

NATIONAL PARKS AND WILDLIFE CONSERVATION ACT 1975

National Parks and Wildlife Conservation Act 1975 Act No. 12 of 1975
as amended

This compilation was prepared on 21 March 2000
taking into account amendments up to Act No. 156 of 1999
The text of any of those amendments not in force
on that date is appended in the Notes section
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Long Title

An Act to make provision for and in relation to the Establishment of
National Parks and other Parks and Reserves and the Protection and
Conservation of Wildlife

Part I; Preliminary

- SECT 1
Short title [see Note 1]

This Act may be cited as the National Parks and Wildlife Conservation
Act 1975.

- SECT 2
Commencement [see Note 1]

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

- SECT 3
Interpretation

(1)

In this Act, unless the contrary intention appears:

Aboriginal means a member of the Aboriginal race of Australia and includes a Torres Strait Islander.

Aboriginal land means:

- (a) land situated in the Region, and in which an Aboriginal Land Trust established under the Aboriginal Land Rights (Northern Territory) Act 1976 holds an estate in fee simple; or
- (b) if the Jervis Bay National Park has been declared to be Aboriginal Land under the Aboriginal Land Grant (Jervis Bay Territory) Act 1986; the Jervis Bay National Park; or
- (c) if the Jervis Bay Botanic Gardens have been declared to be Aboriginal Land under the Aboriginal Land Grant (Jervis Bay Territory) Act 1986; the Jervis Bay Botanic Gardens.

agreement includes a treaty or convention.

aircraft means a machine or apparatus that can derive support in the atmosphere from the reactions of the air or from buoyancy, but does not include a hovercraft.

animal means any member, alive or dead, of the animal kingdom (other than man), and includes:

- (a) eggs or parts of eggs; and
- (b) the skin, feathers, horns, shell or any other part of an animal.

article includes a substance or a mixture of substances.

Australia includes the external Territories to which this Act extends.

Australian aircraft means an aircraft that is in Australian control or is registered in accordance with the Air Navigation Regulations as an Australian aircraft.

Australian coastal sea means any sea or waters the sovereignty in respect of which is declared by the Seas and Submerged Lands Act 1973 to be vested in the Crown in right of the Commonwealth, but does not include any waters referred to in section 14 of that Act.

Australian fishing zone has the same meaning as in the Fisheries Management Act 1991.

Australian national means:

- (a) an Australian citizen; or
- (b) a body corporate established by or under a law of the Commonwealth, of a State or of a Territory.

Australian National Botanic Gardens means the areas declared to be a reserve, and to which that name was assigned, by Proclamation under subsection 7(2).

Australian vessel means a vessel that is in Australian control or is an Australian boat within the meaning of the Fisheries Management Act 1991.

botanic garden means a scientific and educational institution the purpose of which is the advancement and dissemination of knowledge and appreciation of plants by:

- (a) growing them in a horticultural setting; and
- (b) establishing herbarium collections; and
- (c) conducting research; and
- (d) providing displays and interpretative services.

Conservation Commission means the Conservation Commission of the Northern Territory established by the Conservation Commission Act 1980 of the Northern Territory.

conservation zone means a conservation zone declared under section 8A.

continental shelf of Australia has the same meaning as in the Seas and Submerged Lands Act 1973.

Director means the Director of National Parks and Wildlife.

foreign national means a person other than an Australian national.

foreign vessel means a vessel other than an Australian vessel.

Fund means the Fund established by this Act.

hovercraft means a vehicle designed to be supported on a cushion of air.

in Australian control means in the control or possession of one or more of any of the following:

- (a) the Commonwealth (including an arm of the Defence Force) or a State or Territory;
- (b) a corporation established for a public purpose by or under a law of the Commonwealth or of a State or Territory;

- (c) a company or other body corporate incorporated under a law of a State or Territory, being a company or other body corporate in which the Commonwealth has a controlling interest.

interest means any legal or equitable interest, including any estate, right, title, claim, charge, encumbrance, power, privilege, authority, licence or permit.

Jervis Bay Botanic Gardens means the part of the Australian National Botanic Gardens that is in the Jervis Bay Territory.

Jervis Bay National Park means the part of the Jervis Bay Territory declared to be a park, and to which that name was assigned, by Proclamation under subsection 7(2).

