

Serial 124  
Parks and Water Legislation Amendment Bill 2024  
Mrs Worden

A Bill for an Act to amend the *Territory Parks and Wildlife Conservation Act 1976*, the *Territory Parks and Wildlife Conservation Regulations 2001*, the *Territory Parks and Wildlife Conservation By-laws 1984*, the *Water Act 1992* and the *Water Regulations 1992*



NORTHERN TERRITORY OF AUSTRALIA

PARKS AND WATER LEGISLATION AMENDMENT ACT 2024

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Act No. [ ] of 2024

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# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2024

An Act to amend the *Territory Parks and Wildlife Conservation Act 1976*, the *Territory Parks and Wildlife Conservation Regulations 2001*, the *Territory Parks and Wildlife Conservation By-laws 1984*, the *Water Act 1992* and the *Water Regulations 1992*

[Assented to [ ] 2024]  
[Introduced [ ] 2024]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Parks and Water Legislation Amendment Act 2024*.

### 2 Commencement

- (1) This Act, other than Part 3, commences on the day after the day on which the Administrator's assent to this Act is declared.
- (2) Part 3 of this Act commences on 2 July 2024.

## **Part 2                    Amendment of Territory parks and wildlife conservation legislation**

### **Division 1            Territory Parks and Wildlife Conservation Act 1976**

#### **3                    Act amended**

This Division amends the *Territory Parks and Wildlife Conservation Act 1976*.

#### **4                    Section 3 amended (Repeal)**

Section 3

*omit*

the Schedule

*insert*

Schedule 1

#### **5                    Section 9 amended (Interpretation)**

- (1) Section 9(1), definitions ***Land Council, Land Trust*** and ***traditional Aboriginal owner***

*omit*

- (2) Section 9(1)

*insert*

***ALRA***, for Part 3, see section 22(1).

***community living area***, for Part 3, see section 22(1).

***Framework Act*** means the *Parks and Reserves (Framework for the Future) Act 2003*.

***indigenous land use agreement***, for Part 3, see section 22(1).

***joint management***, for Part 3, see section 22(1).

***joint management agreement***, for a park or reserve, means an agreement between the Territory and the traditional Aboriginal owners of the park or reserve about the management of the park or reserve.

**joint management park or reserve** means:

- (a) a scheduled park or reserve; or
- (b) a park or reserve for which a joint management agreement has been executed under section 23A(1).

**joint management partners**, for Part 3, see section 22(1).

**joint management plan**, for Part 3, see section 22(1).

**Land Council**, for a park or reserve, means the Land Council (within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976*) for the part of the Territory in which the park or reserve is located.

**Land Trust** means an Aboriginal Land Trust established under the *Aboriginal Land Rights (Northern Territory) Act 1976* or a Park Land Trust established under the Framework Act.

**mining interest**, for Part 3, see section 22(1).

**petroleum interest**, for Part 3, see section 22(1).

**relevant agreements**, for Part 3, see section 22(1).

**scheduled park or reserve**:

- (a) means a park or reserve specified in Schedule 1, 2 or 3 to the Framework Act; and
- (b) if an area of land specified in Schedule 5 to that Act is declared under section 12 to be included in a park or reserve specified in Schedule 1 to that Act – includes that area of land.

**traditional Aboriginal owners**, of a park or reserve, means:

- (a) the traditional Aboriginal owners, within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976*, of the park or reserve; or
- (b) if there is no person to whom paragraph (a) applies – the person or persons who, by Aboriginal tradition, are responsible for making decisions about the park or reserve.

(3) Section 9(1), definition **mining interest**, after "**interest**"

*insert*

, except for Part 3,

**6 Section 17 amended (Mining, works, forestry, etc. in parks, reserves and wilderness zones)**

(1) Before section 17(1)

*insert*

(1AA) This section does not apply in relation to a joint management park or reserve or a wilderness zone in a joint management park or reserve.

*Note for subsection (1AA)*

*See Part 3, Division 4A in relation to the use and development of joint management parks and reserves.*

(2) Section 17(2) to (5)

*omit, insert*

(2) Nothing in this section prevents the carrying out in a park or reserve or in a wilderness zone of:

(a) the exploration for, or recovery or processing of, minerals under and in accordance with the conditions of a mining interest; or

(b) an activity permitted, or the exercising of a right or power conferred or continued in force, by or under the *Mineral Titles Act 2010*, the *Petroleum Act 1984* or section 18A of the *Petroleum (Submerged Lands) Act 1981* in relation to a mining interest.

(3) Subject to subsections (4) and (5), the following activities may not be carried out in a park or reserve except in accordance with the plan of management for the park or reserve or an authorisation granted under section 21A for the park or reserve:

(a) excavation;

(b) erection of a building or other structure;

(c) works;

(d) felling or taking of timber.

(4) The Commission may carry out an activity mentioned in subsection (3) in a park or reserve if doing so is not inconsistent with the plan of management for the park or reserve.

- (5) If no plan of management is in force in relation to a park or reserve, subsection (3) does not prevent the Commission from carrying out an activity mentioned in subsection (3) in the park or reserve provided that the activity is not inconsistent with the objectives mentioned in section 18(5).
- (3) Section 17(7)
- omit, insert*
- (7) Despite subsections (3), (4) and (5), the following may only be carried out in a wilderness zone by the Commission in accordance with the plan of management relating to the wilderness zone or for purposes essential to the management of the park or reserve in which the wilderness zone is located:
- (a) excavation;
  - (b) erection of a building or other structure;
  - (c) works;
  - (d) felling or taking of timber;
  - (e) establishment of tracks;
  - (f) use of a vehicle, aircraft or vessel.

## **7 Section 18 amended (Plans of management)**

Before section 18(1)

*insert*

- (1AA) This section does not apply in relation to a joint management park or reserve.

*Note for subsection (1AA)*

*See Part 3, Division 4 for provisions about joint management plans for joint management parks and reserves.*

## **8 Section 21A amended (Use and development of land)**

- (1) Section 21A(1), after "reserve"

*insert*

, other than a joint management park or reserve,

(2) Section 21A(2)(b)

*omit*

must not be

*insert*

is not

(3) Section 21A(3)

*omit, insert*

- (3) The Commission does not require an authorisation to use and develop land in a park or reserve for a purpose mentioned in subsection (1).

#### **9 Section 21B amended (Application for authorisation)**

Section 21B(1), after "reserve"

*insert*

, other than a joint management park or reserve,

#### **10 Section 21C amended (Factors relevant to authorisation)**

Section 21C(1)(c)

*omit, insert*

(c) the principles of management mentioned in section 31;

#### **11 Section 21H amended (Compliance with authorisation)**

Section 21H(1), penalty provision

*omit, insert*

Maximum penalty: 50 penalty units.

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**12 Section 21J amended (Offence for using or undertaking development unless permitted)**

(1) Before section 21J(1)

*insert*

(1AA) Subsection (1) does not apply in relation to land that is in a joint management park or reserve.

*Note for subsection (1AA)*

*See section 25AKJ for an equivalent offence for joint management parks and reserves.*

(2) Section 21J(1), penalty provision

*omit, insert*

Maximum penalty: 50 penalty units.

