

Explanatory Statement

ENVIRONMENT LEGISLATION AMENDMENT BILL 2021

SERIAL NO. 28

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

MINISTER FOR ENVIRONMENT

GENERAL OUTLINE

This Bill amends a range of environmental laws. The purpose of the Bill is to address minor errors, improve efficiency in administration, and support industry development. The amendments will ensure appropriate environmental protections, while streamlining and improving regulatory processes, increasing certainty and creating efficiencies for the Department and industry.

NOTES ON CLAUSES

Part 1 Preliminary matters

Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill when passed will be cited as the *Environment Legislation Amendment Bill 2021*.

Clause 2. Commencement

This clause sets out how the amendment Act will be commenced. In this case this will be done by notice given by the Administrator in the Northern Territory Government Gazette. If a provision of the Act does not commence by 27 September 2023 it will automatically commence on that day.

Part 2 Amendment of Bushfires Management Act 2016

Clause 3. Act amended

This is a formal clause which provides that amendments are made to the *Bushfires Management Act 2016*.

Clause 4. Section 5 replaced

This section repeals and replaces section 5 of the Act. The new section identifies the circumstances by which 'public notice' can be given for the purposes of the Act. These circumstances are designed to ensure that public notice can be given in the most appropriate and timely manner, consistent with the objectives of maintaining public safety.

Clause 5. Section 68 amended (Requirement to establish fire breaks)

This clause amends section 68(1) by inserting the word 'prescribed' before 'firebreak'. This clarifies that the section applies to 'prescribed firebreaks' which are defined in subsection (6).

Clause 6. Section 70 replaced

This clause repeals and replaces section 70 of the Act. The new section clarifies and simplifies processes associated with the development of property fire management plans within a fire protection zone. These plans are a compliance tool used to ensure that property owners and occupiers have taken appropriate steps to ensure the property is 'bushfire ready'.

A fire protection zone is an area declared under section 56 of the Act. The declaration allows certain controls to be applied to the area. This includes controls associated with developing property fire management plans.

The new section 70(1) enables the executive director, fire control officer or other person, to conduct a risk assessment and to direct an owner or occupier of land to prepare a property fire management plan or to prepare the plan on the owner or occupiers behalf.

The new section 70(2) identifies that when exercising powers under section 70(1), which would include determining whether to direct an owner or occupier to prepare a plan or to prepare a plan, the executive director may consider any factors the executive director considers relevant.

The new section 70(3) identifies the types of matters the executive director may consider under section 70(2), however the executive director is not limited to considering those matters. This clause provides guidance for decision making without limiting the decision making.

The new section 70(4) identifies the purpose of a property fire management plan.

The new section 70(5) identifies that if an owner or occupier is given a direction to prepare a property fire management plan and the plan is not, in the executive director's opinion adequate, the executive director may return the plan for amendments specified by the executive director. This is to ensure that property fire management plans are adequate and appropriate. Alternatively, the executive director might choose to develop the plan for the owner or occupier and give it to the owner or occupier in accordance with the executive director's powers under new section 70(1)(d).

New section 70(6) gives the executive director, fire control officer or person authorised by the executive director the power to enter land to conduct a risk assessment. This supports the powers of the executive director to undertake an assessment, or direct a fire control officer or other person, to undertake an assessment under new section 70(1)(a) and (b).

New section 70(7) identifies that if the owner or occupier fails to undertake the actions specified in a property fire management plan, the executive director may authorise a person to enter land to do the act required. This ensures that the executive director has the power to conduct necessary fire mitigation activities to protect the environment and Territorians from fires.

New section 70(8) identifies that if the executive director takes action under new section 70(7), then the costs of this action is a debt payable to the Territory and may be placed as a statutory charge on the land. This ensures that the property holder, and not Territorian tax payers, are responsible for the costs of fire mitigation activities on their land.

The new section 70A establishes offences for failing to comply with the requirements of section 70.

New section 70A(1) creates an offence by an owner or occupier for failing to comply with a property fire management plan.

New section 70A(2) identifies that strict liability applies to subsection (1)(a).

New section 70A(3) creates a defence of reasonable excuse for an offence against subsection (1).

