the waste is not confined within the petroleum site.

231 Section 71R amended (Licence to take water for mining or petroleum activity)

Section 71R(1)(d)

omit, insert

- (d) in the case of an application in relation to a mining activity, the mining activity is carried out in accordance with:
- (i) until the commencement of the *Environment Protection Legislation Amendment Act 2023*, Part 4, a mining management plan approved under the *Mining Management Act 2001*; and
 - (ii) on and after the commencement of the *Environment Protection Legislation Amendment Act 2023*, Part 4, a mining management plan forming part of a deemed mining licence as defined in section 303 of the *Environment Protection Act 2019*; and

232 Section 71S amended (Water extraction licence to prevail in event of inconsistency)

Section 71S(1), after "Act 2001"

insert

or a mining management plan forming part of a deemed mining licence as defined in section 303 of the *Environment Protection Act 2019*

233 Part 19 inserted

After section 120

insert

Part 19 Transitional matters for Environment Protection Legislation Amendment Act 2023

121 Application of Act to mining activities

(1) Section 7 as in force immediately before the commencement continues to apply in relation to a mining activity that is authorised under a deemed mining licence while the deemed mining licence is in effect.

(2) In this section:

amending Act means the *Environment Protection Legislation Amendment Act 2023*.

commencement means the day on which Part 4, Division 3, Subdivision 9 of the amending Act commences.

deemed mining licence, see section 303 of the *Environment Protection Act 2019*.

Division 4 Other subordinate legislation amended

Subdivision 1 Environment Protection (National Pollutant Inventory) Objective 2004

234 Instrument amended

This Subdivision amends the *Environment Protection (National Pollutant Inventory) Objective 2004*.

235 Clause 2 amended (Interpretation)

Clause 2(1), definition **emission**, paragraph (b)(i) and (iii)

omit

Mining Management Act 2001

insert

Environment Protection Act 2019

Subdivision 2 Mineral Titles Regulations 2011

236 Regulations amended

This Subdivision amends the *Mineral Titles Regulations 2011*.

237 Regulations 4A and 4B inserted

After regulation 4

insert

4A Technical work programs – additional information

- (1) For section 13 of the Act, a technical work program for an EL may include the following additional information:
 - (a) the geological basis for selection of the proposed title area of the EL, including the minerals to be explored for;
 - (b) maps to support the geological basis for the selection of the proposed title area of the EL, including the geological formations to be explored;
 - (c) the proposed method of exploration;
 - (d) details of any previous exploration undertaken in the proposed title area of the EL, including any minerals identified in the proposed title area;
 - (e) the timing of the activities proposed to be carried out;
 - (f) information on the data to be collected in carrying out the activities.
- (2) For section 13 of the Act, a technical work program for an ELR may include the following additional information:
 - (a) details of the ore body or anomalous zone of possible economic potential found in the proposed title area of the ELR, including any model or calculation of the mineral resource;
 - (b) a rationale explaining:
 - (i) why mining minerals in the proposed title area of the ELR is not currently commercially viable; or
 - (ii) what further work is required to assess the commercial viability of mining minerals in the proposed title area of the ELR.

- (3) For section 13 of the Act, a technical work program for an ML may include the following additional information:
- (a) details of the ore body or anomalous zone of possible economic potential found in the proposed title area of the ML, including any model or calculation of the mineral resource;
 - (b) maps, cross-sections and diagrams showing:
 - (i) the geology of the proposed title area of the ML; and
 - (ii) the resource areas in the proposed title area of the ML, and their resource classification; and
 - (iii) the ore-reserve areas of the proposed title area of the ML and their ore-reserve classification;
 - (c) details of any mining feasibility studies undertaken in the proposed title area of the ML;
 - (d) the timing of the likely commencement of mining;
 - (e) the proposed method of mining;
 - (f) the proposed program of works;
 - (g) details of the proposed infrastructure requirements.

4B Prescribed mineral title and prescribed interest

- (1) For section 79A of the Act the following mineral titles are prescribed:
- (a) an EL;
 - (b) an ELR;
 - (c) an ML;
 - (d) an EMEL;
 - (e) an EMP;
 - (f) an EML;
 - (g) an MA.
- (2) For section 79A of the Act the following interests are prescribed:
- (a) a non-compliant existing interest as defined in section 204(1) of the Act;

- (b) the special mineral lease granted under the *Mining (Gove Peninsula Nabalco Agreement) Act 1968*;
- (c) a mineral lease or exploration licence validated or granted under the *McArthur River Project Agreement Ratification Act 1992*.

238 Regulation 44 amended (Necessary criteria for mineral title application)

Regulation 44(2), definition *rehabilitation requirements*

omit

Mining Management Act 2001

insert

Environment Protection Act 2019

239 Regulation 44A inserted

After regulation 44

insert

44A Fit and proper person

- (1) For section 70A(1)(b) of the Act, the following matters are prescribed:
 - (a) whether, in the Minister's opinion, the person is of good repute, having regard to character, honesty and integrity;
 - (b) if the person is a body corporate – whether, in the Minister's opinion, each director of the body corporate is of good repute, having regard to character, honesty and integrity;
 - (c) if the person is a member of a partnership – whether, in the Minister's opinion, each member of the partnership is of good repute, having regard to character, honesty and integrity.

