



Environment Protection (Alligator Rivers Region) Act 1978

No. 28, 1978

Compilation No. 9

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About this compilation

This compilation

This is a compilation of the *Environment Protection (Alligator Rivers Region) Act 1978* that shows the text of the law as amended and in force on 21 October 2016 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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**An Act to provide for the appointment of a
Supervising Scientist for the purpose of protecting
the environment in the Alligator Rivers Region of
the Northern Territory from the effects of mining
operations, and for other purposes**

Part I—Preliminary

1 Short title

This Act may be cited as the *Environment Protection (Alligator Rivers Region) Act 1978*.

2 Commencement

This Act shall come into operation on the day on which it receives the Royal Assent.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

Administrator of the Northern Territory means the Administrator of the Northern Territory acting with the advice of the Executive Council of the Northern Territory.

Advisory Committee means the Advisory Committee established under section 16.

Alligator Rivers Region or ***Region*** means:

- (a) the area shown on the map set out in the Schedule, being a copy of the map appearing on page 14 of the Ranger Inquiry report, that is described as the “Area generally referred to in the report as ***the Region***”;

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- (aa) so much of the area described as Gimbat on that map (being an area of land that is or was the subject of a pastoral lease) as is outside the area referred to in paragraph (a);
- (ab) so much of the area described as Goodparla on that map (being an area of land that is or was the subject of a pastoral lease) as is outside the area referred to in paragraph (a);
- (ac) the area bounded on the south by the parallel of latitude 13° 30' south and on all other sides by part of the boundary of the area referred to in paragraph (a);
- (ad) the area bounded on the east by the meridian of longitude 133° east, on the south by the parallel of latitude 13° 30' south and on all other sides by part of the boundary of the area referred to in paragraph (a);
- (b) the territorial sea adjacent to the area referred to in paragraph (a); and
- (c) the sea (if any) on the landward side of the territorial sea referred to in paragraph (b).

appointed member means a member of the Advisory Committee other than the Supervising Scientist or the Director of National Parks.

appropriate Aboriginal Land Council means such Aboriginal Land Council established under the *Aboriginal Land Rights (Northern Territory) Act 1976* as the Minister declares by instrument under his or her hand to be the Aboriginal Land Council responsible for the Alligator Rivers Region for the purposes of this Act.

Chairperson means the Chairperson of the Advisory Committee, or the Chairperson of the Technical Committee, as the context requires.

Committee means the Advisory Committee or the Technical Committee, as the context requires.

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conservation zone means an area that was a conservation zone declared under section 8A of the *National Parks and Wildlife Conservation Act 1975*.

Director of Conservation of the Northern Territory means the person holding office as Director of Conservation under the *Conservation Commission Act 1980* of the Northern Territory or, if a person is acting as the Director, the person so acting.

Director of National Parks means the person holding the appointment as the Director of National Parks under the *Environment Protection and Biodiversity Conservation Act 1999*.

ecosystem means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

environment includes:

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas; and
- (d) the social, economic and cultural aspects of a thing mentioned in paragraph (a), (b) or (c).

general mining operations means mining operations other than uranium mining operations.

Institute means the Alligator Rivers Region Research Institute.

member means a member of the Advisory Committee, or a member of the Technical Committee, as the context requires.

mineral means a naturally occurring substance or mixture of substances.

mining operations means any operations or activities for or in connection with, or incidental to, the mining (whether by underground or surface working) or recovery of minerals or the

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production of material from minerals and, in particular, without limiting the generality of the foregoing, includes:

- (a) exploring and prospecting for minerals;
- (b) milling, refining, treating and processing minerals; and
- (c) handling, transporting, storing and disposing of minerals and material produced from minerals;

but does not include the construction or use of:

- (d) towns or camps, or structures connected with the construction or use of towns or camps; or
- (e) facilities for, or connected with, the supply of water, electricity or gas to towns or camps or to structures connected with the construction or use of towns or camps.

prescribed instrument means any of the following, whether in force at the commencement of this Act or coming into force after that commencement:

- (a) a law of the Commonwealth or of the Northern Territory; or
- (b) an instrument made, granted or issued under or for the purposes of any such law, including:
 - (i) a permit, licence or lease under any such law; and
 - (ii) an authority under section 41 of the *Atomic Energy Act 1953*; and
 - (iii) an agreement under Part IV of the *Aboriginal Land Rights (Northern Territory) Act 1976*.

Ranger Inquiry report means the report known as the Ranger Uranium Environmental Inquiry Second Report that was presented to the Minister for Environment, Housing and Community Development and the Minister for Aboriginal Affairs on 17 May 1977.

requirement means an obligation, condition, restriction or prohibition.

sea includes any waters within the ebb and flow of the tide.

Supervising Scientist means the Supervising Scientist for the Alligator Rivers Region.

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Technical Committee means the Technical Committee established under section 22A.

uranium mining operations has the meaning it would have if in the definition of ***mining operations*** the references to minerals were references to uranium-bearing ore.