New section 70A(4) creates an offence by an owner or occupier for failing to submit a property fire management plan if so directed by the executive director.

New section 70A(5) identifies that strict liability applies to subsections (4)(a) and (b).

New section 70A(6) creates a defence of reasonable excuse for an offence against subsection (4).

The new section 70A ensures that appropriate compliance and enforcement action can be taken against owners and occupiers where it is warranted, while providing relevant protections for alleged offenders.

Clause 7. Section 81 replaced

This clause repeals and replaces section 81 of the Act. The new section clarifies and simplifies processes associated with the development of property fire management plans within a fire management zone. These plans are a compliance tool used to ensure that property owners and occupiers have taken appropriate steps to ensure the property is 'bushfire ready'.

A fire management zone is an area declared under section 58 of the Act. The declaration allows a regional committee to be established for the area, the development of a regional bushfire management plan for the area, and the application of certain controls to the area. This includes controls associated with developing property fire management plans.

The new section 81(1) enables the executive director, fire control officer or other person, to conduct a risk assessment and to direct an owner or occupier of land to prepare a property fire management plan or to prepare the plan on the owner or occupiers behalf.

The new section 81(2) identifies that when exercising powers under section 81(1), which would include determining whether to direct an owner or occupier to prepare a plan or to prepare a plan, the executive director may consider any factors the executive director considers relevant.

The new section 81(3) identifies the types of matters the executive director may consider under section 81(2), however the executive director is not limited to considering those matters. This clause provides guidance for decision making without limiting the decision making.

The new section 81(4) identifies the purpose of a property fire management plan.

The new section 81(5) identifies that if an owner or occupier is given a direction to prepare a property fire management plan and the plan is not, in the executive director's opinion adequate, the executive director may return the plan for amendments specified by the executive director. This is to ensure that property fire management plans are adequate and appropriate. Alternatively, the executive director might choose to develop the plan for the owner or occupier and give it to the owner or occupier in accordance with the executive director's powers under new section 81(1)(d).

New section 81(6) gives the executive director, fire control officer or person authorised by the executive director the power to enter land to conduct a risk assessment. This supports the powers of the executive director to undertake an assessment, or direct a fire control officer or other person, to undertake an assessment under new section 81(1)(a) and (b).

New section 81(7) identifies that if the owner or occupier fails to undertake the actions specified in a property fire management plan, the executive director may authorise a person to enter land to do the act required. This ensures that the executive director has the power to conduct necessary fire mitigation activities to protect the environment and Territorians from fires.

New section 81(8) identifies that if the executive director takes action under new section 81(7), then the costs of this action is a debt payable to the Territory and may be placed as a statutory charge on the land. This ensures that the property holder, and not Territorian tax payers, are responsible for the costs of fire mitigation activities on their land.

The new section 81A establishes offences for failing to comply with the requirements of section 81.

New section 81A(1) creates an offence by an owner or occupier for failing to comply with a property fire management plan.

New section 81A(2) identifies that strict liability applies to subsection (1)(a).

New section 81A(3) creates a defence of reasonable excuse for an offence against subsection (1).

New section 81A(4) creates an offence by an owner or occupier for failing to submit a property fire management plan if so directed by the executive director.

New section 81A(5) identifies that strict liability applies to subsections (4)(a) and (b).

New section 81A(6) creates a defence of reasonable excuse for an offence against subsection (4).

The new section 81A ensures that appropriate compliance and enforcement action can be taken against owners and occupiers where it is warranted, while providing relevant protections for alleged offenders.

Clause 8. Section 84 replaced

This clause repeals and replaces section 84 of the Act. The new section clarifies and simplifies processes associated with the development of property fire management plans within a fire management area. These plans are a compliance tool used to ensure that property owners and occupiers have taken appropriate steps to ensure the property is 'bushfire ready'.

A fire management area is an area declared under section 60 of the Act. The declaration requires an area fire management plan to be prepared, and establishes an area in which owners or occupiers can be required to develop property fire management plans.

The new section 84(1) enables the executive director, fire control officer or other person, to conduct a risk assessment and to direct an owner or occupier of land to prepare a property fire management plan or to prepare the plan on the owner or occupiers behalf. It allows the executive director to direct individual owners or occupiers to prepare plans, or to make a broad direction to all owners and occupiers – via public notice – to prepare a plan.