**13 Section 22 amended (Interpretation)**

(1) Section 22(1)

*omit*

, unless the contrary intention appears

(2) Section 22(1), definitions **Framework Act, joint management agreement, joint management park or reserve, Land Council, Land Trust, scheduled park or reserve** and **traditional Aboriginal owners**

*omit*

**14 Part 3, Division 4A inserted**

After section 25AK

*insert*

**Division 4A Use and development of joint management parks and reserves**

**25AKA Carrying out of certain activities on joint management parks and reserves**

(1) Subject to subsection (2), this section has effect despite any law of the Territory.

- (2) Nothing in this section prevents the carrying out in a joint management park or reserve or in a wilderness zone that is in a joint management park or reserve of:
- (a) the exploration for, or recovery or processing of, minerals under and in accordance with the conditions of a mining interest; or
  - (b) an activity permitted, or the exercising of a right or power conferred or continued in force, by or under the *Mineral Titles Act 2010*, the *Petroleum Act 1984* or section 18A of the *Petroleum (Submerged Lands) Act 1981* in relation to a mining interest.
- (3) Subject to subsection (4), the following activities may not be carried out in a joint management park or reserve except in accordance with the joint management plan for the park or reserve or an authorisation granted under section 25AKB for the park or reserve:
- (a) excavation;
  - (b) erection of a building or other structure;
  - (c) works;
  - (d) felling or taking of timber.
- (4) If no joint management plan is in force in relation to a joint management park or reserve, subsection (3) does not prevent the Commission from preserving or protecting the park or reserve, protecting or conserving wildlife in the park or reserve, controlling authorised scientific research or protecting persons or property in the park or reserve, provided that the activity is not inconsistent with the relevant agreements for the park or reserve.
- (5) A wilderness zone that is in a joint management park or reserve is to be maintained in its natural state and must be used only for purposes specified in the joint management plan relating to the wilderness zone, but this subsection does not prohibit anything done by the Commission in accordance with subsection (6).
- (6) Despite subsection (4), the following may only be carried out in a wilderness zone that is in a joint management park or reserve by the Commission in accordance with the joint management plan, the relevant agreements or an authorisation granted under section 25AKB relating to the park or reserve:
- (a) excavation;
  - (b) erection of a building or other structure;



- (c) works;
  - (d) felling or taking of timber;
  - (e) establishment of tracks;
  - (f) use of a vehicle, aircraft or vessel.
- (7) To avoid doubt, this section is not intended to limit the exercise of the following in a joint management park or reserve:
- (a) rights of Aboriginal persons under section 122;
  - (b) traditional rights to use Aboriginal land as mentioned in section 71 of the ALRA, except to the extent of any limitation imposed in accordance with that Act;
  - (c) native title rights and interests as defined in section 223 of the *Native Title Act 1993* (Cth), except to the extent of any limitation imposed in accordance with that Act.

#### **25AKB Use and development of land**

- (1) Subject to subsections (2) and (3), the joint management partners for a joint management park or reserve may authorise the use and development of land in the park or reserve for any of the following purposes:
- (a) conservation;
  - (b) education;
  - (c) hospitality;
  - (d) retail;
  - (e) tourism;
  - (f) Aboriginal community living area;
  - (g) any purpose that promotes the protection or presentation of the park or reserve.
- (2) The use and development of land may be authorised under this section if there is no joint management plan in force in respect of the land.
- (3) If there is a joint management plan in force in respect of the land, the use and development must not be inconsistent with the plan.

- (4) The joint management partners for a joint management park or reserve may use and develop land in the park or reserve for a purpose mentioned in subsection (1) without an authorisation if the use or development is not inconsistent with any of the following that are in force for the park or reserve:
- (a) the relevant agreements;
  - (b) the joint management plan;
  - (c) if there is no joint management plan – any agreement under section 25AK(3).
- (5) This section does not give the power to authorise the subdivision of land.

*Note for section 25AKB*

*The use and development of land includes a wide variety of activities, including constructing campgrounds, roads and structures and other activities that alter land.*

**25AKC Application for authorisation**

- (1) A person may apply to the joint management partners for a joint management park or reserve for authorisation to use or develop land in the park or reserve for any purpose specified in section 25AKB(1).
- (2) The application must be:
- (a) in a form approved by the joint management partners; and
  - (b) accompanied by any fee determined by the joint management partners.

**25AKD Factors relevant to authorisation**

- (1) Before deciding whether to authorise a use or development of land within a joint management park or reserve under section 25AKB, the joint management partners must consider the following:
- (a) the objective of joint management mentioned in section 25AB;
  - (b) the principles of joint management mentioned in section 25AC;
  - (c) the principles of management mentioned in section 31;
  - (d) any joint management plan in force in respect of the land;

- (e) the views of traditional Aboriginal owners or native title holders within the meaning of the *Native Title Act 1993* of the affected land;
  - (f) any other matters the joint management partners consider relevant.
- (2) The joint management partners must not authorise any use or development of land in a joint management park or reserve that is inconsistent with any joint management plan or any relevant agreements for the park or reserve.
  - (3) Unless justified in the circumstances, the joint management partners must not authorise a person found guilty of an offence related to the environment, wildlife or the use or development of land within the 5 year period immediately before the person applies for the authorisation.
  - (4) An authorisation must be in a form approved by the joint management partners.

#### **25AKE Terms and conditions of authorisation**

- (1) An authorisation under section 25AKB is subject to any terms and conditions specified by the joint management partners for the relevant joint management park or reserve and specified in the authorisation.
- (2) It is a condition of an authorisation that the holder of the authorisation and each person employed or otherwise engaged by the holder of the authorisation complies with the authorisation and this Act.
- (3) In the event of an inconsistency between this Act and a term or condition specified in an authorisation, the Act prevails.

#### **25AKF Variation of authorisation**

- (1) The joint management partners for a joint management park or reserve may, by written notice to the holder of an authorisation under section 25AKB, vary a term or condition of the authorisation if the partners consider it appropriate.
- (2) The variation may be made on:
  - (a) the initiative of the joint management partners; or
  - (b) the application by the holder of the authorisation.

- (3) An application under subsection (2)(b) must be in a form approved by the joint management partners.
- (4) A variation may add, substitute or delete a term or condition of an authorisation.
- (5) A variation of an authorisation takes effect on the later of the following:
  - (a) the date the notice of the variation is served on the holder of the authorisation;
  - (b) the date specified in the notice.

#### **25AKG Cancellation of authorisation**

- (1) The joint management partners for a joint management park or reserve may, by written notice to the holder of an authorisation under section 25AKB, cancel the authorisation if the holder:
  - (a) fails to pay a fee or royalty required under the authorisation; or
  - (b) is found guilty of an offence against this Act or a regulation or by-law made under this Act; or
  - (c) pays a prescribed amount under an infringement notice issued under the regulations or by-laws; or
  - (d) contravenes any term or condition of the authorisation; or
  - (e) requests in writing that the authorisation be cancelled.
- (2) The cancellation of the authorisation takes effect on the date specified in the notice.

#### **25AKH Transfer of authorisation**

- (1) The joint management partners for a joint management park or reserve may, by written notice, approve the transfer of an authorisation under section 25AKB.
- (2) The holder of an authorisation under section 25AKB may apply to the joint management partners to approve the transfer of the authorisation, in a form approved by the joint management partners.
- (3) A transfer of an authorisation takes effect on the later of the following:
  - (a) the date the notice of the approval is served on the holder of the authorisation;

- (b) the date specified for that purpose in the notice.