Kakadu National Park means the area for the time being declared under section 7 to be the park of that name.

mineral means a naturally occurring substance or mixture of substances.

park means a park declared under section 7.

plan of management means a plan of management in force under section 12.

plant means any member, alive or dead, of the plant kingdom or of the fungus kingdom, and includes seeds and parts of plants.

prescribed park or reserve means:

- (a) the Uluru - Kata Tjuta National Park; and
- (ab) the Jervis Bay National Park; and
- (ac) the Jervis Bay Botanic Gardens; and
- (b) any other park or reserve declared by the regulations to be a prescribed park or reserve for the purposes of this definition.

ranger means a person appointed as a ranger under section 37.

Region means:

- (a) so much of the Alligator Rivers Region, within the meaning of the definition of that Region in the Environment Protection (Alligator Rivers Region) Act 1978, as does not include:
 - (i) the area shown as the Arnhem Land Aboriginal Reserve on the map referred to in that definition; and

(ii) the areas (being pastoral leases) described on that map as Mount Bunday and Eva Valley; and

(b) the area of land described under the heading Uluru in Schedule 1 to the Aboriginal Land Rights (Northern Territory) Act 1976.

reserve means a reserve declared under section 7.

right does not include sovereign rights.

seize includes secure against interference.

Service means the Australian National Parks and Wildlife Service established by this Act.

Territory means an internal Territory or an external Territory to which this Act extends.

Territory Commission means the Conservation Commission of the Northern Territory established by the Conservation Commission Act 1980 of the Northern Territory.

this Act includes the regulations.

traditional Aboriginal owners:

(a) in relation to Aboriginal land in the Region; has the same meaning as in the Aboriginal Land Rights (Northern Territory) Act 1976; or

(b) in relation to the Jervis Bay National Park or the Jervis Bay Botanic Gardens; means the members of the Wreck Bay Aboriginal Community Council.

uranium mining operations has the same meaning as in the Environment Protection (Northern Territory Supreme Court) Act 1978.

vehicle includes a hovercraft.

vessel means a ship, boat, raft or pontoon or any other thing capable of carrying persons or goods through or on water, but does not include a hovercraft.

warden means:

(a) a person appointed as a warden under section 37; or

(b) a person referred to in section 38.

wilderness zone means a wilderness zone declared under section 7.

wildlife means:

(a) animals and plants that are indigenous to Australia;

- (b) animals and plants that are indigenous to the Australian coastal sea or the sea-bed and subsoil beneath that sea;
- (c) animals and plants that are indigenous to the continental shelf of Australia or the superjacent waters;
- (ca) animals and plants that are indigenous to the Australian fishing zone;
- (d) migratory animals that periodically or occasionally visit Australia, the Australian coastal sea, the Australian fishing zone or the sea over the continental shelf of Australia;
- (e) animals and plants of a kind introduced into Australia, directly or indirectly, by Aboriginals before the year 1788; and
- (f) such other animals and plants, not being domesticated animals or cultivated plants, as are prescribed.

wildlife inspector means a person appointed as a wildlife inspector under section 38A.

Wreck Bay Aboriginal Community Council means the council established by section 4 of the Aboriginal Land Grant (Jervis Bay Territory) Act 1986.

- (2) In this Act, a reference to the sea-bed includes a reference to the surface of any coral formation, and a reference to the subsoil includes a reference to the coral beneath the surface of any such formation.
- (3) In this Act, a reference to public notice is a reference to notice published:
 - (a) in the Gazette;
 - (b) in a local newspaper, if any, circulating in the area concerned; and
 - (c) in each State and Territory, in a newspaper circulating throughout that State or Territory.
- (4) A reference in this Act (other than section 65) to an offence against this Act includes a reference to an offence against

section 6, 7 or 7A, or subsection 86(1), of the Crimes Act 1914 that relates to this Act.

- SECT 3A

Operations for the recovery of minerals

(1)

In this Act, subject to subsection (2), operations for the recovery of minerals 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 production of material from minerals and, in particular, without limiting the generality of the foregoing, includes:

(a)

prospecting and exploration for minerals, the milling, refining, treatment and processing of minerals and the handling, transportation, storage and disposal of minerals and of material produced from minerals; and

(b)

the construction and use of towns, camps, dams, pipelines, power lines or other structures, and the performance of any other work, for the purposes of any such operations or activities.

(2)

In this Act, operations for the recovery of minerals does not include:

(a)

anything done for the purposes of building or construction, or the supply of water, in a park or reserve, unless those purposes are connected with, or incidental to, operations for the recovery of minerals;

(b)

the transportation of anything in the Kakadu National Park along routes (including air routes) prescribed for the purposes of this paragraph;

(c)

the construction and use of pipelines and power lines in Kakadu National Park along routes prescribed for the purposes of this paragraph; or

(d)

prescribed activities carried on in Kakadu National Park in connection with, or incidental to, operations for the recovery of minerals carried on outside Kakadu National Park.

