

Serial 7
Northern Territory Environment Protection Authority Bill 2012
Mr Mills

A Bill for an Act to establish the Northern Territory Environment Protection
Authority, and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

NORTHERN TERRITORY ENVIRONMENT PROTECTION AUTHORITY
ACT 2012

Act No. [] of 2012

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(Administration) Regulations amended**



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2012

An Act to establish the Northern Territory Environment Protection Authority,
and for related purposes

[Assented to [] 2012]
[Second reading [] 2012]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Northern Territory Environment Protection Authority Act 2012*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Definitions

In this Act:

advise includes make a recommendation.

appointed member means a member appointed under section 10(1)(a).

chairperson means the person appointed to be chairperson of the NT EPA under section 11(1).

ecologically sustainable development means using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life now and in the future can be increased.

environment means all aspects of the surroundings of humans, including the physical, biological, economic, cultural and social aspects.

member means a member of the NT EPA mentioned in section 10(1).

NT EPA means the Northern Territory Environment Protection Authority established by section 6.

Planning Commission means the Planning Commission established by section 81A of the *Planning Act*.

4 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

5 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 5

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Northern Territory Environment Protection Authority

Division 1 Establishment

6 NT EPA established

- (1) The Northern Territory Environment Protection Authority is established.

- (2) The NT EPA:
- (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) is capable, in its corporate name, of:
 - (i) acquiring, holding and disposing of real (including leasehold) and personal property; and
 - (ii) suing and being sued; and
 - (iii) entering into contracts.
- (3) All courts, judges and persons acting judicially are to take judicial notice of the common seal of the NT EPA affixed to a document and are to assume that it was duly affixed.

Division 2 Objectives, functions and powers of NT EPA

7 Objectives

The objectives of the NT EPA are the following:

- (a) to promote ecologically sustainable development;
- (b) to protect the environment, having regard to the need to enable ecologically sustainable development;
- (c) to promote effective waste management and waste minimisation strategies;
- (d) to enhance community and business confidence in the environmental protection regime of the Territory.

8 Functions and powers

- (1) The functions of the NT EPA are:
- (a) to advise and report to the Minister under Part 3; and
 - (b) to undertake functions associated with environmental assessments and the management of waste and pollution conferred on the NT EPA under this or any other Act; and
 - (c) to perform any other functions conferred on it by this or any other Act.
- (2) The NT EPA has the powers necessary or convenient to perform its functions.

- (3) In exercising its powers and performing its functions, the NT EPA must:
 - (a) encourage community involvement and engagement; and
 - (b) ensure transparent processes and provide certainty to business.
- (4) In addition, the NT EPA must integrate both long-term and short-term economic, environmental and social equity considerations in its decision making.

9 Independence

- (1) The NT EPA is not subject to the direction or control of the Minister in the exercise of its powers or the performance of its functions.
- (2) A member is not subject to the direction or control of the Minister in the exercise of the member's powers or the performance of the member's functions.

Division 3 Constitution and membership

10 Membership

- (1) The NT EPA consists of the following members:
 - (a) 5 members appointed by the Administrator by *Gazette* notice;
 - (b) the Chairperson of the Planning Commission.
- (2) The Administrator may appoint a person to be a member under subsection (1)(a) only if:
 - (a) the person is not a public sector employee; and
 - (b) the Administrator is satisfied that the person has skills, knowledge and experience in one or more of the following areas:
 - (i) environmental science;
 - (ii) environmental and natural resource management;
 - (iii) waste management and pollution control;
 - (iv) economic analysis;
 - (v) social analysis;
 - (vi) business;

- (vii) environmental law;
- (viii) management in a regulatory field.

- (3) Before appointing a person to be a member, the Administrator:
- (a) may have regard to the person's skills, knowledge or experience relating to one or more of the following:
 - (i) regional areas and issues;
 - (ii) indigenous issues;
 - (iii) working with the community; and
 - (b) must have regard to the range and level of skills, knowledge and experience required among the members of the NT EPA to enable it to exercise its powers and perform its functions effectively.