**25AKI Compliance with authorisation**

- (1) The following persons must not contravene an authorisation under section 25AKB:

- (a) the holder of the authorisation;
- (b) a person employed or otherwise engaged by the holder of the authorisation to use or develop land in a joint management park or reserve under the authorisation.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is a regulatory offence.

**25AKJ Offence of using or developing land on joint management park or reserve**

- (1) A person must not use or develop land in a joint management park or reserve unless authorised or otherwise permitted to do so under this Act or any by-laws that apply to the park or reserve.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is a regulatory offence.

**15 Part 3, Division 6A inserted**

After section 25AP

*insert*

**Division 6A Application of *Territory Parks and Wildlife Conservation By-laws 1984***

**25APA Application of By-laws to joint management parks and reserves**

- (1) Subject to subsections (2) to (5), the *Territory Parks and Wildlife Conservation By-laws 1984*, as in force from time to time, apply in relation to each joint management park and reserve and are taken to have always applied in relation to each joint management park and reserve, to the extent the By-laws are not inconsistent with a by-law made for a joint management park or reserve under section 25AQ.

- (2) In the application of the *Territory Parks and Wildlife Conservation By-laws 1984* in relation to a joint management park or reserve:
- (a) a reference to the plan of management for the park or reserve is taken to be a reference to the joint management plan for the park or reserve; and
  - (b) a reference to an authorisation under section 21A is taken to be a reference to an authorisation under section 25AKB.
- (3) The Commission must not grant a permit under the *Territory Parks and Wildlife Conservation By-laws 1984* that authorises the carrying out of trade or commerce or a public event in a joint management park or reserve unless the grant of the permit is:
- (a) consistent with the processes for management of the park or reserve under the joint management plan for the park or reserve; or
  - (b) if there is no joint management plan for the park or reserve – consistent with section 25AK.

*Note for subsection (3)(b)*

*Section 25AK provides for the management of a joint management park or reserve before the first joint management plan for the park or reserve comes into operation and allows the joint management partners and the Land Council for the park or reserve to agree on a process to deal with particular issues concerning the management of the park or reserve.*

- (4) Despite section 99 and any by-law in the *Territory Parks and Wildlife Conservation By-laws 1984* that relates to reviews of decisions made under those By-laws, a decision made under the By-laws that relates to the issue of or refusal to issue a permit in relation to a joint management park or reserve is not a reviewable decision.
- (5) The *Territory Parks and Wildlife Conservation By-laws 1984* cease to have effect in relation to a joint management park or reserve on the earlier of the following:
- (a) the day specified in a by-law made for the park or reserve under section 25AQ;
  - (b) the day prescribed by regulation.

## **25APB Validation**

- (1) Anything done or purported to have been done under the *Territory Parks and Wildlife Conservation By-laws 1984* in relation to a joint management park or reserve before the commencement of this Division is taken to be valid and to always have been valid.

- (2) Without limiting subsection (1), a thing done or purported to have been done under the *Territory Parks and Wildlife Conservation By-laws 1984* includes the following:
- (a) the erection of signage;
  - (b) the issue or purported issue of a permit, declaration, notice, approval, prohibition, designation or determination by the Commission;
  - (c) the issue or purported issue of an infringement notice;
  - (d) the taking or purported taking of any action in relation to an offence committed, or alleged to have been committed, against the By-laws.

#### **16 Part 4, Division 7 repealed**

Part 4, Division 7

*repeal*

#### **17 Part 9 inserted**

After section 98

*insert*

### **Part 9 Review of decisions**

#### **99 Review by NTCAT**

- (1) A **reviewable decision** is:
- (a) a decision specified in Schedule 2; or
  - (b) a decision made under the by-laws that is prescribed by the by-laws to be a reviewable decision for this section.
- (2) An **affected person** is:
- (a) for a reviewable decision referred to in subsection (1)(a) – a person specified in Schedule 2 for the decision; or
  - (b) for a reviewable decision referred to in subsection (1)(b) – a person prescribed by the by-laws to be an affected person for the decision.
- (3) NTCAT has jurisdiction to review a reviewable decision.

- (4) An affected person for a reviewable decision may apply to NTCAT for review of the decision.

*Note for section 99*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to NTCAT for review and other relevant matters in relation to reviews.*

## 18 Part 11 inserted

After section 124

*insert*

## Part 11 Transitional matters for Parks and Water Legislation Amendment Act 2024

### 125 Definitions

In this Part:

***amending Act*** means the *Parks and Water Legislation Amendment Act 2024*.

***commencement*** means the commencement of Part 2 of the amending Act.

***former appeal provisions*** means:

- (a) Part 4, Division 7, as in force immediately before the commencement; and
- (b) Part 5B of the *Territory Parks and Wildlife Conservation By-laws 1984* as in force immediately before the commencement.

***new review provisions*** means:

- (a) Part 9, as inserted by section 17 of the amending Act; and
- (b) Part 5B of the *Territory Parks and Wildlife Conservation By-laws 1984*, as inserted by section 30 of the amending Act.

### 126 NTCAT review limited to decisions made after commencement

The new review provisions apply only in relation to a reviewable decision that is made after the commencement.



**127 Appeals not instituted before commencement**

- (1) This section applies to a person if, immediately before the commencement, the person was entitled to appeal to the Local Court against a decision under the former appeal provisions and the person had not yet instituted an appeal against the decision.
- (2) The person may appeal to the Local Court against the decision in accordance with the former appeal provisions as if Part 2 of the amending Act had not commenced.
- (3) The Local Court is to hear and determine the person's appeal in accordance with the former appeal provisions as if Part 2 of the amending Act had not commenced.

**128 Appeals not determined before commencement**

- (1) This section applies in relation to an appeal to the Local Court that:
  - (a) was instituted by a person under the former appeal provisions;  
and
  - (b) had not been finally determined by the Local Court before the commencement.
- (2) The Local Court is to continue to hear and determine the person's appeal in accordance with the former appeal provisions as if Part 2 of the amending Act had not commenced.

**19 Schedule heading amended (Ordinances Repealed)**

Schedule heading, after "**Schedule**"

*insert*

**1**

---

**20 Schedule 2 inserted**

After the Schedule

*insert*

**Schedule 2 Reviewable decisions**

section 99

---

<b>Item</b>	<b>Reviewable decision</b>	<b>Affected person</b>
1	A decision of the Commission under section 21A to authorise the use and development of land	A person directly affected by the authorisation
2	A decision of the Commission under section 21A to refuse to authorise the use and development of land	The applicant for the authorisation
3	A decision of the Commission under section 21D to impose a condition on an authorisation	The applicant for the authorisation
4	A decision of the Commission under section 21E to vary a term or condition of an authorisation	The holder of the authorisation
5	A decision of the Commission under section 21F(1)(a), (b), (c) or (d) to cancel an authorisation	The holder of the authorisation
6	A decision of the Commission under section 21F(1)(e) to refuse to cancel an authorisation on application by the holder of the authorisation	The holder of the authorisation
7	A decision of the Commission under section 21G to refuse to approve the transfer of an authorisation	The holder of the authorisation The proposed transferee
8	A decision of the Director under section 49 to give a notice	The person on whom the notice is served
9	A decision of the Director under section 56 to grant a permit	A person directly affected by the grant of the permit

10	A decision of the Director under section 56 to refuse to grant a permit	The applicant for the permit
11	A decision of the Director under section 57 to impose conditions on a permit	The applicant for the permit
12	A decision of the Director under section 58 to vary a term or condition of a permit on the Director's own initiative	The holder of the permit A person directly affected by the decision
13	A decision of the Director under section 58 to refuse to vary a term or condition of a permit on application by the holder of the permit	The holder of the permit
14	A decision of the Director under section 58 to vary a term or condition of a permit on application by the holder of the permit	A person directly affected by the decision
15	A decision of the Director under section 59(1)(a), (b) or (c) to cancel a permit	The holder of the permit
16	A decision of the Director under section 59(1)(d) to refuse to cancel a permit on application by the holder of the permit	The holder of the permit

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**Division 2                      Territory Parks and Wildlife Conservation  
Regulations 2001**

**21                      Regulations amended**

This Division amends the *Territory Parks and Wildlife Conservation Regulations 2001*.