- SECT 4

Extension of Act to external Territories

This Act extends to every external Territory.

- SECT 5

Act binds the Crown

This Act binds the Crown in right of the Commonwealth or of a State.

Part II; Parks and reserves

- SECT 6

Object of this Part

(1)

The object of this Part is to make provision for the establishment and management of parks and reserves:

- (a) appropriate to be established by the Commonwealth Government, having regard to its status as a national government;
- (b) in the Territories;
- (c) in the Australian coastal sea;
- (d) for purposes related to the rights (including sovereign rights) and obligations of Australia in relation to the continental shelf of Australia;
- (e) for facilitating the carrying out by Australia of obligations under, or exercise by Australia of rights under, agreements between Australia and other countries; or
- (f) conducive to the encouragement of tourism between the States and between other countries and Australia;

and this Act shall be administered accordingly.

(2)

Land in a State shall not, without the consent of the State, be acquired by the Commonwealth for the purposes of this Part if it is land that is dedicated or reserved under a law of the

State for purposes related to nature conservation or the protection of areas of historical, archaeological or geological importance or of areas having special significance in relation to Aboriginals.

- (3) Land in the Northern Territory, other than land in the Uluru - Kata Tjuta National Park or in the Alligator Rivers Region as defined by the Environment Protection (Alligator Rivers Region) Act 1978, shall not, without the consent of the Territory, be acquired by the Commonwealth for the purposes of this Part if it is land that is dedicated or reserved under a law of the Territory for purposes related to nature conservation or the protection of areas of historical, archaeological or geological importance or of areas having special significance in relation to Aboriginals.

- SECT 7

Parks and reserves established by Governor-General

- (1) In this section, area means:

- (a) an area of land owned or held under lease by the Commonwealth, including any such area that has been dedicated or reserved under a law of a Territory for the purposes of a national park, nature reserve, protected area or wildlife sanctuary or for similar purposes;
- (aa) an area of Aboriginal land held under lease by the Director;
- (b) an area of the Australian coastal sea in respect of the sea-bed and subsoil beneath which no interest is vested in a person other than the Commonwealth;
- (c) an area of sea over a part of the continental shelf of Australia in respect of which no interest is vested in a person other than the Commonwealth; or
- (d) an area of land or sea outside the Australian coastal sea in respect of which Australia has, under an agreement between Australia and any other country or countries, obligations relating to wildlife that may appropriately be carried out by the establishment and management of the areas as a park or reserve;

or an area of any such land and any such sea.

- (2) Subject to this section, the Governor-General may:
- (a) by Proclamation [see Note 2], declare an area specified in the Proclamation to be a park or a reserve and assign a name to that park or reserve; and
 - (b) by the same or by another Proclamation, declare the whole or a specified part of the park or reserve to be a wilderness zone.
- (3) A Proclamation declaring an area to be a reserve may specify the purpose or purposes for which it is so declared.
- (4) Where a plan of management is in force in relation to a park or reserve, a declaration shall not be made declaring the whole or a specified part of the park or reserve to be a wilderness zone except in accordance with the plan of management.
- (5) A park may be named as a national park or by such other designation as the Governor-General thinks fit.
- (6) Where an area is declared by Proclamation to be a park or reserve:
- (a) the subsoil beneath any land within the area, extending to such depth below the surface as is specified in the Proclamation;
 - (b) the waters and sea-bed beneath any sea within the area; and
 - (c) the subsoil beneath any such sea-bed, extending to such depth below the sea-bed as is specified in the Proclamation;
- shall be taken to be within that park or reserve.
- (7) Upon the declaration of a park or reserve, any interest held by the Commonwealth in respect of the land (including any sea-bed or any subsoil) within the park or reserve, but not in respect of any minerals, becomes, by force of this subsection, vested in the Director.
- (7A) Where the Commonwealth acquires any interest in respect of any land (including any sea-bed or any subsoil) within a park or

reserve (otherwise than by reason of the surrender or transfer of an interest under subsection 9(3)), that interest becomes, by force of this subsection, vested in the Director, but not to the extent that it is an interest in respect of minerals.