11 Chairperson

- (1) The Administrator must appoint one of the appointed members to be the chairperson of the NT EPA.
- (2) The Administrator may terminate the person's appointment as the chairperson without terminating the person's appointment as a member.
- (3) The Minister may appoint another of the members to act in the office of chairperson:
 - (a) during a vacancy in the office; or
 - (b) during a period when the chairperson is unable to perform the duties of the office.
- (4) However, the Minister may only appoint a person under subsection (3):
 - (a) for a single period not exceeding 6 months; or
 - (b) for consecutive periods totalling not more than 6 months.

12 Duration of appointment

- (1) An appointed member holds office:
 - (a) for 3 years or the shorter period specified in the instrument of appointment; and

(b) on the conditions determined by the Administrator.

(2) The member is eligible for reappointment.

13 Leave of absence

The NT EPA may grant a member leave of absence on conditions determined by the NT EPA.

14 Vacation of office

(1) A person who is an appointed member ceases to be a member if:

(a) the person resigns by giving written notice to the Administrator; or

(b) the person's term of office comes to an end and the person is not reappointed; or

(c) the person is convicted of an indictable offence or sentenced to imprisonment for an offence; or

(d) the person becomes a public sector employee; or

(e) the person's appointment is terminated under section 15.

(2) The exercise of a power or the performance of a function by the NT EPA is not affected only by a vacancy in its membership.

15 Termination of appointment

(1) The Administrator may terminate the appointment of a person who is an appointed member:

(a) on the ground of misbehaviour or misconduct; or

(b) on the ground of physical or mental inability to satisfactorily perform the duties of the office; or

(c) if the Administrator is satisfied the person has failed to comply with section 22; or

(d) if the person is absent from 3 consecutive meetings of the NT EPA without leave granted under section 13; or

(e) if the person is found guilty of an offence of such a nature that it would be inappropriate for the person to continue to be a member; or

- (f) if the person:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with creditors or makes an assignment of the person's remuneration for their benefit.

(2) A termination of appointment must be made in writing.

(3) In this section:

misconduct includes failing to exercise powers or perform functions, or otherwise act, in accordance with the objectives of the NT EPA.

Division 4 Procedures of NT EPA

16 Procedures

Subject to this Act, the NT EPA may determine its own procedures.

17 Meetings

- (1) The chairperson may convene a meeting of the NT EPA at any time.
- (2) However, the chairperson must convene a meeting of the NT EPA:
 - (a) at least 4 times each year; and
 - (b) when requested by another member to do so.
- (3) A meeting convened under subsection (2)(b) must be held on, or as soon as practicable after, the meeting date requested by the member (which must be at least 7 days after the request is made).

18 Quorum at meetings

Subject to section 23(1)(c), the quorum for a meeting of the NT EPA is a majority of members.

19 Presiding member at meetings

A meeting of the NT EPA must be presided over by:

- (a) the chairperson; or

- (b) in the absence of the chairperson, another member elected by the members present at the meeting.

20 Voting at meetings

- (1) A decision at a meeting of the NT EPA must be determined by the majority vote of members present and voting.
- (2) If there is an equality of votes, the person presiding at the meeting has a casting vote.

21 Records of meetings

The NT EPA must keep accurate records of its meetings.

22 Disclosure of interest

- (1) This section applies if a member has a personal interest in a matter being considered, or about to be considered, by the NT EPA.
- (2) The member must disclose the following to the other members as soon as practicable after the relevant facts come to the member's knowledge:
 - (a) the nature and extent of the interest;
 - (b) how the interest relates to the matter mentioned in subsection (1).
- (3) If the relevant facts come to the member's knowledge at a time when the NT EPA is not meeting, the member must:
 - (a) make the disclosure mentioned in subsection (2) by written notice to each other member; and
 - (b) table a copy of the notice at the next meeting of the NT EPA.
- (4) The disclosure must be recorded in the minutes of the meeting at which, or before which, the disclosure is made.
- (5) The member need not disclose an interest if the interest is an interest shared with the public generally or a section of the public.
- (6) For this section, a member has a personal interest in a matter if the member:
 - (a) has a direct or indirect financial interest in the matter; or

- (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about the matter.