**22                      Regulation 1A amended (Definitions)**

Regulation 1A, definition ***prescribed amount***, after "amount"

*insert*

equal to the monetary value of the number of penalty units

**23 Regulation 1B inserted**

After regulation 1A, in Part 1

*insert*

**1B Expiry of application of By-laws to joint management parks and reserves**

For section 25APA(5)(b) of the Act, 1 July 2027 is prescribed.

*Note for regulation 1B*

*Under section 25APA(5) of the Act, the Territory Parks and Wildlife Conservation By-laws 1984 may cease to have effect on an earlier day specified in a by-law made for a joint management park or reserve under section 25AQ of the Act.*

**24 Regulation 4A inserted**

After regulation 4

*insert*

**4A Grant of permit in relation to joint management park or reserve: matters to consider and take into account (section 56)**

For section 56(1)(h) of the Act, the Director must consider and take into account the following in deciding whether to grant or refuse to grant a permit in relation to a joint management park or reserve:

- (a) the relevant agreements for the park or reserve;
- (b) any joint management plan for the park or reserve;
- (c) the objective of joint management mentioned in section 25AB of the Act;
- (d) the principles of joint management mentioned in section 25AC of the Act;
- (e) if there is no joint management plan for the park or reserve – any agreement under section 25AK(3) of the Act.

**25 Schedule 3 amended (Infringement offences and prescribed amounts)**

Schedule 3, after entry for Section 21J(1)

*insert*

Section 25AKI(1) 3 penalty units

Section 25AKJ(1) 3 penalty units

**Division 3 Territory Parks and Wildlife Conservation By-laws 1984**

**26 By-laws amended**

This Division amends the *Territory Parks and Wildlife Conservation By-laws 1984*.

**27 By-law 3 amended (Definitions)**

By-law 3, definition *information notice*

*omit*

**28 By-law 13 amended (Trade and commerce)**

By-law 13(3A)

*omit*

**29 By-law 13A amended (Public events)**

By-law 13A(3A)

*omit*

**30 Part 5B replaced**

Part 5B

*repeal, insert*

**Part 5B Review of decisions**

**46J Prescribed reviewable decisions and affected persons**

- (1) For section 99(1)(b) of the Act, a decision specified in Schedule 5 is prescribed to be a **reviewable decision**.

- (2) For section 99(2)(b) of the Act, a person specified in Schedule 5 for a reviewable decision is prescribed to be an **affected person** for the reviewable decision.

**31 By-law 52 amended (Permits)**

By-law 52(2A)

*omit*

**32 Schedule 5 inserted**

After Schedule 4

*insert*

**Schedule 5 Prescribed reviewable decisions and affected persons**

by-law 46J

Item	Reviewable decision	Affected person
1	A decision under by-law 13, 13A, 14, 15, 16, 17, 19, 20, 21, 22, 25, 28, 31A, 32 or 35L to issue a permit	A person directly affected by the issue of the permit
2	A decision under by-law 13, 13A, 14, 15, 16, 17, 19, 20, 21, 22, 25, 28, 31A or 32 to refuse to issue a permit	The applicant for the permit
3	A decision under by-law 13, 13A, 14, 15, 16, 17, 19, 20, 21, 22, 25, 28, 31A or 32 to issue a permit subject to conditions	A person directly affected by the issue of the permit The applicant for the permit
4	A decision under by-law 32(1)(d) to give written approval	A person directly affected by the giving of the approval
5	A decision under by-law 32(1)(d) to refuse to give written approval	The applicant for the approval
6	A decision under by-law 35L to refuse to issue a permit, except a refusal made in accordance with by-law 35M	The applicant for the permit

## Part 3 Amendment of water legislation

### Division 1 Water Act 1992

#### 33 Act amended

This Division amends the *Water Act 1992*.

#### 34 Section 3 amended (Repeal)

Section 3(1) and (2)

*omit*

the Schedule

*insert*

Schedule 1

#### 35 Section 4 amended (Interpretation)

- (1) Section 4(1), definitions **authorised officer**, **Chairperson** and **Review Panel**

*omit*

- (2) Section 4(1)

*insert*

**action notice**, see section 88A(1).

**authorised officer** means a person appointed as an authorised officer under section 24.

**residential premises** means any premises, or part of premises, that are occupied as a place of residence.

- (3) Section 4(1), definition **prescribed**, after "by"

*insert*

the Minister or

**36 Section 8 amended (Exercise of certain functions by statutory authorities)**

Section 8(1) and (2)

*omit*

or the Controller

**37 Section 16 amended (Prohibition of pollution)**

Section 16(2E)

*omit*

level 3 offence.

*insert*

offence level 3.

**38 Section 18 replaced**

Section 18

*repeal, insert*

**18 Controller of Water Resources**

- (1) The Minister may, by *Gazette* notice, appoint a person to be the Controller of Water Resources.
- (2) The Controller has the functions conferred on the Controller under this Act and the powers necessary to perform those functions.

**18A Staff and facilities of Controller**

- (1) The Chief Executive Officer must provide the Controller with staff and facilities to enable the Controller to properly exercise or perform the Controller's powers and functions.
- (2) A staff member provided to the Controller under subsection (1) is subject only to the direction of the Controller in performing duties for the Controller.



### **18B Minister may direct Controller**

- (1) The Minister may direct the Controller generally in relation to a matter under this Act other than the following:
  - (a) a decision about a particular licence under section 45, 49, 60, 63, 67, 71G, 71H, 71M, 71R or 74;
  - (b) a decision about a particular permit under section 41;
  - (c) an approval under section 105(1A).
- (2) In the performance of the Controller's functions and exercise of the Controller's powers, the Controller is subject to a direction under subsection (1).

### **39 Sections 20 and 21 repealed**

Sections 20 and 21

*repeal*

### **40 Section 23 amended (Water Advisory Committees)**

Section 23(1B)(a) and (b) and (3)

*omit (all references)*

Controller

*insert*

Minister

### **41 Part 3, Divisions 2 and 3 replaced**

Part 3, Divisions 2 and 3

*repeal, insert*

## **Division 2 Authorised officers**

### **24 Authorised officers**

- (1) The Minister may, in writing, appoint a person to be an authorised officer.
- (2) The Minister must give an authorised officer an identity card stating the person's name and that the person is an authorised officer.
- (3) The card must be signed by the authorised officer.

- (4) The authorised officer must show the card to any person who requests to know the identity of the officer in the performance of the officer's duties under this Act.