- (8) Subject to this section, the Governor-General may, by Proclamation, revoke or amend a Proclamation made under this section.
- (9) A Proclamation under this section by virtue of which any land (including any subsoil) or sea, other than land or sea referred to in paragraph (1)(d), ceases to be land or sea within a park or reserve or within a wilderness zone shall not be made except in accordance with a resolution passed by each House of the Parliament in pursuance of a motion of which notice has been given not less than 15 sitting days of that House before the motion is moved.
- (10) If, by virtue of a Proclamation made under this section, any land (including any sea-bed or any subsoil), other than Aboriginal land, ceases to be land within a park or reserve, any interest held by the Director in respect of that land becomes, by force of this subsection, vested in the Commonwealth.
- (10A) If, by virtue of a Proclamation made under this section, any Aboriginal land (including any sea-bed or any subsoil) ceases to be land within a park or reserve, any leasehold interest held by the Director in respect of that land ceases, by force of this subsection, to exist.
- (10AB) Subsections (9), (10) and (10A) do not apply in relation to a Proclamation by virtue of which any land (including any Aboriginal land and any sea-bed or subsoil) or sea ceases to be land or sea within a park or reserve or within a wilderness zone and becomes land or sea within another park or reserve or another wilderness zone, as the case requires.
- (10B) Where a leasehold interest held by the Director in respect of any land in a park or reserve ceases to exist (otherwise than by reason of the Director surrendering the interest under subsection 9(2B), surrendering or transferring the interest under subsection 9(3) or acquiring ownership of the land or by reason of the operation of subsection 12(2A) of the Aboriginal Land Rights (Northern Territory) Act 1976), the land ceases, by force of this subsection, to be land within the park or reserve and the Governor-General shall accordingly, by Proclamation, amend or revoke, as the case requires, the Proclamation applying in relation to that land.
- (11) Subject to subsection (11A), the Governor-General shall not

make a Proclamation under this section except after consideration by the Executive Council of a report by the Director in relation to the matter dealt with by the Proclamation.

(11A)

Subsection (11) does not apply in relation to the making of:

- (a) a Proclamation under subsection (2) in relation to land or sea within the Region;
- (b) a Proclamation under subsection (8) in relation to land or sea within the Region, other than a Proclamation, not being a Proclamation to which paragraph
- (c) applies, by virtue of which particular land (including any Aboriginal land or sea-bed or subsoil) or sea ceases to be land or sea within a park or reserve or within a wilderness zone; or
- (c) a Proclamation by virtue of which any land (including any Aboriginal land or any sea-bed or subsoil) or sea ceases to be land or sea within a park or reserve or within a wilderness zone and becomes land or sea within another park or reserve or another wilderness zone, as the case requires.

(12)

Before submitting a report for the purposes of subsection (11), the Director shall:

- (a) by public notice:
 - (i) state the nature of the report and of any recommendations proposed to be made in the report;
 - (ii) invite interested persons to make representations in connexion with the report by such date, not being less than 60 days after the date of publication of the notice in the Gazette, as is specified in the notice; and
 - (iii) specify an address to which such representations may be forwarded; and
- (b) give due consideration to any representations so

made;

and, when submitting the report, he or she shall attach to the report any representations so made, together with his or her comments on those representations.

(13)

Where any land is acquired by the Commonwealth for the purposes of this Part, the Minister shall, as soon as practicable after the acquisition, but subject to compliance with subsections (11) and (12) (where applicable), cause the carrying out of that purpose to be submitted for consideration by the Executive Council.

(14)

Subject to subsection (10B), where land is within a park or reserve, it does not cease to be within the park or reserve by reason only of a transfer, assignment, surrender or extinguishment of, or any other change of any description in, any interest in respect of that land.

- SECT 8

Registration of changes in title to land

Where, by reason of a Proclamation under section 7, any interest in any land (including any subsoil) in a State or Territory becomes vested in the Director or the Commonwealth or ceases to exist, the Director may lodge with the Registrar-General, Registrar of Titles or other appropriate officer of the State or Territory a copy of the Proclamation, certified by writing signed by the Director, and the officer with whom it is so lodged may make such entries in his or her registers, and do such other things, as are necessary to reflect the operation of section 7 in relation to the land by virtue of the Proclamation.

- SECT 8A

Conservation zones

(1)

The objects of this section are the protection and conservation of wildlife in, and the protection of the natural features of, an area of land or sea in the Region until a decision is made whether or not to declare the area to be a park or reserve.

(2)

The Governor-General may, by Proclamation, declare an area within the Region, not being an area within a park or reserve, to be a conservation zone.

(3)

Subject to subsection (5), the Governor-General may, by

Proclamation, revoke or amend a Proclamation made under subsection (2).