The new section 84(2) identifies that when exercising powers under section 84(1), which would include determining whether to direct an owner or occupier to prepare a plan or to prepare a plan, the executive director may consider any factors the executive director considers relevant.

The new section 84(3) identifies the types of matters the executive director may consider under section 84(2), however the executive director is not limited to considering those matters. This clause provides guidance for decision making without limiting the decision making.

The new section 84(4) identifies the purpose of a property fire management plan.

The new section 84(5) identifies that if an owner or occupier is given a direction to prepare a property fire management plan and the plan is not, in the executive director's opinion adequate, the executive director may return the plan for amendments specified by the executive director. This is to ensure that property fire management plans are adequate and appropriate. This power applies whether the

executive director gave the owner or occupier a specific direction or a broad direction via public notice. Alternatively, the executive director might choose to develop the plan for the owner or occupier and give it to the owner or occupier in accordance with the executive directors powers under new section 84(1)(e).

New section 84(6) gives the executive director, fire control officer or person authorised by the executive director the power to enter land to conduct a risk assessment. This supports the powers of the executive director to undertake an assessment, or direct a fire control officer or other person, to undertake an assessment under new section 84(1)(b) and (c).

New section 84(7) identifies that if the owner or occupier fails to undertake the actions specified in a property fire management plan, the executive director may authorise a person to enter land to do the act required. This ensures that the executive director has the power to conduct necessary fire mitigation activities to protect the environment and Territorians from fires.

New section 84(8) identifies that if the executive director takes action under new section 84(7), then the costs of this action is a debt payable to the Territory and may be placed as a statutory charge on the land. This ensures that the property holder, and not Territorian tax payers, are responsible for the costs of fire mitigation activities on their land.

The new section 84A establishes offences for failing to comply with the requirements of section 84.

New section 84A(1) creates an offence by an owner or occupier for failing to comply with a property fire management plan.

New section 84A(2) identifies that strict liability applies to subsection (1)(a).

New section 84A(3) creates a defence of reasonable excuse for an offence against subsection (1).

New section 84A(4) creates an offence by an owner or occupier for failing to submit a property fire management plan when specifically directed to do so by the executive director.

New section 84A(5) identifies that strict liability applies to subsections (4)(a) and (b).

New section 84A(6) creates a defence of reasonable excuse for an offence against subsection (4).

New section 84A(7) creates an offence by an owner or occupier for failing to submit a property fire management plan when directed to do so by the executive director via a public notice.

New section 84A(8) identifies that strict liability applies to subsections (7)(a) and (b).

New section 84A(9) creates a defence of reasonable excuse for an offence against subsection (7).

The new section 84A ensures that appropriate compliance and enforcement action can be taken against owners and occupiers where it is warranted, while providing relevant protections for alleged offenders.

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

This clause amends section 91 by inserting a penalty of 100 penalty units after section 91(5). This addresses an existing error in the Act where an offence is created however there is no penalty identified.

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

Clause 10. Act amended

This is a formal clause which provides that amendments are made to the *Environment Protection (Beverage Containers and Plastic Bags) Act 2011*.

Clause 11. Section 11 amended (Waste management arrangements generally)

Section 11 of the Act provides for waste management arrangements. These are agreements between participants in the container deposit scheme, specifying a number of operational matters required as part of contractual relationships between those parties.

This clause amends section 11(3) of the Act to identify that a waste management arrangement may include provisions that are not inconsistent with the Act. This is in addition to the matters that are required to be included under section 11(2) of the Act.

This clause also omits existing section 11(4) and replaces it. The new section identifies that all the provisions within a waste management arrangement must be appropriate for the container deposit scheme. This is to ensure that the arrangements do not undermine the operation of the scheme.

Clause 12. Section 23 amended (Deciding application)

This clause repeals and replaces section 23(2) of the Act.

The new section 23(2) mirrors the existing section 23(2)(b) while reflecting that there will no longer be a requirement for the NT EPA to approve waste management arrangements.