- (2) A reference in this Act to the environment in a conservation zone includes a reference to the environment in so much of the Alligator Rivers Region as is adjacent to the zone.

3A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part II—The Supervising Scientist

4 Supervising Scientist

There shall be a Supervising Scientist for the Alligator Rivers Region.

5 Functions of Supervising Scientist in relation to uranium mining in the Region

The Supervising Scientist has the following functions in relation to uranium mining operations in the Region:

- (a) to devise and develop programs for research into, and programs for the collection and assessment of information relating to, the effects on the environment in the Region of uranium mining operations in the Region;
- (b) to co-ordinate, and supervise, the carrying out of programs referred to in paragraph (a);
- (c) to devise and develop, and to promote and assist in the devising and development of:
 - (i) standards, practices and procedures in relation to uranium mining operations in the Region for the protection of, or in so far as those standards, practices and procedures affect, the environment in the Region; and
 - (ii) measures for the protection and restoration of the environment in the Region from the effects of uranium mining operations in the Region;
- (d) to co-ordinate, and supervise, the implementation, in relation to uranium mining operations in the Region, of requirements of or having effect under prescribed instruments in so far as those requirements relate to any matter affecting the environment in the Region;
- (e) to advise the Minister with respect to:

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- (i) the effects on the environment in the Region of uranium mining operations in the Region;
- (ii) standards, practices and procedures in relation to uranium mining operations in the Region for the protection of, or in so far as those standards, practices and procedures affect, the environment in the Region;
- (iii) measures for the protection and restoration of the environment in the Region from the effects of uranium mining operations in the Region; and
- (iv) requirements of or having effect under prescribed instruments in relation to uranium mining operations in the Region in so far as those requirements relate to any matter affecting the environment in the Region and the implementation of those requirements;
- (f) to perform such other functions, in relation to uranium mining operations in the Region, as are conferred on him or her by or under a prescribed instrument (including this Act); and
- (g) to do anything incidental or conducive to the performance of any of the foregoing functions.

5A Functions of Supervising Scientist in relation to general mining in a conservation zone

- (1) The Supervising Scientist has the following functions in relation to general mining operations in a conservation zone:
 - (a) to devise and develop programs for research into, and programs for the collection and assessment of information relating to, the effects on the environment in the zone of general mining operations in the zone;
 - (b) to co-ordinate, and supervise, the carrying out of programs referred to in paragraph (a);
 - (c) to devise and develop, and to promote and assist in the devising and development of:
 - (i) standards, practices and procedures in relation to general mining operations in the zone for the protection

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- of, or in so far as those standards, practices and procedures affect, the environment in the zone; and
 - (ii) measures for the protection and restoration of the environment in the zone from the effects of general mining operations in the zone;
 - (d) to consider, and review, the implementation, in relation to general mining operations in the zone, of requirements of or having effect under prescribed instruments in so far as those requirements relate to any matter affecting the environment in the zone;
 - (e) to advise the Minister, or a person designated by the Minister in writing, with respect to:
 - (i) the effects on the environment of general mining operations in the zone;
 - (ii) standards, practices and procedures in relation to general mining operations in the zone for the protection of, or in so far as those standards, practices and procedures affect, the environment in the zone;
 - (iii) measures for the protection and restoration of the environment in the zone from the effects of general mining operations in the zone; and
 - (iv) requirements of or having effect under prescribed instruments in relation to general mining operations in the zone in so far as those requirements relate to any matter affecting the environment in the zone and the implementation of those requirements;
 - (f) to perform such other functions, in relation to general mining operations in the zone, as are conferred on him or her by or under a prescribed instrument (including this Act); and
 - (g) to do anything incidental or conducive to the performance of any of the foregoing functions.
- (2) However, the Supervising Scientist does not have the functions described in subsection (1) in relation to general mining operations in an area specified by the Minister in a direction under section 7 as an area in relation to which the Supervising Scientist does not have those functions.

- (3) Subsection (2) applies whether the Minister gave the direction before or after the commencement of this subsection.

5B Function of the Supervising Scientist in relation to environmental matters outside the Region

- (1) The Supervising Scientist has the function of giving to the Minister, on the Minister's request, scientific and technical advice on environmental matters outside the Region.
- (2) The Supervising Scientist may perform that function to the extent only that it is not in excess of the functions that may be conferred on him or her by virtue of any of the legislative powers of the Parliament, and, in particular, may perform that function:
- (a) in so far as it is appropriate for the function to be performed by the Supervising Scientist on behalf of the Government of the Commonwealth as the national Government of Australia; or
 - (b) for purposes for which it is appropriate for the Parliament as the national Parliament of Australia to authorise the Supervising Scientist to perform functions; or
 - (c) by way of expenditure of money that is available for the purposes of the Supervising Scientist in accordance with an appropriation made by the Parliament; or
 - (d) in the course of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State; or
 - (e) for purposes related to external affairs; or
 - (f) for purposes in or in relation to a Territory.

6 Powers of Supervising Scientist

The Supervising Scientist has power to do all things that are necessary or convenient to be done for, or in connexion with, the performance of his or her functions.