(4)

Where an area is declared to be a conservation zone:

(a)

the subsoil beneath any land within the area, extending to such depth below the surface as is specified in the Proclamation;

(b)

the waters and sea-bed beneath any sea within the area; and

(c)

the subsoil beneath any such sea-bed, extending to such depth below the sea-bed as is specified in the Proclamation;

shall be taken to be within that conservation zone.

(5)

A Proclamation under subsection (3) by virtue of which an area is to cease to be within a conservation zone shall not be made unless:

(a)

a Proclamation is made under section 7, coming into operation immediately after the first-mentioned Proclamation comes into operation, declaring the area to be, or to be included in, a park or reserve; or

(b)

the area is to be used for operations for the recovery of minerals, other than prospecting or exploration.

(6)

For the purposes of making regulations in relation to conservation zones, subsections 71(2) (other than paragraph (t)) and 71(3) apply, subject to subsection (7) of this section, in relation to conservation zones as they apply in relation to parks and reserves.

(7)

For the purposes of subsection (6), paragraphs 71(2)(da), (h), (j), (l),

(n)

and (s) apply as if the words "or prohibiting" were omitted.

(8)

In addition to the powers to make regulations conferred by subsection (6) and section 71, regulations in relation to conservation zones may be made:

(a)

regulating or prohibiting operations for the recovery of minerals;

- (b) regulating the carrying on of fishing, pastoral or agricultural activities for commercial purposes;
- (c) regulating the construction or alteration of buildings and structures;
- (d) regulating the construction or establishment of bridges, railways, roads, tracks, port facilities and air-strips and the carrying out of any other works;
- (e) regulating the felling or taking of timber;
- (f) making provision for and in relation to the powers to be exercised, and the functions and duties to be performed, in and in relation to conservation zones by wardens, rangers and other persons, being persons included in specified classes of persons; and
- (g) making provision for and in relation to the giving of securities for compliance with regulations made in pursuance of this section by persons doing, or proposing to do, anything to which those regulations relate.

(9) Subsection (1) does not limit the power to make regulations conferred by paragraph (8)(a).

(10) Where:

- (a) regulations made under paragraph (8)(a) have effect in relation to a conservation zone; and
- (b) an area is subsequently excised from the zone;

then, except as otherwise provided in the regulations, the regulations continue to apply in relation to the area, and further regulations may be made under that paragraph in relation to the area, as if the area had not been excised.

(11) Regulations made under paragraph (8)(a) have effect notwithstanding:

- (a) any other regulations made under this Act; or
- (b)

any law of the Northern Territory, or any Act, by or under which interests referred to in subparagraph 8B(1)(a)(i) have been created, preserved or otherwise affected.

(12)

Regulations made under this section (other than regulations made under paragraph (8)(a)) have no effect to the extent that they are inconsistent with the terms and conditions of:

(a)

an interest of either of the following kinds granted before the commencement of the Lands Acquisition Act 1989:

(i)

a lease or licence granted under section 51 of the Lands Acquisition Act 1955;

(ii)

a right (however described) to explore or prospect for minerals granted under section 53 of the Lands Acquisition Act 1955; or

(b)

a right (however described) to explore for minerals, or to mine for or recover minerals, granted under section 124 of the Lands Acquisition Act 1989.

(13)

Any operation for the recovery of minerals on, in or beneath land in a conservation zone in the exercise of an interest referred to in subparagraph 8B(1)(a)(i) shall be deemed, for the purposes of procedures contained in orders made under the Environment Protection (Impact of Proposals) Act 1974, to be a proposed action within the meaning of those procedures.

- SECT 8B

Existing interests etc. in parks and reserves

(1)

Where any land is within a park, reserve or conservation zone:

(a)

subject to paragraph (b), the prescribed provisions of this Act and of the regulations (other than subsection 8A(13) or regulations made under paragraph 8A(8)(a)) and, in the case of a park or reserve, the provisions of the plan of management do not affect:

(i)

any interest in respect of that land or in respect of any minerals on, in or beneath that land held immediately before that land was within the park, reserve or conservation zone by any person other than the Commonwealth or the Director; or

(ii) the application of any law of a State or Territory in relation to such an interest; and

(b) notwithstanding anything to the contrary contained in any law of the Commonwealth or of a State or Territory, an interest referred to in subparagraph (a)(i) (not being an interest in respect of minerals beneath the land concerned) shall not be renewed, and the term of such an interest shall not be extended, except with the consent in writing of the Minister and subject to such conditions as the Minister determines.