23 Effect of personal interest

- (1) If a member has a personal interest in a matter that is required to be disclosed under section 22:
 - (a) the member must not take part in any deliberation or decision of the NT EPA about the matter; and
 - (b) the member must be disregarded for the purpose of constituting the quorum of the NT EPA for the deliberation or decision; and
 - (c) the quorum for the deliberation or decision is a majority of members entitled to participate in the deliberation or decision.
- (2) However, a failure by the member to disclose the interest in the matter does not, on its own, invalidate any decision of the NT EPA about the matter.

24 Limitation on challenge to decision of member

- (1) This section applies if a person who is a member of the NT EPA:
 - (a) takes part in any deliberation or decision of the Planning Commission about a matter; and
 - (b) takes part in any decision of the NT EPA under this or another Act in relation to the same matter (a *relevant decision*).
- (2) A relevant decision must not be challenged, appealed against, quashed or called into question in any court or tribunal merely because the person took part in the Planning Commission's deliberation or decision.
- (3) A reference in this section to a relevant decision includes a reference to any of the following:
 - (a) an assessment or report;
 - (b) an opinion, advice or recommendation;
 - (c) a decision about licensing or compliance.

Part 3 Advice and reports of NT EPA

25 Advice of NT EPA

- (1) The NT EPA must, at the request of the Minister, advise the Minister about any of the following matters:
 - (a) achieving appropriate and effective environmental policy and management for the Territory;
 - (b) legislation related to the environment and its administration;
 - (c) issues affecting the Territory's capacity to achieve ecologically sustainable development;
 - (d) emerging environmental issues;
 - (e) the cumulative impacts of development on the environment;
 - (f) any other matter related to the objectives of the NT EPA.
- (2) In addition, the NT EPA may, on its own initiative, advise the Minister about any of the matters mentioned in subsection (1).

26 Consultation and matters for consideration

In performing its functions under section 25, the NT EPA may have regard to the following:

- (a) the need to adopt objectives, targets and standards for environmental management that are:
 - (i) soundly and scientifically based; and
 - (ii) consistent with best practices;
- (b) the need to consider:
 - (i) the global dimension of environmental impacts of actions and policies; and
 - (ii) regional variations in the environment;
- (c) the need to develop a strong, growing and diversified economy and a well-informed and engaged private sector that can enhance the capacity for protection of the environment;
- (d) the need to maintain and enhance international competitiveness in an environmentally sound way;

- (e) the need to adopt cost effective and flexible policy instruments, including, for example, improved valuation, pricing and incentive mechanisms;
- (f) government economic policies and priorities for the Territory;
- (g) any other matters the NT EPA considers relevant.

27 Response to advice

- (1) If the NT EPA gives advice to the Minister under section 25, the Minister must, as soon as practicable, but within 6 months, after receiving the advice:
 - (a) give the NT EPA a written response to the advice; and
 - (b) if the Minister has not followed, and does not intend to follow, the advice – include in the response reasons why the Minister has not followed, and does not intend to follow, the advice.
- (2) The NT EPA may make copies of the written response available to the public in the way it considers appropriate.
- (3) However, the NT EPA must withhold from the public information of a commercially confidential nature.

28 Environmental quality reports

- (1) The NT EPA must, at the request of the Minister, inquire into and report to the Minister on any aspect of environmental quality in the Territory.
- (2) In addition, the NT EPA may, on its own initiative, inquire into and report to the Minister on any aspect of environmental quality in the Territory.

29 Availability of advice and reports

- (1) After the NT EPA gives advice or a report to the Minister under this Part, it must make copies of the advice or report available to the public in the way it considers appropriate.
- (2) However, the NT EPA:
 - (a) must withhold from the public information of a commercially confidential nature; and
 - (b) may withhold other information from the public if it is satisfied there are reasonable grounds for doing so.

- (3) In addition, before making the advice or report available to the public, the NT EPA must give the Minister reasonable notice of its intention to do so.
- (4) The Minister must table a copy of the advice or report (excluding information of a commercially confidential nature) in the Legislative Assembly within 6 sitting days after receiving it.
- (5) This section does not apply if the advice or report is of an administrative or preliminary nature.