Clause 13. Section 23A repealed (Approval of waste management arrangements)

This clause repeals section 23A of the Act. Section 23A of the Act requires the Northern Territory Environment Protection Authority (NT EPA) to approve waste management arrangements. As the NT EPA also issues approvals to container deposit scheme participants, this section unnecessarily imposes requirements on the NT EPA to consider and approve the contents of a waste management arrangement each time an arrangement is replaced or varied, even where there is no required change to the participants' overall approval.

Clause 14. Section 24 amended (Conditions of CDS approval generally)

This clause amends section 24(a) by omitting the word 'approved' in relation to waste management arrangements consistent with the repeal of section 24A.

This clause also repeals and replaces section 24(b) to provide that if a waste management arrangement is varied or replaced then the holder of the approval must give the varied or replaced arrangement to the NT EPA on its request. This is designed to enable the NT EPA to undertake compliance activities and ensure participants have valid waste management arrangements, while removing the unnecessary obligation on the participants to have those arrangements approved.

Clause 15. Part 9 inserted

This clause inserts a new Part 9 (including new sections 110 to 111) into the Act. The new part provides for transitional arrangements required as a consequence of repealing section 24A.

New section 111 provides for continuity of applications for approval of a waste management arrangement that are on foot at the commencement of the Bill, and the manner in which the NT EPA must deal with and decide such applications.

Clause 16. Act further amended

This clause makes a number of minor consequential amendments throughout the Act, as set out in Schedule 1.

Part 4 Amendment of Environmental Offences and Penalties Act 1996

Clause 17. Act amended

This is a formal clause which provides that amendments are made to the *Environmental Offences and Penalties Act 1996*.

Clause 18. Section 8 amended (Infringement offences)

This clause amends the number of penalty units that are payable on the issue of an infringement notice for level 3 and level 4 environmental offences.

Part 5 Amendment of Litter Act 1972

Clause 19. Act amended

This is a formal clause which provides that amendments are made to the *Litter Act 1972*.

Clause 20. Section 13 inserted

This clause inserts a new section into the Act. The new section provides that the Minister can delegate any powers and functions under the Act to a person or to the holder from time to time of a particular designation, position or office.

The section identifies that the exercise of a power or function by a delegate does not prevent the Minister exercising the same power or function, and identifies the exercise of a power or function by a delegate to be an exercise of the power or function by the Minister.

This is a standard type of delegation clause.

Part 6 Amendment of Northern Territory Environment Protection Authority Act 2012

Clause 21. Act amended

This is a formal clause which provides that amendments are made to the *Northern Territory Environment Protection Authority Act 2012*.

Clause 22. Section 3 amended (Definitions)

This clause amends the definition of 'ecologically sustainable development' by omitting the definition and replacing it with a reference to the definition as it is contained in the *Environment Protection Act 2019*.

Clause 23. Section 24A amended (Statement of intent)

Under section 24A(1) of the Act, the Northern Territory Environment Protection Authority (NT EPA) must prepare a statement of intent.

This clause identifies that the statement must be provided every 4 years, replacing the existing requirement for 2 yearly statements. This change will allow for longer planning cycles, allowing the NT EPA to focus on achievement of matters of strategic importance.

Part 7 Amendment of Pastoral Land Act 1992**Clause 24. Act amended**

This is a formal clause which provides that amendments are made to the *Pastoral Land Act 1992*.

Clause 25. Section 3 amended (Interpretation)

This clause makes a number of amendments to section 3.

Subclause (1) omits the words 'unless the contrary intention appears'. This change has been made consistent with more modern drafting practices.

Subclause (2) omits the definition of 'permit'. This is required due to a number of definitional changes and the introduction of a new clearing permit in addition to the existing non-pastoral use permit. It also omits the definition of 'rehabilitate'. This is required to acknowledge the role of the new rehabilitation plans under the Act.

Subclause (3) inserts a number of new definitions which are required as a consequence of introducing a new permitting scheme for authorising the clearing of native vegetation (land clearing) on pastoral land. The definitions relate to a number of matters associated with clearing, including the introduction of compliance tools.

The clause also inserts a new note advising readers of the legislation that the *Interpretation Act 1978* may contain other definitions and provisions relevant to the interpretation of the Act. This is a standard note in accordance with modern drafting practices.