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7 Directions of Minister etc.

The Supervising Scientist shall comply with directions given to him or her from time to time by the Minister in relation to the performance of his or her functions or the exercise of his or her powers and shall furnish to the Minister such information in relation to the operation of this Act as the Minister requires.

8 Appointment

The Supervising Scientist is to be engaged under the *Public Service Act 1999*.

Part III—Committees

Division 1—Advisory Committee

16 Advisory Committee

There is to be an Advisory Committee.

17 Functions of the Advisory Committee

The functions of the Advisory Committee are:

- (a) to provide a formal forum for consultation with persons and bodies on:
 - (i) matters relating to the effects on the environment in the Alligator Rivers Region of uranium mining operations in the Region; and
 - (ii) matters relating to environmental research conducted in the Region that are referred to it by the Technical Committee; and
- (b) such other functions as are conferred on it by this Act.

18 Membership of the Advisory Committee

- (1) The Advisory Committee consists of the following members:
 - (aa) a Chairperson appointed by the Minister;
 - (a) the Supervising Scientist;
 - (b) the Director of National Parks;
 - (c) 1 member appointed by the Minister on the nomination of the Administrator of the Northern Territory;
 - (d) one member appointed by the Minister on the nomination of the appropriate Aboriginal Land Council; and
 - (da) one member nominated by an environmental organisation which has been nominated by the Minister; and
 - (e) such other members as are from time to time appointed by the Minister.

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- (1A) The Minister must not appoint as the Chairperson:
 - (a) the Supervising Scientist or a member of the staff referred to in section 26; or
 - (b) the Director of National Parks or a person who is an agent or delegate of the Director of National Parks.
- (2) The Minister shall cause to be prepared and kept a list setting out the name of each Department, authority, incorporated company or other body that in his or her opinion has an interest in uranium mining operations in the Alligator Rivers Region and:
 - (a) the Minister shall request each Department, authority, incorporated company or other body the name of which is included in the list to nominate, in writing, not more than 2 persons for appointment to the Committee; and
 - (b) if a person is, or persons are, nominated in accordance with such a request—the Minister shall appoint that person, or at least one of those persons, as a member of the Committee in accordance with paragraph (1)(e).
- (3) The appointed members of the Committee shall hold office on a part-time basis.
- (4) Subject to subsection (5), an appointed member holds office during the pleasure of the Minister.
- (5) Where a person is appointed as an appointed member on the nomination of the Administrator of the Northern Territory or the appropriate Aboriginal Land Council, or on the nomination of a Department, authority, incorporated company or other body, the Minister shall not terminate the appointment unless:
 - (a) he or she is required to do so by subsection 20(1); or
 - (b) the Administrator of the Northern Territory or the appropriate Aboriginal Land Council, or the Department, authority, incorporated company or other body, as the case may be, requests, in writing, the termination of the appointment.
- (6) An appointed member holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.

- (7) The appointment of an appointed member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in, or in connexion with, the appointment.

19 Resignation

An appointed member of the Committee may resign his or her office by writing signed and delivered to the Minister.

20 Termination of appointment

- (1) If an appointed member of the Committee fails, without reasonable excuse, to comply with subsection (2), the Minister shall terminate the appointment.
- (2) A member of the Committee who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee, otherwise than as a member of, and in common with the other members of, an incorporated company that consists of more than 25 persons and of which he or she is not a director, shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Committee.
- (3) A disclosure under subsection (2) shall be recorded in the minutes of the meeting.

21 Deputies

- (1) The Minister may appoint a person to be the deputy of an appointed member of the Committee.
- (2) If an appointed member of the Committee was appointed on the nomination of the Administrator of the Northern Territory or the appropriate Aboriginal Land Council, or on the nomination of a Department, authority, incorporated company or other body and the Administrator of the Northern Territory or the appropriate Aboriginal Land Council, or that Department, authority, incorporated company or other body nominates, in writing, a

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person for appointment as the deputy of that member, the Minister shall appoint that person as the deputy of that member in accordance with subsection (1).

- (3) If the Director of National Parks nominates a person for appointment as his or her deputy, the Minister shall appoint that person as the deputy of the Director.
- (4) The deputy of a member is entitled to attend a meeting of the Committee not attended by the member of whom he or she is the deputy, and, while so attending, shall be deemed to be the member.
- (5) The Minister may:
 - (a) determine the terms and conditions of appointment of a person appointed as the deputy of a member; and
 - (b) subject to subsection (6), at any time terminate such an appointment.
- (6) Where a person is appointed as the deputy of a member on the nomination of the Administrator of the Northern Territory or the appropriate Aboriginal Land Council, on the nomination of a Department, authority, incorporated company or other body, or on the nomination of the Director of National Parks, the Minister shall not terminate the appointment unless:
 - (a) he or she is required to do so by subsection 20(1) as it applies by reason of subsection (8) of this section; or
 - (b) the Administrator of the Northern Territory or the appropriate Aboriginal Land Council, the Department, authority, incorporated company or other body, or the Director, as the case may be, requests, in writing, the termination of the appointment.
- (7) The deputy of a member may resign his or her appointment by writing signed and delivered to the Minister.
- (8) The provisions of section 20 apply to and in relation to a deputy of a member in like manner as they apply to and in relation to the member.

