

ENDANGERED SPECIES PROTECTION REGULATIONS

1 The Endangered Species Protection Regulations (in force under the Endangered Species Protection Act 1992) as shown in this reprint comprise Statutory Rules 1993 No. 84 amended as indicated in the Tables below.

Year and Date of Number in Gazette	Date of notification provisions	Table of Statutory Rules Application commencement	saving or transitional
1993 No. 84	17 May 1993	17 May 1993	
1995 No. 70	11 Apr 1995	11 Apr 1995	-
1997 No. 134	23 June 1997	23 June 1997	

Table of Amendments

ad=added or inserted am=amended rep=repealed rs=repealed and substituted

Provision affected How affected

R. 4 am. 1995 No. 70

R. 5 am. 1997 No. 134

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PART 1 - PRELIMINARY

Citation

1. These Regulations may be cited as the Endangered Species Protection Regulations.*1*
SEE NOTES TO FIRST ARTICLE OF THIS CHAPTER .

Interpretation

2. (1) In these Regulations, unless the contrary intention appears:
"Act" means the Endangered Species Protection Act 1992;
"nomination" means a nomination under subsection 25 (1) of the Act of an item to be listed in Schedule 1, 2 or 3 to the Act.

PART 2 - NOMINATIONS UNDER SECTION 25 OF THE ACT

Information to be included in all nominations

3. (1) A nomination of an item for listing in Schedule 1, 2 or 3 to the Act must be in writing and include the full name, signature, address and telephone number of each person making the nomination.

(2) If a person who nominates an item is acting on behalf of an unincorporated body, the nomination must include the name and address of the body.

Nominations of native species

4. (1) The nomination of a native species for listing in Schedule 1 to the Act must include the following information:

- (a) the scientific name (if any) of the species; and
- (b) any common name, or names, by which the species is known to the person or persons making the nomination; and
- (c) in the case of a plant species - whether the species is a vascular or a non-vascular plant; and
- (d) in the case of an animal species - whether the species is a vertebrate or a non-vertebrate animal; and
- (e) if the species is not conventionally accepted:
 - (i) a taxonomic description of the species in a form suitable for publication in conventional scientific literature or, if there is no such description of the species, a statement in writing, made and signed by a person who is a taxonomist and has relevant expertise, that in the opinion of that person the species is a new species; and
 - (ii) evidence that a specimen of the species is lodged with a scientific institution; and
- (a) the Part in the Schedule for which listing of the species is nominated; and
- (b) the reasons why the species is considered to be endangered, vulnerable or presumed extinct within the meaning of section 6, 7 or 8 of the Act by the person or persons making the nomination; and
- (c) the best estimation that is available to the person or persons making the nomination of:
 - (i) the distribution of the species in 1788; and
 - (ii) the current distribution of the species; and
 - (iii) the current population of the species; and

- (a) references to any scientific literature that supports the other information given in the nomination; and
- (b) in the case of a species determined to be a species for the purposes of paragraph (d) of the definition of "species" in subsection 4 (1) of the Act - the details of the determination.

Nominations of ecological communities

A nomination of an ecological community for listing in Schedule 2 to the Act must include the following information:

- (a) the generally accepted name (if any) of the ecological community; and
- (b) a description of the ecological community that is sufficient to distinguish it from any other ecological community by reference to:
 - (i) its biological and non-biological components; and
 - (ii) if the processes by which those components interact are known those processes;
- (a) evidence that the classification of the ecological community is conventionally accepted; and
- (b) the reasons why the ecological community is considered by the person or persons making the nomination to meet the additional criteria (if any) specified for the purposes of the definition of ecological community in subsection 4 (1) of the Act; and
- (c) the reasons why the ecological community is considered by the person or persons making the nomination to be endangered within the meaning of section 6 of the Act; and
- (d) the known current distribution of the ecological community, and a known past distribution, or a reliably-based estimate of the past distribution, of that community;
- (e) references to any scientific literature that supports the other information given in the nomination.