30 Conduct of inquiries

- (1) In exercising its powers and performing its functions under this Part, the NT EPA may:
 - (a) conduct the inquiries it considers appropriate; and
 - (b) ask a person with special knowledge or experience relevant to a particular inquiry to help it conduct the inquiry.
- (2) For subsection (1)(a), the NT EPA may, by written notice, require a person to give it relevant information within the reasonable period stated in the notice.
- (3) The person commits an offence if the person engages in conduct that results in the contravention of the notice.

Maximum penalty: 50 penalty units.
- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.
- (6) An individual is not excused from giving information under subsection (2) on the ground that the information may tend to incriminate the individual or expose the individual to a penalty.
- (7) However, information provided by an individual is not admissible as evidence against the individual in civil or criminal proceedings other than proceedings arising out of the false or misleading nature of the information.

Part 4 Offences

31 Misleading information or document

- (1) A person commits an offence if:
- (a) the person gives information to the NT EPA under this Act; and
 - (b) the person knows the information is misleading.

Maximum penalty: 200 penalty units.

- (2) A person commits an offence if:
- (a) the person gives a document to the NT EPA under this Act; and
 - (b) the person knows the document contains misleading information.

Maximum penalty: 200 penalty units.

- (3) Subsection (2) does not apply if the person, when giving the document:
- (a) draws the misleading aspect of the document to the attention of the NT EPA; and
 - (b) to the extent to which the person can reasonably do so – gives the NT EPA the information necessary to remedy the misleading aspect of the document.

- (4) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

32 Confidentiality of information

- (1) A person commits an offence if the person:
- (a) obtains information while exercising a power or performing a function as a member; and
 - (b) engages in conduct that results in the disclosure of the information.

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

- (2) Subsection (1) does not apply if the person discloses the information:
- (a) for the exercise of the person's powers or the performance of the person's functions as a member; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) for legal proceedings arising out of the operation of this Act.
- (3) A person commits an offence if the person:
- (a) obtains information while acting on behalf of, or performing duties for, the NT EPA under this Act; and
 - (b) engages in conduct that results in the disclosure of the information.

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

- (4) Subsection (3) does not apply if the person discloses the information:
- (a) for the administration of this Act; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) for legal proceedings arising out of the operation of this Act.

- (5) 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.

Note for section 32

In addition, under section 43BE of the Criminal Code, a person is not criminally responsible for conduct constituting an offence if the conduct is justified or excused by law.

Part 5 Administrative matters

33 Annual report

- (1) The chairperson must prepare and give to the Minister a report on the performance by the NT EPA of its functions during each financial year.
- (2) The report must be given to the Minister by 31 October following the end of the financial year.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

34 Guidelines

- (1) The NT EPA may make guidelines about its administrative practices and procedures.
- (2) Without limiting subsection (1), the guidelines may provide for dealing with culturally sensitive or commercial information.
- (3) The guidelines must not be inconsistent with this Act.

35 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 a member.
- (2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the NT EPA in good faith in the exercise of a power or performance of a function under this or another Act.
- (3) Subsections (1) and (2) do not affect any liability the Territory would, apart from those subsections, have for the act or omission.
- (4) 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.

36 Delegation

- (1) The NT EPA may delegate any of its powers and functions under this or any other Act to:
- (a) a member; or
 - (b) a public sector employee; or
 - (c) a Chief Executive Officer.
- (2) In this section:

Chief Executive Officer, see section 3 of the *Public Sector Employment and Management Act*.

37 Staff and facilities for NT EPA

- (1) The Chief Executive Officer must provide the NT EPA with staff and facilities to enable it to properly exercise its powers and perform its functions.
- (2) A staff member provided to the NT EPA under subsection (1) is subject only to the direction of the chairperson in the performance of his or her duties for the NT EPA.

38 Regulations

The Administrator may make regulations under this Act.