22 Meetings of the Advisory Committee

- (1) The Advisory Committee shall hold such meetings as are necessary for the performance of its functions.
- (2) Subject to this section, meetings of the Committee shall be held at such times and places as the Committee from time to time determines.
- (3) The Chairperson may at any time convene a meeting of the Committee.
- (4) The members required to constitute a quorum at a meeting of the Committee, and all matters relating to procedures at meetings of the Committee (other than matters expressly provided for in this section), shall be as determined by the Minister by instrument in writing.
- (5) The Chairperson shall preside at all meetings of the Committee at which he or she is present.
- (6) If the Chairperson is not present at a meeting of the Committee, the members present shall elect one of their number to preside at the meeting.
- (7) Where the Minister is of the opinion that it would not, by reason of the direct or indirect pecuniary interests of a particular member or otherwise, be proper for the member to be present during the consideration by the Committee of particular matters, he or she may, by instrument in writing, direct that that member is not to be present during the consideration by the Committee of those matters.
- (8) The Committee shall cause a summary record of its proceedings to be kept.
- (9) The Committee may invite a person to attend a meeting of the Committee for the purpose of advising or informing the Committee on any matter.

Division 2—Technical Committee

22A Technical Committee

There is to be a Technical Committee.

22B Functions of the Technical Committee

- (1) The functions of the Technical Committee are:
 - (a) to consider programs for research into, and programs for the collection and assessment of information relating to, the effects on the environment in the Alligator Rivers Region of uranium mining operations in the Region; and
 - (b) to keep under review programs and the carrying out of programs, referred to in paragraph (a); and
 - (c) to make recommendations to the Minister on:
 - (i) the nature and extent of research necessary to protect and restore the environment in the Alligator Rivers Region; and
 - (ii) the most appropriate organisations to undertake the research referred to in subparagraph (i); and
 - (d) to refer to the Advisory Committee matters relating to programs, and the carrying out of programs, referred to in paragraph (a).
- (2) The Technical Committee must, within 15 days of making a recommendation to the Minister under paragraph (1)(c), give to the Advisory Committee a copy of the recommendation.
- (3) The Advisory Committee may give to the Minister written comments on any such recommendations.

22C Membership of the Technical Committee

- (1) The Technical Committee is to consist of:
 - (a) a Chairperson appointed by the Minister; and

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- (b) one member, with scientific or technical qualifications, appointed by the Minister on the nomination of the appropriate Aboriginal Land Council; and
 - (c) such other members as are from time to time appointed by the Minister.
- (2) The Chairperson must have scientific or technical qualifications.
- (3) An appointed member holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.
- (4) The Minister must not appoint as the Chairperson:
 - (a) the Supervising Scientist or a member of the staff referred to in section 26; or
 - (b) the Director of National Parks or a person who is an agent or delegate of the Director of National Parks.

22D Resignation

A member of the Committee may resign his or her office by writing signed and delivered to the Minister.

22E Termination of appointment

- (1) If a member of the Committee fails, without reasonable excuse, to comply with subsection (2), the Minister must terminate his or her appointment.
- (2) A member of the Committee who has a direct or indirect pecuniary interest in a matter being considered by the Committee otherwise than as a member of, and in common with the other members of, an incorporated company that consists of more than 25 persons and of which he or she is not a director must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Committee.
- (3) A disclosure under subsection (2) must be recorded in the minutes of the meeting.

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22F Meetings of the Technical Committee

- (1) The Technical Committee must hold such meetings as are necessary for the performance of its functions.
- (2) Subject to this section, meetings of the Committee must be held at such times and places as the Committee from time to time determines.
- (3) The Chairperson may at any time convene a meeting of the Committee.
- (4) The members required to constitute a quorum at a meeting of the Committee, and all matters relating to procedures at meetings of the Committee (other than matters expressly provided for in this section), are as determined by the Minister by instrument in writing.
- (5) The Chairperson is to preside at all meetings of the Committee at which he or she is present.
- (6) If the Chairperson is not present at a meeting of the Committee, the members present must elect one of their number to preside at the meeting.
- (7) If the Minister is of the opinion that it would not, because of the direct or indirect pecuniary interests of a particular member or otherwise, be proper for the member to be present during the consideration by the Committee of particular matters, he or she may, by instrument in writing, direct that that member is not to be present during the consideration by the Committee of those matters.
- (8) The Committee must cause a summary record of its proceedings to be kept.
- (9) The Committee may invite a person to attend a meeting of the Committee for the purpose of advising or informing the Committee on any matter.

Part IV—The Institute

23 Institute

There is established by this section an Alligator Rivers Region Research Institute.