(2) A person adversely affected by the refusal of the Minister to give consent, or by the imposition of conditions, under paragraph (1)(b) is entitled to be paid reasonable compensation by the Commonwealth.

(3) In this section:

(a) a reference to land shall be read as including a reference to sea-bed and subsoil;

(b) a reference to a prescribed provision shall be read as a reference to a provision that has effect only in relation to:

(i) a particular park, reserve or conservation zone;
or

(ii) parks, reserves and conservation zones, or any of them;

(c) a reference to an interest shall be read as including a reference to the exercise of a right arising out of an interest; and

(d) a reference to minerals beneath land that is within a park, reserve or conservation zone shall be read as a

reference to minerals situated below the depth specified in relation to that land in pursuance of subsection 7(6) or 8A(4), whichever is applicable.

- (4) This section does not apply in relation to:
- (a) any interest in respect of any minerals on, in or beneath land within Kakadu National Park; or
 - (b) any other interest in so far as it relates to operations for the recovery of any such minerals.

- SECT 8C
Townships in the Region

- (1) Where the plan of management relating to a park or reserve the whole or part of which is within the Region so provides, townships may be established and developed within the park or reserve or that part of the park or reserve, as the case may be, and the succeeding provisions of this section apply accordingly.
- (2) A township, other than a township to which subsection (3) applies, may be established and developed:
- (a) by the Director; or
 - (b) by any other person on land held under lease by that person from the Director.
- (3) An existing township within a park or reserve may be developed by a person other than the Director, but development of an existing township shall not take place on land that was undeveloped at the commencement of this section unless the land is held under lease from the Director.
- (4) A township shall not be established or developed, and no building work shall be carried out in a township, except in accordance with:
- (a) the provisions of the plan of management; and
 - (b) a town plan prepared and approved in the manner provided by the regulations.

(5) The provisions of the plan of management relating to a township shall include provisions for and in relation to:

- (a) in the case of a township to be established under paragraph (2)(a) or (b);the site of the township and the general purposes of the township;
- (b) in the case of a township to be established or developed on land held under lease from the Director;the terms and conditions of the lease; and
- (c) where the township is to be divided into zones;the respective purposes of the zones.

(6) The town plan shall make detailed provision, not inconsistent with the plan of management or, in the case of a township to be established or developed on land held under lease from the Director, with the lease, for and in relation to the proposed construction or development of the township, including, in particular, the provision (if any) to be made for:

- (a) housing, shops, offices and other buildings and structures;
- (b) bridges, railways, roads, streets, footpaths and parking areas;
- (c) the supply of water, electricity and gas;
- (d) the standards to be maintained in the construction and alteration of buildings and structures;
- (e) sewerage and drainage;
- (f) public amenities for recreation and other purposes; and
- (g) any other matters that are specified for the purposes of this paragraph by the plan of management, the regulations or, in the case of a township to be established or developed on land held under lease from the Director, by the lease.

(7) For the purposes of subsection (6), the town plan may apply,

adopt or incorporate, with or without modification:

- (a) the provisions of any law of, or of a part of, the Northern Territory as in force at a specified time or as in force from time to time, being a law that, but for that application, adoption or incorporation, would not apply in relation to the township; or
 - (b) any matter contained in any instrument or writing as in force or existing at a specified time.
- (8) A town plan may be revoked or amended in the manner provided by the regulations, but a town plan shall not be amended so as to be inconsistent with the plan of management or, in the case of a township established or developed on land held under lease from the Director, with the lease.
- (9) In this section:
- building work means the construction, alteration or demolition of a building or structure.
 - existing township, in relation to a park or reserve, means a township that was in existence before its inclusion within the park or reserve.
 - lease, in relation to a township established or developed on Aboriginal land, means sub-lease.

- SECT 8D

Township at Jabiru

- (1) In this section, unless the contrary intention appears:
- Authority means the Jabiru Town Development Authority established by the Jabiru Town Development Act 1978 of the Northern Territory.
 - licence means a licence granted under subsection (2), and includes a licence as varied under subsection (4).
 - Park means Kakadu National Park.
 - township means the township referred to in subsection (2).
- (2) At any time before a plan of management relating to the Park comes into force, the Director may grant written licences to the Authority authorizing it to do such things within the Park as are specified in the licences, being things that he or she considers necessary or convenient to be commenced, before the

plan of management comes into force, for and in relation to the establishment and development of a township at or near a place in the Region known as Jabiru.