**Part 6 Repeals and transitional matters for Northern
Territory Environment Protection Authority Act
2012**

Division 1 Repeals

39 Repeal

The following Acts are repealed:

- (a) *Environment Protection Authority Act 2007* (Act No. 24 of 2007);
- (b) *Environment Protection Authority Amendment Act 2010* (Act No. 5 of 2010).

Division 2 Transitional matters

40 Definitions

In this Division:

commencement day means the day on which section 39 commences.

41 Transitional regulations

- (1) A regulation may provide for a matter of a transitional nature:
 - (a) because of the enactment of this Act; or
 - (b) to otherwise allow or facilitate the transition to the operation of this Act.
- (2) The regulation may have retrospective operation to a day not earlier than the commencement day.
- (3) However, to the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Territory or a Territory authority) by:
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (4) The regulation must declare it is made under this section.
- (5) This section, and each regulation made under it, expires 1 year after the commencement day.

42 Transitional regulations under other Act

- (1) This section applies if this Act does not make provision, or sufficient provision, for the transition from the operation of another Act as in force immediately before the commencement day to the Act as amended by this Act.
- (2) The power under the other Act to make regulations is taken to include the power to make a regulation of a transitional nature to facilitate the transition as mentioned in subsection (1).
- (3) The regulation may have retrospective operation to a day not earlier than the commencement day.

- (4) However, to the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Territory or a Territory authority) by:
- (a) decreasing the person's rights; or
 - (b) imposing a new liability on the person.
- (5) The regulation must declare it is for the transition as mentioned in subsection (1).
- (6) This section, and each regulation made because of this section, expires 1 year after the commencement day.

Part 7 Amendment of laws

Division 1 Environmental Assessment Act

43 Act amended

This Division amends the *Environmental Assessment Act*.

44 Section 3 amended

Section 3

insert (in alphabetical order)

administrative procedures, see section 7(1).

assessment report, see section 7(2)(g).

NT EPA, see section 3 of the *Northern Territory Environment Protection Authority Act*.

responsible Minister, in relation to a proposed action, means the Minister primarily responsible for authorising the proposed action.

45 Section 4 amended

Section 4

omit

Minister

insert

NT EPA

46 Section 7 amended

(1) Section 7(1)

omit

administrative procedures

insert

procedures (*administrative procedures*)

(2) Section 7(2)

omit

referred to in that subsection

(3) Section 7(2)(a)

omit

Minister

insert

NT EPA

(4) Section 7(2)(a)

omit

him or on his behalf

insert

the NT EPA

(5) Section 7(2)(b)

omit

Minister

insert

NT EPA

(6) Section 7(2)(b)

omit

him

insert

the NT EPA

(7) Section 7(2)(c) and (g)

omit (all references)

Minister

insert

NT EPA

(8) Section 7(2)(g)

omit

subject

insert

subject (an ***assessment report***)

(9) Section 7(2)(ga)

omit

comments, suggestions and recommendations

insert

assessment reports and other documents

(10) After section 7(2)(ga)

insert

(gb) the making of written comments by the Minister in relation to assessment reports;

(11) Section 7(2)(j)

omit

Minister

insert

NT EPA

47 Section 8 amended

- (1) Section 8, heading

omit

Determinations

insert

Administrative procedures

- (2) Section 8

omit

a determination is made under section 7

insert

administrative procedures are determined

- (3) Section 8(b)

omit

determination

insert

administrative procedures

48 Section 8A and 8B inserted

After section 8

insert

8A Reporting obligation – responsible Minister

- (1) This section applies if:

- (a) the NT EPA makes an assessment report in relation to a proposed action; and
- (b) after receiving the assessment report, the responsible Minister makes a decision under an Act in relation to the proposed action.

- (2) The responsible Minister must give the NT EPA notice of the decision as soon as practicable, but within 7 days, after making the decision.
- (3) If the decision is contrary to the assessment report, the responsible Minister must:
 - (a) include in the notice given to the NT EPA under subsection (2) reasons why the decision is contrary to the assessment report; and
 - (b) table the notice in the Legislative Assembly within 6 sitting days after making the decision.