Clause 26. Section 38 amended (Conditions of pastoral leases)

This clause amends section 38(1)(h) by omitting the existing clause and inserting a new clause. The changes ensure that it continues to be a condition of the pastoral lease that a lessee cannot conduct land clearing unless it has been approved by the Pastoral Land Board, while reflecting the new land clearing permitting scheme.

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

This clause amends section 68.

Subclause (1) amends section 68(5)(c) by including the words 'non-pastoral use' before permit. This is necessary to clarify which permit is being discussed due to the introduction of the new clearing permit.

Subclause (2) inserts new subsections to section 68 requiring a lease transaction (a transfer or sublease) to be registered on the land title. The change provides clarity on the need to register transactions approved by the Minister.

Clause 28. Part 7A inserted

This clause inserts a new Part 7A, Clearing of pastoral land (including new sections 91A to 91ZB) into the Act.

New section 91A provides a definition of 'clear'. This term is required as part of the establishment of the land clearing permitting scheme.

New section 91B provides a definition of 'native vegetation'. This term is required as part of the establishment of the land clearing permitting scheme.

New section 91C provides that a person commits an offence if the person intentionally clears land without authorisation. Strict liability applies to subsection (1)(c). The offence has a maximum penalty of 500 penalty units. It is a defence to a prosecution for the offence if the person has a reasonable excuse. This offence is required to encourage compliance with the land clearing requirements of the Act.

New section 91D provides that the Pastoral Land Board may, by Gazette notice, identify the circumstances under which a clearing permit is not required to clear land. This is intended to provide a mechanism for granting 'exemptions' which support the ordinary operations of pastoral activities which have minimal land clearing requirements and impacts, such as the establishment of fences.

New section 91E allows the Pastoral Land Board to issue guidelines about land clearing on pastoral land. These guidelines are expected to cover a range of matters such as the process for obtaining a clearing permit, and technical matters about how land clearing proposals should be developed, such as consideration of riparian areas and slope, to minimise environmental impacts associated with clearing. The guidelines are to be made publicly available in the manner determined by the Pastoral Land Board.

New section 91F identifies that a pastoral lessee may apply for a permit to clear pastoral land, and includes requirements for the application.

New section 91G identifies that the Pastoral Land Board must provide an opportunity for the public to comment on an application for a land clearing permit before deciding the application. The public comment period must not be less than 14 days.

New section 91H identifies that before making a decision on a land clearing permit, the Pastoral Land Board must consider any comments that it received during the public comment period, any guidelines prepared under new section 91E, and may consider other matters that it considers appropriate. This ensures that public comments are taken into account during the decision making process. A permit may include any conditions determined by the Board, and is to identify the area where the clearing may occur as well as the period in which the clearing may occur.

New section 91J identifies that the Pastoral Land Board may determine that clearing must be completed in a specified period or through specified stages. This allows the Board to control the rate of clearing and ensure that cleared areas are being used appropriately to limit environmental impacts and degradation resulting from cleared, but unutilised, land.

New section 91J also identifies that if the Pastoral Land Board does not specify a clearing period, then the clearing is to be completed within 10 years of the date of the permit. This provides a default clearing period where one is not specified. The section identifies that a permit lapses if the clearing is not completed within the relevant clearing period. This prevents the 'banking' of clearing approvals and encourages lessees to clear and, subsequently utilise, the cleared land.

New section 91K provides for the duration and effect of a permit. The section identifies that a permit remains in force until it is revoked (either at the initiation of the Pastoral Land Board or on the request of the lessee) or, where the pastoral lease is a term lease, on expiration of that lease. However, under new subsection (3), if a term lease is converted to a perpetual pastoral lease, then the permit will remain in force unless it is revoked. This provides for continuity of the permit where a lease conversion occurs.

New section 91K also identifies that while a permit is in force the lessee has the right to clear the land and undertake any work required to maintain the cleared area. This allows a lessee, for example, to clear the land and then maintain it by removing any vegetation that may have grown back. The right to maintain the cleared land continues even if the permit itself has been revoked or the clearing period has lapsed. This ensures that lessees do not have to seek a new permit to maintain an area that was previously cleared in accordance with a relevant approval.