Nominations of threatening processes

6. A nomination of a threatening process for listing in Schedule 3 to the Act must include the following information:

- (a) a description of the threatening process that is sufficient to distinguish it from any other threatening process by reference to its biological components and its non-biological components, and the interactions of those components, that are known to the person or persons making the nomination; and
- (b) a name for the threatening process; and
- (c) any species listed in Schedule 1 to the Act and any ecological communities listed in Schedule 2 to the Act that are considered by the person or persons making the nomination to be adversely affected by the threatening process; and
- (d) any species or ecological communities, other than those referred to in paragraph (c), that could become endangered or vulnerable, as the case may be, because of the threatening process; and
- (e) the reasons why the preparation of a nationally co-ordinated threat abatement plan is considered to be an effective and efficient means of abating the threatening process by the person or persons making the nomination; and
- (f) references to any scientific literature that supports the other information given in the nomination.

Declarations to accompany nominations

7. A person or persons making a nomination must include with that nomination a declaration in writing that the information included in the nomination is correct to the best of the knowledge of the person or persons.

PART 3 - APPLICATIONS FOR PERMITS

Form of applications

8. (1) For the purposes of paragraph 88 (3) (a) of the Act, an application for a permit must be in writing and include:

- (a) the full name of:
 - (i) the person or persons to whom; or
 - (ii) the specified group of persons to which;the permit is to be issued; and
- (a) if the application is not made by that person or those persons, the name of the applicant or applicants; and
- (b) the business or residential address, and the postal address, of a person referred to in paragraph (a) or (b); and
- (c) the telephone numbers (if any):
 - (i) at which a person referred to in paragraph (a) or (b) may be contacted personally; and
 - (ii) to which a facsimile message for the person or persons may be transmitted;and
- (a) the telex number (if any) of a person referred to in paragraph (a) or (b); and
- (b) any common name and any scientific name of the listed native species for which the application is made and the Part in Schedule 1 to the Act in which that species is listed; and
- (c) the period during which the permit is to have effect; and
- (d) the area in which the permit is to have effect; and
- (e) the maximum number of specimens of the listed native species for which the permit is to have effect; and
- (f) a description of the method to be used in keeping, moving, taking or trading the specimen or specimens of the listed native species; and
- (g) a statement of the matters set out in subregulation (2); and
- (h) if the application is made for scientific purposes, a statement of the relevant qualifications and experience of the person or persons to whom the permit is to be issued; and
- (i) declarations in accordance with regulation 9.

(2) The matters referred to in paragraph (1) (k) are:

- (a) the objectives of the action to be taken under the permit; and
- (b) whether that action:
 - (i) would contribute significantly to the conservation of the listed native species or another listed native species; and
 - (ii) would appreciably promote or impair the survival of the species concerned in the wild; and
 - (iii) would be consistent or inconsistent with a recovery plan for the species that is in force; and
 - (iv) is of particular significance in Aboriginal or Torres Strait Islander tradition; and
 - (v) is necessary to control a pathogen or pathogens and would be conducted in a manner that will minimise the impact of the action on the species concerned to the maximum practicable extent.

Fee to accompany applications

9. For the purposes of paragraph 88 (3) (b) of the Act, a fee of \$100 is prescribed.

Declarations to accompany applications

10. (1) A person or persons making an application must include with the application a declaration that the information included in the application is correct to the best of the knowledge of the person or persons.

(2) A person or persons making an application must include with the application a declaration whether the applicant or applicants, or the person or persons to whom the permit is to be issued, has or have been convicted of, or is or are subject to proceedings in relation to, an offence:

- (a) under any of the following laws:
 - (i) the Act;
 - (ii) the Great Barrier Reef Marine Park Act 1975
 - (iii) the National Parks and Wildlife Conservation Act 1975;
 - (iv) the Whale Protection Act 1980;
 - (v) the Wildlife Protection (Regulation of Exports and Imports) Act 1982; or
- (a) under a law of a State or Territory relating to the protection or conservation of native species or ecological communities; or
- (b) under a related law.

(3) For the purposes of subregulation (2), a person is taken to have been convicted of an offence if:

- (a) the person has been convicted, whether summarily or on indictment, of the offence; or
- (b) the person has been charged with, and found guilty of, the offence but discharged without conviction; or
- (c) the person has not been found guilty of the offence, but a court has taken the offence into account in passing sentence on the person for another offence.

(4) In paragraph (2) (c), "related law":

- (a) in relation to an offence referred to in paragraph (2) (a), means:
 - (i) section 6, 7, or 7A of the Crimes Act 1914; or
 - (ii) paragraph 86 (1) (a) of that Act; and
- (a) in relation to an offence referred to in paragraph (2) (b), means the law of the State or Territory concerned that is equivalent to a law specified in paragraph (a).