24 Functions of Institute in relation to uranium mining in the Region

The Institute has the following functions in relation to uranium mining operations in the Region:

- (a) to undertake, promote and assist in research into the effects on the environment in the Region of uranium mining operations in the Region;
- (b) to collect and assess, and to promote and assist in the collection and assessment of, information relating to the effects on the environment in the Region of uranium mining operations in the Region;
- (c) to perform such other functions, in relation to uranium mining operations in the Region, as are conferred on it by or under a prescribed instrument; and
- (d) to do anything incidental or conducive to the performance of any of the foregoing functions.

24A Functions of Institute in relation to general mining in a conservation zone

- (1) The Institute has the following functions in relation to general mining operations in a conservation zone:
 - (a) to undertake, promote and assist in research into the effects on the environment in the zone of general mining operations in the zone;
 - (b) to collect and assess, and to promote and assist in the collection and assessment of, information relating to the

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- effects on the environment in the zone of general mining operations in the zone;
- (c) to perform such other functions, in relation to general mining operations in the zone, as are conferred on it by or under a prescribed instrument; and
 - (d) to do anything incidental or conducive to the performance of any of the foregoing functions.
- (2) However, the Institute does not have the functions described in subsection (1) in relation to general mining operations in an area specified in a direction given by the Minister as an area in relation to which the Institute does not have those functions.
- (3) Subsection (2) applies whether the Minister gave the direction before or after the commencement of this subsection.

24B Institute may undertake other environmental research

- (1) The Institute may undertake, on a commercial basis, research on environmental matters for other persons.
- (2) The Institute may undertake the research to the extent only that it is not in excess of the powers that may be conferred on the Institute by virtue of any of the legislative powers of the Parliament, and, in particular, may undertake the research:
 - (a) in so far as it is appropriate for the research to be performed by the Institute on behalf of the Government of the Commonwealth as the national Government of Australia; or
 - (b) for purposes for which it is appropriate for the Parliament as the national Parliament of Australia to authorise the Institute to undertake the research; or
 - (c) in the course of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State; or
 - (d) for purposes related to external affairs; or
 - (e) for purposes in or in relation to a Territory.

25 Institute to be managed by Supervising Scientist

- (1) The Institute shall be managed by the Supervising Scientist.
- (2) The Supervising Scientist has power to do all things that are necessary or convenient to be done for, or in connexion with, the management of the Institute.

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Part V—Miscellaneous

26 Staff

- (1) The staff required for carrying out or giving effect to this Act shall be persons engaged under the *Public Service Act 1999*.

27 Power of Supervising Scientist to obtain information and documents

- (1) The Supervising Scientist may, by notice in writing served either personally or by post on a person, require the person:
 - (a) to furnish to him or her, by writing signed by that person, or, in the case of a body corporate, by a competent officer of the body corporate, within the time and in the manner specified in the notice, such information in the possession of the person as is specified in the notice; or
 - (b) to furnish to him or her, within the time and in the manner specified in the notice, such documents in the possession of the person as are specified in the notice;being information that is or documents that are required for the performance of his or her functions or the performance of the functions of the Institute or the exercise of his or her powers (including his or her powers in relation to the management of the Institute).

28 Application to Supreme Court for order with respect to information or documents

- (1) Where a person who has been served with a notice under section 27 has refused or failed to comply, or to comply fully, with the notice, the Supervising Scientist may apply to the Supreme Court of the Northern Territory of Australia for an order under this section against that person.

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- (2) The person against whom an order under this section is sought is entitled to notice of, and to appear in, the proceedings.
- (3) Where, in proceedings under this section, the Court is satisfied that all or any of the information or documents that was or were required by the notice to be furnished and has or have not been furnished:
 - (a) is or are in the possession of, or available to, the person against whom the order is sought; and
 - (b) is or are information or documents of a kind referred to in subsection 27(1);the Court may make an order requiring the person against whom the order is sought to furnish to the Supervising Scientist, within the time and in the manner specified in the order, the information or documents as to which the Court is so satisfied.
- (4) The Court shall not, under this section, require a person to furnish information or a document if the Court is satisfied that compliance with a requirement to furnish that information or document might tend to incriminate that person.

29 Supervising Scientist to have access to buildings and places in Region

- (1) The Supervising Scientist is entitled, with the consent of the occupier, to full and free access to all buildings and places in the Alligator Rivers Region for the purpose of the performance of his or her functions or the performance of the functions of the Institute or the exercise of his or her powers (including his or her powers in relation to the management of the Institute).
- (2) Subsection (1) has effect in relation to any building or place on land that is Aboriginal land for the purposes of the *Aboriginal Land Rights (Northern Territory) Act 1976* notwithstanding subsection 70(1) of that Act.

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30 Application to Supreme Court for order with respect to access

- (1) Where the occupier of a building or place has refused, or is unwilling, to consent to the entry of the Supervising Scientist into that building or place under section 29, the Supervising Scientist may apply to the Supreme Court of the Northern Territory of Australia for an order under this section against the occupier.
- (2) A person against whom an order under this section is sought is entitled to notice of, and to appear in, the proceedings.
- (3) Where, in proceedings under this section, the Court is satisfied that access by the Supervising Scientist to the building or place to which the proceedings relate is necessary for a purpose referred to in section 29, the Court may make an order requiring the person against whom the order is sought to give his or her consent, within a time specified in the order, to the entry of the Supervising Scientist into that building or place for that purpose.