8B Reporting obligation – Minister

- (1) This section applies if the Minister makes a comment in relation to an assessment report under the administrative procedures.
- (2) The Minister must give the NT EPA notice of the comment, including a copy of the comment, as soon as practicable, but within 7 days, after making the comment.
- (3) If the comment is contrary to the assessment report, the Minister must:
 - (a) include in the notice given to the NT EPA under subsection (2) reasons why the comment is contrary to the assessment report; and
 - (b) table the notice in the Legislative Assembly within 6 sitting days after making the comment.

49 Section 10 amended

Section 10, after "of the Minister"

insert

or the NT EPA

50 Sections 11 and 12 amended

Sections 11(1) and 12(a)

omit

a determination under section 7

insert

the administrative procedures

51 Section 13 inserted

After section 12

insert

**13 Transitional matters for Northern Territory Environment
Protection Authority Act 2012**

(1) Anything done or omitted to be done under this Act (except sections 8 and 10) by, to, or in relation to, the Minister before the commencement day that is of ongoing effect becomes, on the commencement day, a thing done or omitted to be done by, to, or in relation to, the NT EPA.

(2) In this section:

commencement day means the day on which section 51 of the *Northern Territory Environment Protection Authority Act 2012* commences.

Division 2 Planning Act

52 Act amended

Schedule 1 amends the *Planning Act*.

Division 3 Waste Management and Pollution Control Act

53 Act amended

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

54 Part 14 inserted

After section 121

insert

Part 14 Transitional matters for Northern Territory Environment Protection Authority Act 2012

122 Definitions

In this Part:

Administering Agency means the Agency from time to time administering this Act before the commencement day.

commencement day means the day on which section 54 of the *Northern Territory Environment Protection Authority Act 2012* commences.

former CEO means the Chief Executive Officer of the Administering Agency.

123 Continuation of ongoing matters

- (1) Anything done or omitted to be done under this Act by, to, or in relation to, the former CEO before the commencement day that is of ongoing effect becomes, on the commencement day, a thing done or omitted to be done by, to, or in relation to, the NT EPA.
- (2) Anything done or omitted to be done under this Act by, to, or in relation to, the Administering Agency before the commencement day that is of ongoing effect becomes, on the commencement day, a thing done or omitted to be done by, to, or in relation to, the NT EPA.
- (3) Anything done or omitted to be done under Part 7 or 8 or section 79(1)(d) of this Act by, to, or in relation to, the Minister before the commencement day that is of ongoing effect becomes, on the commencement day, a thing done or omitted to be done by, to, or in relation to, the NT EPA.

55 Act further amended

Schedule 2 has effect.

Division 4 Environmental Assessment Administrative Procedures

56 Administrative Procedures amended

Schedule 3 amends the *Environmental Assessment Administrative Procedures*.

**Division 5 Waste Management and Pollution Control
 (Administration) Regulations**

57 Regulations amended

Schedule 4 amends the *Waste Management and Pollution Control (Administration) Regulations*.

Division 6 Expiry of Part

58 Expiry

This Part expires the day after it commences.

Schedule 1 Planning Act amended

section 52

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
sections 46(3)(c) and 51(g)	by the Minister administering that Act	

Schedule 2 Waste Management and Pollution Control Act amended

section 55

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 4(1), definitions <i>Administering Agency</i> and <i>Chief Executive Officer</i>	whole definition	
section 4(1)		<i>(in alphabetical order)</i> <i>NT EPA</i> , see section 3 of the <i>Northern Territory Environment Protection Authority Act</i> .
sections 4(1), definition <i>approved</i> , 9(1) to (3), 10(1), (2) and (4), 13(4), 30(5) and (6), 31(1), (4) and (5), 32(1) and (2), 33, 34(1) and (3), 35(1) and (3), 36(1) to (4), 37(1), 38(1) to (3) and (5), 40(1) to (5), 41(3), 42(4) and (5), 43(1) to (3), 44(1), (2), (4) and (5), 45(1) to (3), 46(1), (3) and (4), 48(1) to (3), 49(3) and (4), 50(1) to (3), 51(2), 53, 68(1) to (6), 69(1)(a) to (c) and (2), 70(1), (2) and (4), 71(1) and (2), 73(6)(b), 77, 81(1), 82(1) and (2), 101(1) and (2), 102(1)(a), 103(1), (2), (4) to (7), (9) and (10), 104, 108(3)(b), 115, 116, 118(a) and 120	Chief Executive Officer <i>(all references)</i>	NT EPA