## **25 Return of identity card**

- (1) A person commits an offence if the person:
- (a) ceases to be an authorised officer; and
  - (b) fails to return the person's identity card to the Chief Executive Officer within 15 business days after the cessation.

Maximum penalty: 20 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 has a reasonable excuse.

## **26 Powers of authorised officers: purposes**

An authorised officer may exercise the powers set out in this Division for the following purposes:

- (a) to assist with the exercise of the rights of the Territory under section 9(2);
- (b) to assist in the performance of the Minister's duty under section 34;
- (c) to monitor compliance with this Act;
- (d) to investigate a suspected contravention of this Act.

## **27 General powers of authorised officers**

- (1) Subject to sections 28 and 29, an authorised officer may do any of the following:
- (a) enter and remain on any land;
  - (b) move any vehicle;
  - (c) inspect any land and anything on the land;
  - (d) search any land entered and anything found there;
  - (e) take photographs and make sketches or other records of land or things found on land;

- (f) take photographs of any person on or in land;
- (g) make recordings in any medium, including audio, visual and audio-visual recordings, of land or things found on land;
- (h) inspect and take copies of documents and records;
- (i) seize any documents and any computer or other equipment required to access any documents;
- (j) operate any computer or other equipment;
- (k) bring equipment or materials on to land and install and maintain equipment or materials;
- (l) measure anything or take samples of anything on land;
- (m) examine or test any equipment, machinery or other thing;
- (n) require a relevant person to:
  - (i) provide the person's name, address and date of birth and evidence of these; and
  - (ii) if the relevant person is acting as a member of a partnership – provide the name, address and telephone number of each other partner in the partnership; and
  - (iii) if the relevant person is acting as a member of the committee of management of an unincorporated body – provide the name, address and telephone number of each other member of the committee of management;
- (o) require a person on the land to give the authorised officer reasonable assistance to exercise or perform the authorised officer's powers or functions including:
  - (i) by operating any computer or other equipment; and
  - (ii) by providing any access or assistance to access any computer or other equipment or any service;
- (p) authorise a person to provide assistance to the authorised officer in the exercise or performance of the authorised officer's powers or functions;
- (q) do any other act or thing or cause anything else to be done that the officer believes on reasonable grounds is necessary for, or incidental to, the exercise of a power mentioned in this Division.

(2) In this section:

**associated person**, of a person, means:

- (a) if the person is a member of a partnership – a partner of the person; or
- (b) if the person is a member of and acting on behalf of an unincorporated body – a member of the committee of management of the body; or
- (c) an employee, agent, licensee, contractor or subcontractor of the person or of a partnership or body mentioned in paragraph (a) or (b).

**relevant person** means:

- (a) a person who is on, or in the vicinity of, land entered by the authorised officer under this section; or
- (b) a person who the authorised officer suspects on reasonable grounds is travelling to or from the land; or
- (c) a person who the authorised officer suspects on reasonable grounds is the owner or occupier of the land; or
- (d) a person who the authorised officer knows or suspects on reasonable grounds is the holder of a permit, licence or consent under this Act; or
- (e) a person who the authorised officer suspects on reasonable grounds is a person who is under investigation for a suspected contravention of this Act; or
- (f) a person who the authorised officer suspects on reasonable grounds is a person who is an associated person of a person mentioned in paragraph (c), (d) or (e).

## **28 Notice of entry**

- (1) This section does not apply in relation to the entry of land that is residential premises.
- (2) An authorised officer who intends to enter land under section 27(1) must give the owner or occupier of the land written notice of the intention to enter the land, unless one of the following applies:
  - (a) entry is required in circumstances that the officer considers constitute an emergency;

- (b) the purpose of entry is to ascertain whether a contravention of this Act (including a contravention of a term or condition of a licence, permit, consent or approval granted under this Act) has occurred;
  - (c) entry is required for the purpose mentioned in section 26(b).
- (3) A notice under subsection (2) must be given to the owner or occupier of the land at least 10 business days before the proposed entry and must specify the following:
- (a) the land proposed to be entered;
  - (b) the name and address of the authorised officer and any other person who will enter the land;
  - (c) details of any activities the authorised officer proposes to carry out on the land.

## **29 Entry to residential premises**

- (1) An authorised officer must not:
- (a) enter residential premises for the purpose mentioned in section 26(2)(b); or
  - (b) enter residential premises for any other purpose without:
    - (i) the consent of the occupier of the premises obtained in accordance with subsection (2); or
    - (ii) a warrant issued under section 30.
- (2) An authorised officer seeking an occupier's consent to enter residential premises must:
- (a) show the officer's identity card to the occupier; and
  - (b) inform the occupier of the reasons why the entry is sought; and
  - (c) inform the occupier that the occupier may refuse to give consent.
- (3) Having entered residential premises, an authorised officer may remain on the premises for as long as is reasonably necessary to achieve the purpose of the entry.

### 30 Application for and issue of search warrant

- (1) An authorised officer may apply to a judicial officer for a search warrant to enter residential premises:
  - (a) by appearing in person before the judicial officer; or
  - (b) if it is not practicable to appear in person – by telephone or other means of communication.
- (2) If the judicial officer is satisfied that there are reasonable grounds to permit the authorised officer to enter the residential premises, the judicial officer may issue a warrant directed to the authorised officer.
- (3) If the judicial officer issues a warrant on an application made under subsection (1)(b), the judicial officer must:
  - (a) complete and sign the warrant (the **original warrant**); and
  - (b) record on the original warrant the reasons for issuing it; and
  - (c) inform the authorised officer by telephone or other means of communication of its terms.
- (4) When informed of the terms of the warrant under subsection (3)(c), the authorised officer must as soon as practicable:
  - (a) complete 2 copies of the form of warrant in the terms provided by the judicial officer; and
  - (b) write on each copy the name of the judicial officer and the date and time of the issue of the original warrant; and
  - (c) forward one copy to the judicial officer.
- (5) The authorised officer may use the remaining copy of the warrant to exercise the powers granted by the original warrant.
- (6) If the judicial officer is satisfied, after comparing the forwarded copy with the original warrant, that the copy is in substance identical to the original warrant, the judicial officer must certify the copy as being in substance identical to the original warrant.
- (7) In this section:

**judicial officer** means any of the following:

  - (a) a Supreme Court Judge;
  - (b) an Associate Judge;

(c) a Local Court Judge.

**31 Effect and term of search warrant**

- (1) A search warrant permits the authorised officer to whom it is directed, and any other authorised officer, to:
  - (a) enter the land specified in the warrant; and
  - (b) exercise the powers of the authorised officer under this Act in relation to the land.
- (2) A warrant remains in force for 30 business days from its date of issue.

**32 Duty of authorised officer in relation to seized thing**

- (1) As soon as practicable but within 5 business days after an authorised officer seizes a thing under section 27, the officer must give a receipt for the seized thing to the person from whom it was seized.
- (2) The receipt must describe generally each thing seized and its condition.
- (3) If, for any reason, it is not practicable to comply with subsection (1), the authorised officer must:
  - (a) leave the receipt at the place of seizure; and
  - (b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.
- (4) The authorised officer must allow the owner of the seized thing to inspect it and, if it is a document, to take extracts from it or make copies of it.
- (5) The authorised officer must return the seized thing to its owner at the end of the later of:
  - (a) 12 months; or
  - (b) if a prosecution for an offence involving the seized thing is started within the 12 months – 12 months after the end of the prosecution for the offence and any appeal from the prosecution.
- (6) Despite subsection (5), the authorised officer must return the seized thing to its owner immediately if the authorised officer stops being satisfied its retention as evidence is necessary.