31 Secrecy

- (1) Subsection (2) applies to every person who is or has been the Supervising Scientist or a member of the staff assisting the Supervising Scientist.
- (2) Subject to subsection (3), a person to whom this subsection applies shall not, either directly or indirectly, make a record of, or divulge or communicate to any person, any information concerning the affairs of any other person acquired by him or her by reason of his or her office or employment under or for the purposes of this Act.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

- (2A) Subsection (2) does not apply to acts done in the performance of a function or duty under or in connection with this Act.

Note: The defendant bears an evidential burden in relation to the matters in subsection (2A). See subsection 13.3(3) of the *Criminal Code*.

- (3) Subsection (2) does not prevent the communication of information or the production of a document by the Supervising Scientist or a

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member of the staff assisting the Supervising Scientist authorized by him or her for that purpose:

- (a) to the Minister, to the Secretary of the Department that deals with matters arising under this Act or to an officer of, or an employee in, that Department approved by the Secretary of that Department; or
- (b) to a person to whom, in the opinion of the Minister, it is in the public interest that the information be communicated or the document produced.

Note: The defendant bears an evidential burden in relation to the matters in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

- (4) Neither the Secretary of the Department that deals with matters arising under this Act nor an officer of, nor an employee in, that Department approved by him or her for the purposes of subsection (3) shall, either directly or indirectly, make a record of, or divulge or communicate to any person, any information communicated to him or her by the Supervising Scientist or by a member of the staff assisting the Supervising Scientist, being information concerning the affairs of another person acquired by the Supervising Scientist or by a member of that staff by reason of his or her office or employment under or for the purposes of this Act.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

- (4A) Subsection (4) does not apply to acts done for the purpose of advising the Minister in connection with this Act.

Note: The defendant bears an evidential burden in relation to the matters in subsection (4A). See subsection 13.3(3) of the *Criminal Code*.

- (5) Nothing in this section shall be taken to affect the operation of section 9 of the *Ombudsman Act 1976* or the operation of any similar provision in a law of the Northern Territory that confers functions on a person similar to functions conferred on the Ombudsman by that Act.
- (6) A reference in this section to a member of the staff assisting the Supervising Scientist is a reference to a member of the staff

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referred to in subsection 26(1), a person engaged under subsection 26(4) (as in force immediately before the commencement of the *Environment Protection (Alligator Rivers Region) Amendment Act 1993*) or any other person to whom a delegation has been given under subsection 35(1).

33 Supervising Scientist to consult with Director of National Parks and Director of Territory Parks and Wildlife

The Supervising Scientist shall:

- (a) consult with, and have regard to the views of, the Director of National Parks in relation to any matter arising in the course of the performance of his or her functions that concerns the functions, powers or duties of the Director; and
- (b) consult with, and have regard to the views of, the Director of Conservation of the Northern Territory in relation to any matter arising in the course of the performance of his or her functions that concern the functions, powers or duties of the Director or the Conservation Commission of the Northern Territory established by the *Conservation Commission Act 1980* of the Northern Territory.

34 Supervising Scientist must comply with management plan etc.

The Supervising Scientist must perform his or her functions and exercise his or her powers in relation to a Commonwealth reserve or township wholly or partly in the Alligator Rivers Region only in accordance with:

- (a) a management plan in operation for the reserve under Division 4 of Part 15 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
- (b) a town plan in operation for the township under that Division.

35 Delegation

- (1) The Supervising Scientist may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him

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or her, delegate to a person any of his or her powers under this Act, other than this power of delegation.

- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Supervising Scientist.
- (3) A delegation under this section does not prevent the exercise of a power by the Supervising Scientist.

36 Reports

- (1) The Supervising Scientist shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the operation of this Act, being a report that refers in particular to the operation of this Act during the year that ended on that date.
- (2) A report under subsection (1):
 - (a) shall set out all directions given under section 7 by the Minister to the Supervising Scientist during the year to which the report relates;
 - (b) shall include information concerning:
 - (i) the collection and assessment during that year of information relating to the effects on the environment in the Alligator Rivers Region of mining operations in the Region;
 - (ii) standards, practices and procedures in relation to mining operations in the Region adopted during that year, and changes made during that year to such standards, practices and procedures previously adopted, and the effect on the environment in the Region of those standards, practices and procedures and those changes;
 - (iii) measures taken during that year for the protection and restoration of the environment in the Region from the effects of mining operations in the Region;
 - (iv) requirements of and having effect under prescribed instruments enacted, made, adopted or issued during that year in relation to mining operations in the Region