section 8(1)	, Chief Executive Officer or Administering Agency	
section 8(3) and (4)	, Chief Executive Officer or Administering Agency, as the case may be	
sections 9(1)(c), 68(3)(b) and (6) and 77(a)	he or she	the NT EPA
sections 9(4), 14(1), (2) and (4), 36(1), 54(2)(b), 94, 97(b), 99, 103(3), 112(2)(d), (3), (4)(d) and (5), 117(2)(f) and (h)(v) and 120 and Schedule 1, paragraphs (b) and (e)	Administering Agency <i>(all references)</i>	NT EPA
sections 10(2), 36(3) 44(4), 45(1), 60(2) and 64(6)	he or she is	
section 10(3)	Chief Executive Officer or authorised person	NT EPA
section 11(1)	The Minister	The Minister or the NT EPA
	he or she	the Minister or the NT EPA
section 11(1)(a)	the Minister	the Minister or the NT EPA
section 20(4)(d) and (8)	office of the Administering Agency	place
section 31(5)	him or her	it
section 32(1)(f)(ii)	whole subparagraph	(ii) an assessment report in relation to the activity or premises made under that Act by the NT EPA;

section 35(2)	Chief Executive	NT EPA
section 36(4)	his or her	the NT EPA's
sections 38(3), 40(5), 50(1) and (3) and 103(6)	he or she	it
section 38(4)	Chief Executive	NT EPA
section 44(1)	where he or she is	if
section 48, heading	Chief Executive Officer	NT EPA
section 54(2)	Chief Executive Officer or the Administering Agency	NT EPA
sections 55, 56(g), 57(1) and (2), 58(1), 59(1), 60(1) and (2), 61(1) to (4), (6) and (7), 64(1) to (8), 65, 66(1) and (3) and 79(1)(d)	Minister <i>(all references)</i>	NT EPA
section 58, heading	Minister	NT EPA
section 61(2)	Minister's	NT EPA's
section 61(3)	why he or she refused to approve it	for the refusal
sections 65 and 66, heading	Minister	NT EPA
section 71(1)	and the	and the chairperson of the
section 77, heading	Chief Executive Officer	NT EPA
section 89	Administering Agency, the Minister or the Chief Executive Officer	Minister or the NT EPA
	her duties	her duties under this Act
section 98(3)(b)	Chief Executive Officer	Minister

section 103(7)	him or her or on his or her	the NT EPA or on the NT EPA's
section 107(a)	whole paragraph	
section 108(1)(k) to (n)	, but only where the decision was not made by the Minister personally	
section 109(1) and (3)	Chief Executive Officer	NT EPA
	Chief Executive Officer's	NT EPA's
section 110(1)(a)	, Chief Executive Officer or Administering Agency	or the NT EPA
section 110(1)	Chief Executive Officer	NT EPA
section 110(2)(a) and (b)	Chief Executive Officer personally	NT EPA itself
section 115	him or her	it
section 117(2)(h)(v)	the Agency	it

Schedule 3 Environmental Assessment Administrative Procedures amended

section 56

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
clause 3, definitions <i>Commission</i> and <i>responsible Minister</i>	whole definition	
clauses 3, definition <i>approved</i> , 4(1)(a), 6(1) to (3), 7, 8(1) to (4) and (6)(b) and (c), 9(1) and (2), 10(1) to (3), 10A(2) and (4), 11(1) and (2), 11A(2) to (4), 12(3), 14(1), (2) and (4)(c), 14A(1)(a) and (b), (2) and (3) and 15(1)	the Minister <i>(all references)</i>	the NT EPA
clauses 4, 6, 7 and 8, heading	Minister	NT EPA
clauses 4(1), 6(2), 8(1), (2)(a), (3), (4) and (5)(a), 11(2), 14(1), (2) and (3A) and 14A(3)	he <i>(all references)</i>	it
clauses 4(1)(a), 6(2), 8(5)(b), 11(2)(a) and (b) and (3)(a) and 14(2)(a) and (b)	him <i>(all references)</i>	it
clauses 4(1), 8(4), (5) and (6), 11(3), 14(3A) and 15(2)	The Minister	The NT EPA
clause 4(1)(c)	whole paragraph	(c) each assessment report prepared by the NT EPA; and
clause 4(1)(d)	him	the Minister