- (7) Despite subsections (5) and (6), the authorised officer may keep the seized thing if the authorised officer believes on reasonable grounds that it is necessary to continue to keep it to prevent its use in committing an offence.
- (8) The authorised officer must give written notice to the owner of the seized thing as soon as practicable if the officer decides under subsection (7) to keep the thing.

**32A Forfeiture of seized thing**

Despite section 32, if the owner of the seized thing is convicted of an offence for which the thing was retained as evidence, the court may order its forfeiture to the Territory.

**42 Section 33B amended (Requirements for remediation notice)**

Section 33B(g) and (h)

*omit, insert*

- (g) that the person may apply to NTCAT for a review of the decision to issue the remediation notice under section 105D;

**43 Section 33D amended (Power to take action and recover costs)**

- (1) Section 33D(1)

*omit*

is given a remediation notice and

*insert*

given a remediation notice

- (2) Section 33D(1) and (2)

*omit*

Controller

*insert*

Minister



**44            Section 34 amended (Water resources investigation)**

Section 34

*omit (all references)*

Controller

*insert*

Minister

**45            Section 35 amended (Controller's equipment not fixture or improvement to land)**

(1)          Section 35, heading

*omit*

**Controller's equipment**

*insert*

**Equipment**

(2)          Section 35

*omit*

Where

*insert*

If

(3)          Section 35

*omit*

Controller's

*insert*

Minister's

(4)          Section 35

*omit*

shall be

*insert*

is

**46        Section 36 amended (Water investigation permits)**

(1)        Section 36(1)

*omit*

Controller

*insert*

Minister

(2)        Section 36(1)

*omit*

Controller's

*insert*

Minister's

**47        Section 39 amended (Access to confidential information)**

(1)        Section 39(1)

*omit*

or a licence or

*insert*

an environmental (mining) licence under the *Environment Protection Act 2019* or a petroleum licence or petroleum

(2)        Section 39(1)(c)

*omit*

licence or

*insert*

environmental (mining) licence, petroleum licence or petroleum

- (3)            Section 39(2)  
*omit*  
  
The Controller  
*insert*  
  
Either or both of the Controller and the Minister
- (4)            Section 39(3)  
*omit, insert*
- (2A) The Controller and the Minister may share anything mentioned in subsection (2) with each other.
- (3) Subsections (2) and (2A) apply to the Controller and the Minister:
- (a) regardless of any provision in the *Mineral Titles Act 2010*, the *Environment Protection Act 2019* or the *Petroleum Act 1984* relating to confidentiality; and
- (b) without the need to obtain the permission of the holder of the mineral title, environmental (mining) licence, petroleum licence or petroleum permit.
- (5)            Section 39(4)(a), after "information"  
*insert*  
  
under this section
- (6)            Section 39(5), definitions **licence** and **permit**  
*omit*
- (7)            Section 39(5)  
*insert*  
  
**environmental (mining) licence**, see section 4 of the *Environment Protection Act 2019*.  
  
**petroleum licence** means a licence as defined in section 5(1) of the *Petroleum Act 1984*.  
  
**petroleum permit** means a permit as defined in section 5(1) of the *Petroleum Act 1984*.

**48            Section 52 amended (Obligation to produce drilling licence)**

(1)            Section 52, after "by the Controller"

*insert*

or an authorised officer

(2)            Section 52, after "to the Controller"

*insert*

or authorised officer

**49            Section 70 amended (Power to give directions)**

(1)            Section 70

*omit*

all words from "Notwithstanding" to "where"

*insert*

Despite any other provision of this Act, if

(2)            Section 70

*omit*

to:

*insert*

to do one or more of the following:

(3)            Section 70(h)

*omit*

or

(4)            Section 70(j)

*omit*

notice,

*insert*

notice.

- (5)            Section 70  
*omit*  
or to do any combination of those things.

**50            Section 71D amended (Notice of water extraction licence decision)**

Section 71D(2)(c)

*omit, insert*

- (c)    of any rights to apply to NTCAT for a review of the decision under section 105D.

**51            Section 71E repealed (Notice of substituted or varied water extraction licence decision)**

Section 71E

*repeal*

**52            Section 71H amended (Granting subsequent licences)**

Section 71H(6)

*omit*

**53            Section 71M amended (Licence to take water for exempt activity)**

Section 71M(6)

*omit*

**54            Section 71R amended (Licence to take water for mining or petroleum activity)**

Section 71R(6)

*omit*

**55            Section 77 amended (Monitoring)**

- (1)            Section 77(1)

*omit*

A

*insert*

Without limiting section 74(2), a

(2)        Section 77(1)

*omit*

the Controller with

(3)        Section 77(2)

*omit*

to the Controller

(4)        Section 77(3)

*omit*

**56        Section 79 amended (Power to construct works)**

Section 79(4)

*omit*

**57        Section 80 amended (Information and advice)**

Section 80(1) and (2)

*omit (all references)*

Controller

*insert*

Minister

**58        Section 81 amended (Use of bore where costs borne by Territory)**

Section 81(2)

*omit (all references)*

Controller

*insert*

Minister

**59 Section 84 replaced**

Section 84

*repeal, insert*

**84 Recovery of unpaid fees and charges**

A fee or charge imposed under this Act that remains unpaid for 30 days after the date on which payment is due is a debt due and payable to the Territory and may be recovered in a court of competent jurisdiction.

**84A Actions that may be taken if fee or charge unpaid**

If a fee or charge imposed under this Act remains unpaid for more than 30 days after the date on which payment is due, any one or more of the following actions may be taken until the full amount of the fee or charge is paid or recovered:

- (a) the Controller may suspend a permit or licence granted under this Act, other than a permit granted under section 36;
- (b) the Minister may suspend a permit granted under section 36;
- (c) the Controller or Minister may:
  - (i) cease to provide a service to which the unpaid fee or charge relates; or
  - (ii) cease or refuse to provide any other service under this Act to a person to whom, or to any land in respect of which, the fee or charge relates.

**60 Section 87 amended (Compensation and liability)**

(1) Section 87(1)

*omit*

Where

*insert*

If

(2) Section 87(1)

*omit*

Controller's

*insert*

Minister's

(3)        Section 87(1)

*omit*

shall

*insert*

must

(4)        Section 87(1)

*omit*

Minister

*insert*

Controller

**61        Section 88 amended (Powers of Controller)**

(1)        Section 88, heading

*omit, insert*

**88        Minister's power to require things to be done in relation to  
water or waste**

(2)        Section 88(1) and (2)

*omit*

Controller

*insert*

Minister

(3)        Section 88(1), after "Gazette notice or"

*insert*

written



**62 Sections 88A to 88D inserted**

After section 88

*insert*

**88A Minister may issue action notice**

- (1) The Minister may issue a notice (an ***action notice***) to an owner or occupier of land if the Minister believes on reasonable grounds that it is reasonably necessary or expedient for the owner or occupier to take an action mentioned in subsection (2) to enable any of the following:
  - (a) the performance of the Minister's functions in relation to the investigation, use, control, protection or management of water on, under or adjacent to the land specified in the notice;
  - (b) the administration of the rights of the Territory under section 9 in relation to water on, under or adjacent to the land specified in the notice.
- (2) An action notice may require the owner or occupier of land to do any of the following:
  - (a) carry out or stop carrying out an activity on the land specified in the notice;
  - (b) construct or remove works on the land specified in the notice;
  - (c) take any other reasonable action in relation to the land that is required for the purpose for which the action notice is issued.
- (3) An action notice must:
  - (a) be in writing; and
  - (b) specify the action the Minister requires the owner or occupier to take; and
  - (c) specify the time within which the owner or occupier must take the action, which must be reasonable.