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- in so far as those requirements relate to any matter affecting the environment in the Region; and
- (v) the implementation during that year of requirements referred to in subparagraph (iv); and
- (c) shall include a statement setting out the cost of his or her operations during the year to which the report relates.
- (3) The Supervising Scientist shall furnish to the Minister such additional reports as the Minister from time to time requires and may from time to time furnish such other reports as the Supervising Scientist thinks fit.
- (4) A report under subsection (3) may set out such directions given by the Minister under section 7 to the Supervising Scientist as the Supervising Scientist considers to be relevant to the report.
- (5) Subject to subsection (5A), the Minister shall:
- (a) cause a copy of any report furnished to him or her under subsection (1) or (3) to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by him or her; and
 - (b) cause a copy of every such report furnished to him or her on or after 1 July 1978 to be furnished to the Minister of the Northern Territory who is responsible, or principally responsible, for the administration of matters relating to parks and reserves in the Territory as soon as practicable after the report is laid before a House of the Parliament.
- (5A) Subsection (5) does not apply to a report furnished to the Minister in connection with the performance by the Supervising Scientist of the function under section 5B.
- (6) For the purposes of this section, the period commencing on the day on which this Act receives the Royal Assent and ending on 30 June 1978 shall be regarded as a year.

37 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule

Section 3



Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

| | |
|--|--|
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) /sub-subparagraph(s) |
| C[x] = Compilation No. x | pres = present |
| Ch = Chapter(s) | prev = previous |
| def = definition(s) | (prev...) = previously |
| Dict = Dictionary | Pt = Part(s) |
| disallowed = disallowed by Parliament | r = regulation(s)/rule(s) |
| Div = Division(s) | reloc = relocated |
| ed = editorial change | renum = renumbered |
| exp = expires/expired or ceases/ceased to have effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = <i>Legislation Act 2003</i> | Sch = Schedule(s) |
| LIA = <i>Legislative Instruments Act 2003</i> | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given effect | SLI = Select Legislative Instrument |
| (md not incorp) = misdescribed amendment cannot be given effect | SR = Statutory Rules |
| mod = modified/modification | Sub-Ch = Sub-Chapter(s) |
| No. = Number(s) | SubPt = Subpart(s) |
| | <u>underlining</u> = whole or part not commenced or to be commenced |

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|-----------------|--------------|---|---|
| Environment Protection (Alligator Rivers Region) Act 1978 | 28, 1978 | 9 June 1978 | 9 June 1978 | |
| Statute Law (Miscellaneous Provisions) Act (No. 1) 1983 | 39, 1983 | 20 June 1983 | s. 3: 9 Aug 1983 (<i>see Gazette</i> 1983, No. S171) (<i>a</i>) | — |
| Public Service Reform Act 1984 | 63, 1984 | 25 June 1984 | s. 151(1): 1 July 1984 (<i>see Gazette</i> 1984, No. S245)(<i>b</i>) | s. 151(9) |
| Statute Law (Miscellaneous Provisions) Act (No. 1) 1984 | 72, 1984 | 25 June 1984 | s. 3: 23 July 1984 (<i>c</i>) | s. 5(1) |
| Statute Law (Miscellaneous Provisions) Act (No. 1) 1985 | 65, 1985 | 5 June 1985 | s. 3: 3 July 1985 (<i>d</i>) | — |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|-----------------|--------------|---|---|
| Public Service and Statutory Authorities Amendment Act 1985 | 166, 1985 | 11 Dec 1985 | ss. 1–3, 5, 30(8), 31, 35, 40 and 43: Royal Assent ss. 12 and 15: 22 Dec 1984 ss. 14, 18, 21, 22, 30 (1)–(7) and 32: 1 July 1986 (<i>see Gazette</i> 1986, No. S310) s. 24: 15 Mar 1981 ss. 27–29: 1 Jan 1986 (<i>see s. 2(5) and Gazette</i> 1985, No. S563) ss. 33, 34, 36–39: 1 Apr 1986 (<i>see Gazette</i> 1986, No. S134) s. 44: 21 July 1985 Remainder: 8 Jan 1986 | s. 45(2) |
| Environment Protection (Alligator Rivers Region) Amendment Act 1987 | 17, 1987 | 18 May 1987 | 18 May 1987 (<i>see s. 2</i>) | — |
| Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act (No. 2) 1991 | 179, 1991 | 25 Nov 1991 | 25 Nov 1991 | s. 3(2) |
| Environment Protection (Alligator Rivers Region) Amendment Act 1993 | 17, 1994 | 19 Jan 1994 | 16 Feb 1994 | s. 13(2) |
| Environmental Reform (Consequential Provisions) Act 1999 | 92, 1999 | 16 July 1999 | Schedule 4 (items 41–54) and Schedule 7 (items 7, 8): 16 July 2000 (<i>e</i>) | — |