clause 4(2)	a regional office of the Commission in the Territory	an office of the NT EPA
clauses 6(2), 8(1) and (3), 11(2)(b) and 14(2)(b)	his	its
clause 8(2)	responsible Minister in respect of the proposed action	Minister
after clause 8(2)		(2A) The Minister must give a copy of the notice to the responsible Minister.
clause 11(3)(a)	all words from "such comments" to "as the Minister"	the assessment report about the proposed action the NT EPA
clause 11(3)(b)	whole paragraph	(b) give a copy of the assessment report to the Minister.
after clause 11(3)		(4) The Minister: (a) may make a written comment in relation to the assessment report; and (b) must give a copy of the assessment report, together with any written comment made by the Minister under paragraph (a), to the responsible Minister.
		<i>Notes for subclause (4)</i>
		1 Under section 8A of the Act, reporting obligations apply to a decision of the responsible Minister in relation to the proposed action.

		<p>2 <i>Under section 8B of the Act, reporting obligations apply if the Minister makes a written comment in relation to the assessment report.</i></p>
clause 11A(2)(b)	all words from "comments" to "subject)"	assessment report about the proposed action
clause 11A(2)(c)	whole paragraph	(c) give a copy of the assessment report to the Minister.
after clause 11A(2)		<p>(2A) The Minister:</p> <p>(a) may make a written comment in relation to the assessment report; and</p> <p>(b) must give a copy of the assessment report, together with any written comment made by the Minister under paragraph (a), to the responsible Minister.</p> <p><i>Notes for subclause (2A)</i></p> <p>1 <i>Under section 8A of the Act, reporting obligations apply to a decision of the responsible Minister in relation to the proposed action.</i></p> <p>2 <i>Under section 8B of the Act, reporting obligations apply if the Minister makes a written comment in relation to the assessment report.</i></p>
clause 11A(3)(b)	the Minister's	the NT EPA's
clause 11A(4)	comments, suggestions or recommendations	an assessment report
clause 14(3)	whole subclause	(3) The NT EPA must,

within the relevant period:

- (a) make the assessment report about the proposed action it thinks fit for the protection of the environment; and
- (b) give a copy of the assessment report to the Minister.

(3AA) The Minister:

- (a) may make a written comment in relation to the assessment report; and
- (b) must give a copy of the assessment report, together with any written comment made by the Minister under paragraph (a), to the responsible Minister.

Notes for subclause (3AA)

- 1 *Under section 8A of the Act, reporting obligations apply to a decision of the responsible Minister in relation to the proposed action.*
- 2 *Under section 8B of the Act, reporting obligations apply if the Minister makes a written comment in relation to the assessment report.*

clause 14(3A)(a) whole paragraph

- (a) advise of the completion of its examination of the statement and the making of the

		assessment report; and
clause 14(3A)(b)	those comments, suggestions or recommendations	the assessment report
clause 14A(3)	responsible <i>(first reference)</i>	
after clause 14A(3)		(4) The Minister must give a copy of the notice to the responsible Minister.
clause 15(2)	responsible Minister in respect of a proposed action	Minister
after clause 15(2)		(3) The Minister must give the information given to the Minister under subclause (2) to the responsible Minister.

**Schedule 4 Waste Management and Pollution Control
(Administration) Regulations amended**

section 57

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulations 2B(2), (4) and (6), 2D(3), 3B(2), (3)(b), (4)(b) and (5), 3C(3), 5 and 10	Chief Executive Officer <i>(all references)</i>	NT EPA
regulations 2D(3) and 3C(3)	he or she	the NT EPA