**88B Failure to comply with action notice**

- (1) A person commits an offence if the person:
  - (a) is issued an action notice; and

(b) fails to comply with the notice.

Maximum penalty:     30 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).

### **88C        Minister may take action and recover costs**

- (1) If a person to whom an action notice is issued fails to comply with the notice, the Minister may take the action required by the notice and any reasonable expenses incurred are payable by the person as a debt due to the Territory.
- (2) The Minister must give the person a notice stating the amount of the reasonable expenses incurred.

### **88D        Controller's power to require things to be done in relation to water or waste**

- (1) The Controller may, in connection with the performance of the Controller's functions under this Act, by written notice served on a person, require the person to do any of the following things as specified in the notice:
  - (a) in relation to the investigation, use, control, protection, management or administration of water or in relation to waste:
    - (i) keep and maintain records; and
    - (ii) install, operate and maintain equipment; and
    - (iii) provide information to a person;
  - (b) take or dispose of samples of water or waste;
  - (c) submit samples of water or waste to a person or member of a class of persons for analysis.
- (2) Anything required to be done under subsection (1) is done at the expense of the person on whom the notice is issued unless the Controller otherwise directs.

(3) A requirement in a notice under subsection (1) must not be inconsistent with a notice applying to the person under section 88 and, to the extent of any inconsistency, the requirements in a notice under section 88 prevail.

(4) A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the conduct contravenes a requirement in a notice under subsection (1).

Maximum penalty: 50 penalty units.

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

### **63 Section 90 amended (Factors to be considered)**

Section 90(1)

*omit*

36,

### **64 Section 91 amended (Agreement with State)**

(1) Section 91(1)

*omit*

(1) No licence shall be granted under this Act where to do so

*insert*

A licence must not be granted under this Act if the grant

(2) Section 91(2)

*omit*

### **65 Section 96 amended (Emergency powers to limit rights to take water)**

Section 96(1)(c) and (2)(b)

*omit*

Controller

*insert*

Minister

**66        Section 97 amended (Emergency powers to control pollution)**

Section 97(1) and (4)

*omit (all references)*

Controller

*insert*

Minister

**67        Section 103 amended (Evidentiary)**

Section 103(3), after "by the"

*insert*

Minister, the

**68        Section 105 amended (Proceedings for offences)**

Section 105(1)

*omit, insert*

- (1) A prosecution for an offence against this Act must be commenced within 12 months after the later of:
- (a) the date on which the offence was committed; or
  - (b) the date on which evidence of the offence first came to the attention of the Controller or an authorised officer.

- (1A) Proceedings for an offence against section 40, 42, 44, 46, 48, 50, 53, 55, 56, 58, 59, 61, 62, 64, 65, 66, 68, 71, 71L, 76 or 88D must not be commenced without the approval of the Controller.

**69 Part 10A inserted**

After section 105C

*insert*

**Part 10A Review of decisions**

**105D Review by NTCAT**

- (1) NTCAT has jurisdiction to review a decision (a **reviewable decision**) specified in Schedule 2, clause 2.
- (2) An **affected person**, for a reviewable decision, is a person specified in Schedule 2, clause 2 for the decision.
- (3) An affected person for a reviewable decision may apply to NTCAT for review of the decision.

*Note for section 105D*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to NTCAT for review and other relevant matters in relation to reviews.*

**70 Section 108 amended (Regulations)**

- (1) Section 108(2)(a), after "by"

*insert*

the Minister or

- (2) Section 108(2)(n) and (p)

*omit*

**71 Part 20 inserted**

Before the Schedule

*insert*

**Part 20 Transitional matters for Parks and Water  
Legislation Amendment Act 2024**

**122 Definitions**

In this Part:

***amending Act*** means the *Parks and Water Legislation Amendment Act 2024*.

***commencement*** means the commencement of section 33 of the amending Act.

**123 Directions to statutory authorities**

A direction given by the Controller under section 8 as in force before the commencement is taken to be a direction of the Minister given under section 8 as in force after the commencement.

**124 Controller of Water Resources**

The person holding office as the Controller immediately before the commencement continues to hold office under section 18 as in force after the commencement.

**125 Authorised officers**

A person holding office as an authorised officer immediately before the commencement is taken to have been appointed under section 24 as in force after the commencement.

**126 Water investigation permits**

A water investigation permit that is in effect immediately before the commencement is taken to be a water investigation permit granted by the Minister under section 36 as in force after the commencement.

**127 Approvals to use Territory bores**

An approval under section 81 that is in effect immediately before the commencement is taken to be an approval given by the Minister under section 81 as in force after the commencement.

**128 Notices issued under section 88**

A notice issued under section 88 that is in effect immediately before the commencement is taken to be a notice issued by the Minister under section 88 as in force after the commencement.

**129 Emergency actions taken to control pollution**

On the commencement, the cost of an action taken under section 97(4) before the commencement may be recovered by the Minister under section 97(4) as in force after the commencement as if the action to which the cost relates had been taken by the Minister.

**130 NTCAT review for decisions made after commencement**

Section 105D applies in relation to a reviewable decision that is made after the commencement.

**131 Review of decisions made before commencement**

- (1) This section applies to a person if, immediately before the commencement, the person:
  - (a) was entitled to apply to the Minister for a review of an action or decision (a **reviewable decision or action**) under section 30 as in force before the commencement; and
  - (b) had not yet made an application for the review.
- (2) The person cannot make an application to the Minister for a review of the reviewable decision or action, but the person may apply to NTCAT for review of the reviewable decision or action.
- (3) NTCAT has jurisdiction to review a reviewable decision or action on an application made by the person under subsection (2).
- (4) An application under subsection (2) must be made:
  - (a) if the reviewable decision or action is a decision to give a remediation notice – within 10 business days after the day the notice was given; or
  - (b) if the reviewable decision or action is a water extraction licence decision:
    - (i) if the aggrieved person is a person who was given a notice under section 71D(1)(a) – within 20 business days after the day the person was given the notice; or

- (ii) if the aggrieved person is not a person mentioned in subparagraph (i) – within 20 business days after notice of the decision was published under section 71D(1)(b); or
- (c) if the reviewable decision or action is any other decision or action – within 20 business days after the day the decision was made or the action was taken.

### **132 Pending review before Minister**

- (1) This section applies in relation to an application for review of a decision or action that:
  - (a) was made under section 30 as in force before the commencement; and
  - (b) had not been determined by the Minister before the commencement, whether or not the matter had been referred to the Review Panel.
- (2) Despite the repeal of Part 3, Divisions 2 and 3 effected by section 41 of the amending Act:
  - (a) the Minister must determine the pending application in accordance with this Act as in force before the commencement; and
  - (b) the Review Panel continues in existence for the purpose of dealing with a matter referred to it under section 30(3)(b); and
  - (c) a person who was the Chairperson of the Review Panel continues to hold office as the Chairperson for the purpose of enabling the Panel to consider a matter referred to it under section 30(3)(b); and
  - (d) Part 3, Divisions 2 and 3 of this Act as in force before the commencement continue to apply after the commencement in relation to the pending application.