- (2) If the Minister considers the matters in section 70A(1)(a) of the Act in relation to a person that is a body corporate, the following additional matters are prescribed for section 70A(1)(b) of the Act:
- (a) whether the Minister believes on reasonable grounds that a director of the body corporate:
 - (i) has contravened a law of the Territory or another jurisdiction that relates to the physical or biological environment, including matters relating to pollution, biodiversity, natural resources, planning, development or waste; or
 - (ii) has contravened a law of the Territory or another jurisdiction that relates to heritage, health or cultural matters, including matters relating to sacred sites; or
 - (iii) has contravened a law of the Territory or another jurisdiction that relates to work health and safety; or
 - (iv) has contravened a law of the Territory under which a tax or royalty is payable to the Territory; or
 - (v) has committed an offence against any law of the Territory or another jurisdiction that involves an element of fraud or dishonesty; or
 - (vi) has behaved or is likely to behave in a way that is inconsistent with the person's duties as a title holder;
 - (b) whether the Minister believes on reasonable grounds that a director of the body corporate is or has been the director of another body corporate that has engaged in conduct of a kind mentioned in paragraph (a);
 - (c) if the body corporate is the subsidiary of another body or company (the **parent company**) – whether the Minister believes on reasonable grounds that:
 - (i) the parent company or a director of the parent company has engaged in conduct of a kind mentioned in paragraph (a); or
 - (ii) a director of the parent company is or has been the director of another body corporate that has engaged in conduct of a kind mentioned in paragraph (a).

- (3) Subregulation (2) does not apply in relation to conduct by a person to the extent that the Minister, having regard to the following matters, considers that the conduct should not be taken into account:
- (a) the seriousness of the conduct;
 - (b) the length of time since the conduct occurred;
 - (c) any other matters that appear relevant to the Minister.
- (4) For section 70A(1)(b) of the Act the following additional matters are prescribed:
- (a) whether the person, during the previous 3 years:
 - (i) was an undischarged bankrupt; or
 - (ii) applied to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounded with the person's creditors or made an assignment of the person's remuneration for their benefit;
 - (b) whether the person is or was a director of a body corporate:
 - (i) that is the subject of a winding up order; or
 - (ii) for which a controller or administrator has been appointed during the previous 3 years;
 - (c) if the person is a body corporate – whether the body corporate:
 - (i) is the subject of a winding up order; or
 - (ii) has had a controller or administrator appointed during the previous 3 years;
 - (d) whether, in the Minister's opinion, the person has the financial capacity to comply with the person's obligations as a title holder;
 - (e) whether, in the Minister's opinion, actions or things authorised by the mineral title will be carried out by a technically competent person.

- (5) If the Minister is considering, under section 70A of the Act, whether a person is a fit and proper person to hold a mineral title, the person must give the Minister any information required by the Minister for that consideration.

240 Regulation 79 repealed

Regulation 79

repeal

241 Schedule 1, Part 2 amended (Rent payable for title areas)

Schedule 1, Part 2, item relating to EMP

omit

Mining Management Act 2001

insert

Environment Protection Act 2019 and on which all other authorised activities have ceased

Subdivision 3 Radiation Protection Regulations 2007

242 Regulations amended

This Subdivision amends the *Radiation Protection Regulations 2007*.

243 Regulation 9A amended (Interpretation)

Regulation 9A(1), definition *authorisation*

omit

Act 2001,

insert

Act 2001 and any environmental (mining) licence under the *Environment Protection Act 2019* that takes the place of that Authorisation,

Subdivision 4 Water Regulations 1992

244 Regulations amended

This Subdivision amends the *Water Regulations 1992*.

245 Regulation 14D amended (Licence to take water for mining or petroleum activity)

Regulation 14D(1)(d)(i)

omit, insert

- (i) in the case of a mining activity – an environmental (mining) licence under the *Environment Protection Act 2019*; and

Subdivision 5 Work Health and Safety (National Uniform Legislation) Regulations 2011**246 Regulations amended**

This Subdivision amends the *Work Health and Safety (National Uniform Legislation) Regulations 2011*.

247 Regulation 609 amended (Definitions)

- (1) Section 609, definition ***mining activity***

omit

section 4 of the *Mining Management Act 2001*

insert

section 13A of the *Environment Protection Act 2019*

- (2) Section 609, definition ***mining authorisation***, paragraph (c)

omit, insert

- (c) a Part III authority, as defined in section 5(1) of the *Atomic Energy Act 1953* (Cth).

Part 5 Act repealed**248 Act repealed**

This Act is repealed on the day after it commences.

Schedule Act further amended

section 93

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 32(3)	conducted	
section 293(2)(b), after “costs”		and expenses