- (3) The Director shall not grant a licence under subsection (2) unless:
 - (a) the Authority has informed him or her, in writing, that the Conservation Commission, and each other authority or body established by or under a law of the Northern Territory which the Authority has considered it appropriate to consult in relation to the issue of the licence, have agreed to the issue of the licence; and
 - (b) where, under the Aboriginal Land Rights (Northern Territory) Act 1976, an Aboriginal Land Council has, or Aboriginal Land Councils have, been established for any area or areas wholly or partly within the Park; the Director has consulted with, and had regard to the views of, the Chairperson of that Council or of each of those Councils, as the case may be, in relation to the issue of the licence.
- (4) In granting a licence under subsection (2), the Director shall impose such conditions as he or she thinks fit providing for such of the objects set out in subsection 11(8) as are applicable.
- (5) A licence may be varied at any time by the Director with the consent of the Authority.
- (6) At any time when a plan of management relating to the Park is in force, things authorized to be done by a licence shall be done in accordance with the licence and, to the extent to which the plan is not inconsistent with the licence, also in accordance with the plan.
- (7) As soon as practicable after a plan of management relating to the Park comes into force, a town plan relating to the township shall be prepared and approved as provided by section 8C.
- (8) On the date of coming into effect of a town plan in pursuance of subsection (7), section 8C applies, subject to this section, in relation to the township as if it were a township established and developed in accordance with subsection (1) of that section.
- (9) At any time after the coming into effect of a town plan in

pursuance of subsection (7), things authorized to be done by a licence shall be done in accordance with the licence and, to the extent to which the town plan is not inconsistent with the licence, also in accordance with the town plan.

(10)

In:

- (a) the making of a variation of a licence;
- (b) the preparation and consideration of a plan of management relating to the Park; and
- (c) the preparation and approval of a town plan in pursuance of subsection (7);

due regard shall be had to buildings, structures and works constructed, erected or carried out, or authorized to be constructed, erected or carried out, in accordance with this section.

- SECT 9

Restriction of disposal etc. of land in parks and reserves

(1)

Notwithstanding any law of the Commonwealth or of a State or Territory, but subject to subsections (2), (2A), (2B) and (3), no interest held by the Director in respect of land within a park or reserve shall be sold, leased or otherwise disposed of.

(2)

Where the plan of management relating to a park or reserve so provides, the Director may grant leases of, or licences in respect of, land in that park or reserve in accordance with the plan of management.

(2A)

The Director may, for the purposes of establishing and developing a township as provided by section 8D, grant leases of, or licences in respect of, land in the Kakadu National Park established under this Act in the Northern Territory.

(2B)

The Director may surrender a lease of land within a park or reserve in consideration of the grant to the Director of a new lease of land that includes that land.

(3)

The Director may, for the purposes of Part II of the Aboriginal Land Rights (Northern Territory) Act 1976, surrender or transfer to the Commonwealth any interest held by him or her in respect of land within a park or reserve within the Region.

(3A)

The Lands Acquisition Act 1989 does not apply to the grant or

surrender of a lease or sub-lease under this section.

- (4) In this section (other than in subsection (2B)), lease, in relation to Aboriginal land, means sub-lease.

- SECT 10

Mining, works, forestry etc. in parks, reserves and wilderness zones

- (1) Subject to sections 8B and 8D, this section has effect notwithstanding any law of the Commonwealth or of a State or Territory.
- (1A) No operations for the recovery of minerals shall be carried on in Kakadu National Park.
- (1B) Subsection (1A) shall not be taken to prevent the use, development or reconstruction of the township known as Jabiru.
- (2) No operations for the recovery of minerals shall be carried on in a park or reserve (not being Kakadu National Park) other than operations that are carried on, with the approval of the Governor-General, in accordance with the plan of management relating to that park or reserve.
- (3) Subject to subsections (4) and (4A):
- (a) no excavations shall be carried on;
 - (b) no building or other structure shall be erected;
 - (c) no works shall be carried out; and
 - (d) no timber shall be felled or taken;

in a park or reserve except in accordance with the plan of management relating to that park or reserve.

- (4) At a time when no plan of management is in force in relation to a particular park or reserve the whole or part of which is outside the Region, subsection (3) does not prevent the Director from performing his or her functions in the park or reserve or that part of the park or reserve, as the case may be (in this subsection referred to, in either case, as the area), for the purpose of preserving or protecting the area, protecting or conserving wildlife in the area, controlling authorized scientific research or protecting persons or property in the area.