New section 91L identifies that a clearing permit may be registered on the land title. This provides certainty for the lessee, and any future lessee, as well as the Pastoral Land Board about which areas on the lease that have been cleared in accordance with an approval.

New section 91M identifies that any permit that is registered on the land title moves with the lease. This ensures that when leases are transferred, for example, the information relating to the permit is also transferred.

New section 91N identifies that a lessee may apply for an extension to the land clearing period. An application must be made at least 3 months prior to the expiration of the period. The clearing period may be extended multiple times. The Pastoral Land Board must consider any guidelines and may consider any other matter when making a decision on an application. For example, the Board may consider when the permit was originally granted and the extent to which the lessee has complied with the permit, including for example whether the clearing has commenced or if particular stages have been completed.

New section 91P identifies that the Pastoral Land Board may vary a permit, either on request of the lessee or on the Board's own initiative. Multiple variations may be made. A variation does not include changes to the clearing period which are addressed under new section 91N.

New section 91Q identifies that the Pastoral Land Board may suspend a clearing permit on its own initiative and having regard to certain matters. Any suspension must be in writing and include the reasons for the suspension. At the end of a suspension period, the suspension may be extended, lifted or the permit revoked. The power to suspend a permit is necessary to support compliance actions by the Pastoral Land Board.

New section 91R identifies that the Pastoral Land Board may revoke a clearing permit on its own initiative and having regard to certain matters. Any revocation must be in writing and include the reasons for the revocation. This section includes a 'show cause' process to ensure that the lessee is given natural justice by the Board when it is considering revoking a permit. The power to revoke a permit is necessary to support compliance actions by the Pastoral Land Board.

New section 91S identifies that a lessee may apply to the Pastoral Land Board for the suspension or revocation of a clearing permit. For example, this power might be used when the lessee determines that proposed clearing for which a permit was obtained is no longer necessary. The Board must make a decision on the application taking into account certain matters, and give written notice of its decision to the lessee.

New section 91T provides that the Pastoral Land Board may give a 'stop work notice' directing a person to stop clearing. The notice may be given to a person that the Board believes, on reasonable grounds, is, has or will contravene a clearing permit, as well as where a permit has not been granted. This is included to capture both persons that are conducting unauthorised clearing as well as those that are clearing in a manner that is not consistent with the authorisation that has been given. The notice may be varied or revoked, however remains in force until revoked by the Board.

New section 91U establishes an offence for contravening a stop work direction. The offence has a maximum penalty of 500 penalty units. It is a defence to a prosecution for the offence if the person has a reasonable excuse. This offence is required to encourage compliance with the land clearing requirements of the Act.

New section 91V provides that the Pastoral Land Board may give a person a 'rehabilitation direction' requiring them to rehabilitate the land. These directions must be in writing, may be given if the Board believes on reasonable grounds that clearing has resulted in substantial land degradation, was not authorised, or not conducted in the manner that was authorised. A direction may require a person to prepare and submit a rehabilitation plan for the Board's approval, or may require the person to implement a plan developed by the Board. Where the direction requires the person to develop the plan, the Board may approve the submitted plan or return it for further amendment. If the Board is not content with the plan, it may issue a new direction identifying that the Board has developed a plan for implementation by the person.

New section 91V requires the person who has developed or received a rehabilitation plan to implement the plan. Where the plan is not implemented, the section allows the Pastoral Land Board to implement the plan on the person's behalf and to recoup the costs as a debt to the Territory. This ensures that plans are implemented.

New section 91W provides that a rehabilitation plan may be varied or revoked.

New section 91X identifies that a rehabilitation plan remains in force until it is revoked. This provides clarity that the person is to continue to implement the plan until the Pastoral Land Board agrees that all of the measures required under the plan have been completed to a satisfactory degree.

New section 91Y enables the rehabilitation plan to be registered on the land title. The Pastoral Land Board has discretion to register the plan; this is to provide flexibility in consideration of the nature of the commitments under the plan and the extent of the land degradation and rehabilitation required.

New section 91Z identifies that any rehabilitation plan that is registered on the land title moves with the lease. This ensures that when leases are transferred, for example, the information relating to the rehabilitation plan is also transferred.

