

Serial 160
Northern Territory Aboriginal Sacred Sites Amendment Bill 2003
Mr Ah Kit

**A BILL
for
AN ACT**

to amend the *Northern Territory Aboriginal Sacred Sites Act*



NORTHERN TERRITORY OF AUSTRALIA
NORTHERN TERRITORY ABORIGINAL SACRED SITES
AMENDMENT ACT 2003

No. of 2003

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2003

AN ACT

to amend the *Northern Territory Aboriginal Sacred Sites Act*

[Assented to 2003]

[Second reading 2003]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Northern Territory Aboriginal Sacred Sites Amendment Act 2003*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Northern Territory Aboriginal Sacred Sites Act* is in this Act referred to as the Principal Act.

4. New Division

Part III of the Principal Act is amended by inserting before Division 1 the following:

"Division 1A – Application for Authority Certificate

"19A. Definitions

"In this Division, unless the contrary intention appears –

'non-standard application' means an application classified by the Authority under section 19C as non-standard;

'standard application' means an application classified by the Authority under section 19C as standard.

"19B. Application for Authority Certificate

"A person who proposes to use or carry out work on land may apply to the Authority, in a form approved by the Authority, for an Authority Certificate.

"19C. Authority to classify application

"(1) The Authority must classify an application under section 19B as either a standard application or a non-standard application.

"(2) When classifying an application in accordance with subsection (1), the Authority must have regard to the guidelines set out in the Regulations.

"19D. Fees and charges

"(1) A standard application is to be accompanied by the prescribed fee.

"(2) If an application is classified as non-standard, the Authority may charge the applicant an amount, calculated in accordance with the Regulations, that represents the Authority's costs and expenses in respect of the determination of the application.

"19E. Non-standard application

"(1) If the Authority classifies an application as non-standard, the Authority must –

- (a) give notice to the applicant accordingly, including advising the applicant that charges will apply in respect of the determination of the application;
- (b) provide the applicant with a copy of the guidelines that relate to –
 - (i) the classification of an application as a standard or non-standard application; and
 - (ii) the charges that will apply in respect of the determination of the application; and

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- (c) if the applicant requests – provide the applicant with an estimate of the amount of the charges that will apply in respect of the determination of the application.

"(2) An applicant who intends to proceed with a non-standard application must confirm in writing within 60 days of receiving notice under subsection (1)(a) that the charges applicable in respect of the application will be met by the applicant.

"(3) If an applicant fails to confirm in accordance with subsection (2) that the charges will be met, the application is taken to have lapsed.

"19F. Authority to consult with custodians

"As soon as practicable (but not later than 60 days or such longer period as the Minister approves) after –

- (a) a standard application is received; or
(b) written confirmation in accordance with section 19E(2) is received in relation to a non-standard application,

the Authority must consult with the custodians of sacred sites on or in the vicinity of the land to which the application relates that are likely to be affected by the proposed use or work.

"19G. Applicant may request conference with custodians

"(1) An applicant under section 19B may request the Authority to arrange a conference on the application or terms and conditions of an Authority Certificate, or as the case may be, between the applicant and the custodians of the relevant sites.

"(2) A request under subsection (1) is to be in writing and may be made before or after the issue of an Authority Certificate in relation to the land.

"(3) If a request for a conference has been made under subsection (1), the applicant or a custodian of a site with whom the applicant has requested the conference may apply to the Authority for the conference to be held in the presence of the Authority or a member or committee of the Authority authorised by the Authority for that purpose.

"(4) If a request for a conference has been made under subsection (1), the Authority must –

- (a) assess whether the holding of the conference is likely to entail significant costs, having regard to the matters prescribed in the Regulations; and

- (b) if the conference is likely to entail significant costs –
 - (i) advise the applicant that charges will apply to recover the costs of the Authority;
 - (ii) provide the applicant with a copy of the guidelines that relate to the charges that will apply in respect of the conference; and
 - (iii) if the applicant requests – provide the applicant with an estimate of the amount of the charges that will apply in respect of the conference.

"(5) An applicant who intends to proceed with a request for a conference must confirm in writing within 60 days of receiving notice that charges will apply in respect of the conference that the charges will be met by the applicant.