### **72 Schedule heading amended**

Schedule heading, after "**Schedule**"

*insert*

**1**



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**73 Schedule 2 inserted**

After the Schedule

*insert*

**Schedule 2 Reviewable decisions**

section 105D

**1 Interpretation**

For an entry in the table in clause 2, a ***genuine and valid comment or objection*** made by a person does not include:

- (a) a comment or objection by the person in the form of a form letter or petition prepared by another body or organisation; or
- (b) a comment or objection made after the end of the period for receiving comments or objections.

**2 Reviewable decisions and affected persons**

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<b>Item</b>	<b>Reviewable decision</b>	<b>Affected person</b>
1	A decision of the Controller under section 33A(2) to give a remediation notice	The person given the remediation notice
2	A decision of the Minister under section 36(1) to grant a permit to explore for water	A person directly affected by the grant of the permit  A person who gave a genuine and valid objection about the application for the permit in accordance with the regulations
3	A decision of the Minister under section 36(1) to refuse to grant a permit to explore for water	The person who applied for the permit
4	A decision of the Controller under section 41(1) to grant a permit to interfere with a waterway	A person directly affected by the grant of the permit  A person who gave a genuine and valid objection about the application for the permit in accordance with

		the regulations
5	A decision of the Controller under section 41(1) to refuse to grant a permit to interfere with a waterway	The person who applied for the permit
6	A decision of the Controller under section 45(1) to grant a licence to take water, unless the application for the licence was an application in relation to which section 71M or 71R applied	A person directly affected by the grant of the licence A person who gave a genuine and valid comment about the application for the licence in response to an invitation under section 71B(4)
7	A decision of the Controller under section 45(1) to grant a licence to take water, if the application for the licence was an application in relation to which section 71M or 71R applied	The person who applied for the licence
8	A decision of the Controller under section 45(1) to refuse to grant a licence to take water <i>Note for item 8</i> <i>A decision mentioned in this item includes a decision made on an application to which section 71M or 71R applies.</i>	The person who applied for the licence
9	A decision of the Controller under section 49(1) to refuse to grant a drilling licence	The person who applied for the licence
10	A decision of the Controller under section 57(1) to grant a permit to carry out bore work	A person directly affected by the grant of the permit
11	A decision of the Controller under section 57(1) to refuse to grant a permit to carry out bore work	The person who applied for the grant of the permit
12	A decision of the Controller under section 60(1) to grant a licence to take water from a bore, unless the application for the licence was an application in relation to which section 71M or 71R applied	A person directly affected by the grant of the licence A person who gave a genuine and valid comment about the application for the licence in response to an

		invitation under section 71B(4)
13	A decision of the Controller under section 60(1) to grant a licence to take water from a bore, if the application for the licence was an application in relation to which section 71M or 71R applied	The person who applied for the licence
14	A decision of the Controller under section 60(1) to refuse to grant a licence to take water from a bore <i>Note for item 14</i> <i>A decision mentioned in this item includes a decision made on an application to which section 71M or 71R applies.</i>	The person who applied for the licence
15	A decision of the Controller under section 63(1) to grant a licence to dispose of waste underground by means of a bore	A person directly affected by the grant of the licence
16	A decision of the Controller under section 63(1) to refuse to grant a licence to dispose of waste underground by means of a bore	The person who applied for the grant of the licence
17	A decision of the Controller under section 65(2) to refuse to consent to a change in use of a bore	The person who applied for the consent
18	A decision of the Controller under section 67(1) to grant a licence to increase the water contained in an aquifer	A person directly affected by the decision
19	A decision of the Controller under section 67(1) to refuse to grant a licence to increase the water contained in an aquifer	The person who applied for the licence
20	A decision of the Controller under section 70 to give a direction	The person to whom the direction is given
21	A decision of the Controller under section 71G(1) to grant a licence to take water in respect of a development	A person directly affected by the grant of the licence A person who gave a

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		genuine and valid comment about the application for the licence in response to an invitation under section 71B(4)
22	A decision of the Controller under section 71G(1) to refuse to grant a licence to take water in respect of a development	The person who applied for the licence
23	A decision of the Controller under section 71H to grant a licence to take water	The person who applied for the licence
24	A decision of the Controller under section 71H to refuse to grant a licence to take water	The person who applied for the licence
25	A decision of the Controller under section 71J(3) to refuse to effect a trade of an entitlement to water	The person who applied for the trade
26	A decision of the Controller under section 74(1) to grant a waste discharge licence	A person directly affected by the grant of the licence
27	A decision of the Controller under section 74(1) to refuse to grant a waste discharge licence	The person who applied for the licence
28	A decision of the Minister under section 88A(1) to issue an action notice	The person to whom the notice is issued
29	A decision of the Controller under section 93(1) to amend or modify the terms or conditions of a licence	The holder of the licence
30	A decision of the Controller under section 93(2) to revoke or suspend a licence	The holder or former holder of the licence

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**Division 2 Water Regulations 1992**

**74 Regulations amended**

This Division amends the *Water Regulations 1992*.

**75 Regulation 2A amended (Definitions)**

Regulation 2A, definition *approved form*, after "Controller"

*insert*

or Minister

**76 Regulation 3 amended (Applications and forms)**

(1) Regulation 3(2)

*omit*

Act.

*insert*

Act, other than the form to be used for an application for a water investigation permit under section 36 of the Act.

(2) After regulation 3(2)

*insert*

(2A) The Minister may approve the form to be used for an application for a water investigation permit under section 36 of the Act.

**77 Part 2 repealed**

Part 2

*repeal*

**78 Regulation 5 amended (Water investigation permit)**

Regulation 5(2), (3)(d) and (5)

*omit (all references)*

Controller

*insert*

Minister

**79 Regulation 11 amended (Section 53 – prescribed information and samples)**

After regulation 11(4)

*insert*

- (5) To avoid doubt, a requirement to provide information and samples may be in relation to one or more bores or all bores on which a licensee has carried out work under the licensee's drilling licence.

**80 Regulation 16 amended (Permits or licences lost or destroyed)**

- (1) Regulation 16

*omit (first reference)*

Controller

*insert*

person responsible for issuing the permit or licence under the Act (the **decision maker**)

- (2) Regulation 16

*omit (second reference)*

Controller

*insert*

decision maker

**81 Regulation 18 amended (Joint interests)**

- (1) Regulation 18(2), (4) and (5)

*omit (all references)*

Controller

*insert*

decision maker

(2) Regulation 18(7)

*insert*

**decision maker**, for an approval, means the person who is responsible for making a decision about the grant, amendment or revocation of the approval under the Act.

**82 Schedule amended**

Schedule, Part 2

*omit*

sections 37(1), 40(1), 42(1), 44(1), 46(1) and 48(1)	5	10
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*insert*

section 25(1)	2	Not applicable
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sections 37(1), 40(1), 42(1), 44(1), 46(1) and 48(1)	5	10
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**Part 4 Repeal of Act**

**83 Repeal of Act**

This Act is repealed on the day after it commences.