New section 91ZA establishes an offence for contravening a rehabilitation direction. The offence has a maximum penalty of 500 penalty units. It is a defence to a prosecution for the offence if the person has a reasonable excuse. This offence is required to encourage compliance with the land clearing requirements of the Act.

New section 91ZB establishes an offence for contravening a rehabilitation plan. The offence has a maximum penalty of 500 penalty units. It is a defence to a prosecution for the offence if the person has a reasonable excuse. This offence is required to encourage compliance with the land clearing requirements of the Act.

Clause 29. Act further amended

This clause makes a number of minor consequential amendments throughout the Act, as set out in Schedule 2. These amendments primarily clarify that existing references to a 'permit' in various sections of the Act are references to the non-pastoral use permit.

Part 8 Amendment of waste management and pollution control legislation**Division 1 Amendment of Waste Management and Pollution Control Act 1998****Clause 30. Act amended**

This is a formal clause which provides that amendments are made to the *Waste Management and Pollution Control Act 1998*.

Clause 31. Section 4 amended (Interpretation)

This clause amends the definition of 'ecologically sustainable development' by omitting the definition and replacing it with a reference to the definition as it is contained in the *Environment Protection Act 2019*.

The clause also inserts a new definition of 'emergency authorisation' which is required by the insertion of new section 46A.

The clause also inserts a new note advising readers of the legislation that the *Interpretation Act 1978* may contain other definitions and provisions relevant to the interpretation of the Act. This is a standard note in accordance with modern drafting practices.

Clause 32. Part 5 heading replaced

This section amends the heading of Part 5 of the Act to reflect the inclusion of a new emergency authorisation and more clearly identify the intended application of the Part.

Clause 33. Section 30 amended (Where approval or licence required)

Section 30 of the Act establishes offences for undertaking certain actions unless authorised through an environment protection approval or environmental protection licence.

This clause amends sections 30(1), (2) and (3) to include the words 'or an emergency authorisation' in order to reflect the new emergency authorisation process. This ensures that the offence is not committed under section 30 if it is authorised by the new emergency authorisation.

Clause 34. Part 5, Division 3A inserted

This clause inserts a new Division 3A, Emergency authorisation (including new sections 46A and 46B).

New section 46A establishes a process for the granting of an emergency authorisation by the Minister. The emergency authorisation may be used when an emergency situation is declared under the Emergency Management Act 2013, although may be for a period that extends beyond any declaration. The purpose of the new emergency authorisation is to provide for an efficient and effective mechanism to authorise waste management activities (including transport, storage and disposal activities) as part of, and following an emergency event, such as a flood or cyclone.

New section 46B establishes offences for failing to comply with an emergency authorisation. New section 46B(1) provides for an offence where the person intentionally fails to comply with the authorisation and is a level 3 offence. New section 46B(2) provides for an offence where the person fails to comply with the authorisation and is a level 4 offence. It is also a regulatory offence.

Clause 35. Section 88 amended (Regulatory offences)

Section 88 of the Act identifies those offences in the Act that are regulatory offences. This clause amends section 88 to identify that the new section 46B(2) offence is a regulatory offence.

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

Clause 36. Regulations amended

This is a formal clause which provides that amendments are made to the *Waste Management and Pollution Control (Administration) Regulations 1998*.

Clause 37. Schedule 1 amended (Offences)

This clause inserts a reference to the new section 46B(2) offence into the Regulations. This will enable the NT EPA to issue an infringement notice for a breach of this offence.

Part 9 Repeal of Act

Clause 38. Repeal of Act

This is a formal clause which provides that the Act is repealed on the day after it commences. As this is an amending Bill, once the proposed amendments to other Acts have been made by this Bill it no longer has any relevance and can be repealed.

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

With reference to section 15 of the Bill, this Schedule sets out a number of further minor amendments to be made to the *Environment Protection (Beverage Containers and Plastic Bags) Act 2011*.

Schedule 2 Pastoral Land Act 1992 further amended

With reference to section 28 of the Bill, this Schedule sets out a number of further minor amendments to be made to the *Pastoral Land Act 1992*.