"(6) If an applicant fails to confirm in accordance with subsection (5) that the charges will be met, the request for the conference is taken to have been withdrawn.

"19H. Applicant may have matter referred to Minister

- "(1) An applicant who is aggrieved by –
 - (a) a decision by the Authority to classify an application as non-standard;
 - (b) the amount of charges applied in respect of the determination of a non-standard application; or
 - (c) the amount of charges applied in respect of a conference referred to in section 19G,

may make written submissions on the matter and require the Authority to refer the matter to the Minister.

"(2) The Authority must refer the submissions referred to in subsection (1) to the Minister together with the Authority's comments and the Minister must decide the matter.

"19J. Minister may require security

"The Minister may require an applicant who is liable for charges in respect of a non-standard application or a conference to lodge with the Minister security, in the amount the Minister thinks fit, for the charges.

"19K. Account for charges

"(1) When the costs incurred by the Authority in respect of determining a non-standard application or in respect of a conference requested under section 19G are known, the Authority must calculate the charges applicable in accordance with the guidelines set out in the Regulations and provide the applicant with an account advising the amount payable and the date by which it is to be paid.

"(2) On receipt of an account under subsection (1), the applicant must pay to the Authority the amount payable by the specified date.

"19L. Conference with custodians

"(1) If –

- (a) the Authority receives a request under section 19G for a conference; and
- (b) if applicable – confirmation in accordance with section 19G(5) has been received that charges will be met,

the Authority must, within 60 days of –

- (c) receiving the request or the confirmation (as appropriate); or
- (d) the expiry of the period specified under section 19F,

whichever is the later, arrange for the conference to be held as soon as practicably suits the applicant and the custodians.

"(2) The Minister may, in the circumstances of a particular case, allow a longer period as the Minister specifies within which period the Authority must arrange for the conference to be held.

"(3) If a request for a conference is received under section 19G before the Authority has determined the application in relation to which the conference is requested, the Authority must stay the making of a decision to issue or refuse to issue an Authority Certificate in the matter until the conference has been held, unless the request is sooner withdrawn in writing or taken to be withdrawn under section 19G(6)."

5. Repeal

Sections 20 and 21 of the Principal Act are repealed.

6. Inspection of register and other records

Section 48 of the Principal Act is amended by omitting "such fee, not exceeding the prescribed amount, as the Authority thinks fit" and substituting "the prescribed fee".

7. New section

The Principal Act is amended by inserting after section 48A the following:

"48B. Fees and charges are debt due and payable

"(1) A fee or charge payable to the Authority under this Act is a debt due and payable to the Authority.

"(2) The Authority may waive all or part of a fee or charge under this Act."

8. Regulations

Section 49 of the Principal Act is amended –

(a) by inserting after subsection (1) the following:

"(1A) The Regulations may prescribe –

- (a) guidelines for the Authority when classifying an application for the purposes of section 19C;
- (b) the method of determining the charges that are payable in respect of a non-standard application; and
- (c) the method of determining the charges that are payable in respect of a conference referred to in section 19G."; and

(b) by omitting from subsection (2) "\$2,000" and substituting "100 penalty units".

9. Further amendments

The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 9

Provision	Amendment	
	omit	substitute
Section 10(e)	sections 20 and 27	sections 19B and 27
Section 10(f)	section 20	section 19B
Section 22(1)	section 20(1)	section 19B
Section 23	section 20(1) this Division applies	section 19B Division 1A and this Division apply
Section 24	section 20(1)	section 19B
Section 30(1)	section 20(1)	section 19B
Section 30(1)(a)	or the Regulations	
Section 30(1)(b)	Division 1	Division 1A or Division 1
Section 33	\$10,000 \$20,000	200 penalty units 1 000 penalty units
Sections 34(1) and 35	\$20,000 \$40,000	400 penalty units 2 000 penalty units
Section 37	\$10,000 \$20,000	200 penalty units 1 000 penalty units
Section 38	\$10,000 12 months	400 penalty units 2 years
Section 47(4)	\$5,000 \$10,000	200 penalty units 1 000 penalty units