Environment Protection (Alligator Rivers Region) Act 1978

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Compilation No. 9

Compilation date: 21/10/16

Registered: 17/11/16

Endnotes

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|-----------------|--------------|--|---|
| Public Employment (Consequential and Transitional) Amendment Act 1999 | 146, 1999 | 11 Nov 1999 | Sch 1 (items 418–421): 5 Dec 1999 (s 2(1), (2)) | — |
| Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 | 137, 2000 | 24 Nov 2000 | Sch 2 (items 179, 180, 418, 419): 24 May 2001 (s 2(3)) | Sch. 2 (items 418, 419) |
| Environment and Heritage Legislation Amendment (Application of Criminal Code) Act 2001 | 15, 2001 | 22 Mar 2001 | s. 4 and Sch 1 (items 40–45): 24 May 2001 (s 2(1)(c)) | s 4 |
| Environment and Heritage Legislation Amendment Act (No. 1) 2006 | 165, 2006 | 12 Dec 2006 | Schedule 1 (items 848, 849): 19 Feb 2007 (<i>see</i> F2007L00411) | — |
| Statute Update Act 2016 | 61, 2016 | 23 Sept 2016 | Sch 1 (item 229): 21 Oct 2016 (s 2(1) item 1) | — |

- (a) The *Environment Protection (Alligator Rivers Region) Act 1978* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1983*, subsection 2(9) of which provides as follows:
- (9) The amendment of the *Environment Protection (Alligator Rivers Region) Act 1978* made by this Act shall come into operation on such date as is fixed by Proclamation.
- (b) The *Environment Protection (Alligator Rivers Region) Act 1978* was amended by subsection 151(1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:
- (4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

Endnote 3—Legislation history

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- (c) The *Environment Protection (Alligator Rivers Region) Act 1978* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1984*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (d) The *Environment Protection (Alligator Rivers Region) Act 1978* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (e) The *Environment Protection (Alligator Rivers Region) Act 1978* was amended by Schedule 4 (items 41–54) and Schedule 7 (items 7 and 8) only of the *Environmental Reform (Consequential Provisions) Act 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences when the *Environment Protection and Biodiversity Conservation Act 1999* commences.

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

| Provision affected | How affected |
|-------------------------------------|---|
| Title | am. No. 17, 1987 |
| Part I | |
| s. 3 | am. No. 72, 1984; No. 17, 1987; No. 17, 1994; No. 92, 1999; No. 165, 2006 |
| s. 3A | ad. No. 15, 2001 |
| Part II | |
| s. 5 | am. No. 17, 1987; No. 17, 1994 |
| s. 5A | ad. No. 17, 1987; No. 92, 1999 |
| s. 5B | ad. No. 17, 1994 |
| ss. 6, 7 | am. No. 17, 1994 |
| s. 8 | rs. No. 17, 1994 |
| | am. No. 146, 1999 |
| ss. 9, 10 | rep. No. 17, 1994 |
| s. 11 | rs. No. 179, 1991 |
| | rep. No. 17, 1994 |
| s. 12 | rep. No. 17, 1994 |
| s. 13 | am. No. 179, 1991 |
| | rep. No. 17, 1994 |
| s. 14 | rep. No. 17, 1994 |
| s. 15 | rep. No. 65, 1985 |
| Part III | |
| Heading to Part III | rs. No. 17, 1994 |
| Division 1 | |
| Heading to Div. 1 of Part III | ad. No. 17, 1994 |
| ss. 16, 17 | rs. No. 17, 1994 |
| s. 18 | am. No. 39, 1983; No. 17, 1994; No. 92, 1999 |
| ss. 19, 20 | am. No. 17, 1994 |
| s. 21 | am. No. 17, 1994; No. 92, 1999 |

Endnote 4—Amendment history

| Provision affected | How affected |
|--------------------------|--|
| s. 22 | am. No. 17, 1994 |
| Division 2 | |
| Div. 2 of Part III | ad. No. 17, 1994 |
| ss. 22A, 22B | ad. No. 17, 1994 |
| s. 22C..... | ad. No. 17, 1994 |
| | am. No. 92, 1999 |
| ss. 22D–22F | ad. No. 17, 1994 |
| Part IV | |
| s. 24 | am. No. 17, 1987 |
| s. 24A | ad. No. 17, 1987 |
| | am. No. 92, 1999 |
| s. 24B..... | ad. No. 17, 1994 |
| Part V | |
| s. 26 | am. No. 63, 1984; No. 166, 1985; No. 17, 1994; No. 146, 1999 |
| s. 27 | am. No. 17, 1994; No. 137, 2000 |
| ss. 29, 30..... | am. No. 17, 1994 |
| s. 31 | am. No. 17, 1987; No. 17, 1994; No. 146, 1999; No. 15, 2001; No 61, 2016 |
| Note to s. 31(3) | ad. No. 15, 2001 |
| s. 32 | am. No. 17, 1994 |
| | rep. No. 137, 2000 |
| Heading to s. 33 | am. No. 92, 1999 |
| s. 33 | am. No. 72, 1984; No. 17, 1994; No. 92, 1999 |
| s. 34 | am. No. 17, 1994 |
| | rs. No. 92, 1999 |
| s. 35 | am. No. 17, 1994 |
| s. 36 | am. No. 17, 1987; No. 17, 1994 |