(4A)

At a time when no plan of management is in force in relation to a particular park or reserve the whole or part of which is within the Region, the Director may, subject to any directions of the Minister:

- (a) approve the erection of buildings and other structures, and the carrying out of excavations and other works, in the park or reserve or that part of the park or reserve, as the case may be; and
- (b) perform his or her functions and exercise his or her powers in and in relation to the park or reserve or that part of the park or reserve, as the case may be.

(5)

A wilderness zone shall be maintained in its natural state and shall be used only for scientific research authorized by the Director and such recreational and other purposes, other than the recovery of minerals, as are specified in the plan of management relating to the wilderness zone, but this subsection does not prohibit anything done by the Director in accordance with subsection (6).

(6)

Notwithstanding subsections (4) and (4A):

- (a) no excavation shall be carried on;
- (b) no building or other structure shall be erected;
- (c) no works shall be carried out;
- (d) no timber shall be felled or taken;
- (e) no tracks shall be established; and
- (f) no vehicle, aircraft or vessel shall be used;

in a wilderness zone except by the Director, in accordance with the plan of management relating to the zone, for purposes essential to the management of the zone.

- SECT 11

Plans of management

(1)

Subject to subsection (2), as soon as practicable after a park or reserve has been declared, the Director shall prepare a plan

of management in respect of that park or reserve.

(2)

Where a Board is established under Part IIA for a prescribed park or reserve, the Board, in conjunction with the Director, shall, as soon as practicable after the Board is established, prepare a plan of management in respect of that park or reserve unless, at the time when the Board is established, there is already a plan of management in force in respect of that park or reserve.

(2A)

Before a plan of management is prepared in respect of a park or reserve, the Director shall, by public notice:

(a)

state that a plan of management is to be prepared in respect of that park or reserve;

(b)

invite interested persons to make representations in connection with the proposed plan by such date, not being less than 1 month after the date of publication of the notice in the Gazette, as is specified in the notice; and

(c)

specify an address to which such representations may be forwarded;

and, in the case of a plan of management in respect of a park or reserve wholly or partly within a prescribed area, shall serve a copy of the notice on the relevant Chairperson.

(3)

A person (including the Conservation Commission, the Chairperson of an Aboriginal Land Council established under the Aboriginal Land Rights (Northern Territory) Act 1976 or the Chairperson of the Wreck Bay Aboriginal Community Council) may, not later than the date specified in the notice, make representations to the Director in connexion with the proposed plan of management, and the Director, or the Director together with the Board, as the case requires, shall give due consideration to any representations so made.

(5)

The plan of management may include provisions in relation to an area that is proposed to be added to the park or reserve, but those provisions shall not have effect until the area is added to the park or reserve.

(6)

The plan of management shall set out a description of the manner in which it is proposed to manage the park or reserve and shall include:

(a)

a description of any existing or proposed buildings, structures, facilities or other development; and

- (b) a description of any operations for the recovery of minerals, or excavation, works or other operations, that may be carried on;

in the park or reserve.

- (7) Where a plan of management provides for operations for the recovery of minerals or for excavation or other works, the plan shall set out any conditions that are to be applicable.

- (8) In the preparation of the plan of management, regard shall be had to the following objects:

- (a) in the case of a park;the encouragement and regulation of the appropriate use, appreciation and enjoyment of the park by the public;
- (b) in the case of a reserve;the regulation of the use of the reserve for the purpose for which it was declared;
- (ba) in the case of a park or reserve wholly or partly within the Region;the interests of the traditional Aboriginal owners of, and of other Aboriginals interested in, so much of the land within the park or reserve as is within the Region;
- (bb) in the case of the Jervis Bay National Park or the Jervis Bay Botanic Gardens;the interests of the traditional Aboriginal owners of the land;
- (c) the preservation of the park or reserve in its natural condition and the protection of its special features, including objects and sites of biological, historical, palaeontological, archaeological, geological and geographical interest;
- (ca) in the case of a park or reserve managed as a botanic garden;the increase of knowledge, appreciation and enjoyment of Australia's plant heritage by establishing, as an integrated resource, a collection of living and herbarium specimens of Australian and related plants for study, interpretation, conservation and display;
- (d) the protection, conservation and management of

Aboriginal Land Rights (Northern Territory) Act 1976 or the Chairperson of the Wreck Bay Aboriginal Community Council) may, not later than the date specified in the notice, make representations to the Director in connexion with the plan of management, and the Director, or the Director together with the Board, as the case requires, shall give due consideration to any representations so made and, if the Director thinks fit, or the Director and the Board think fit, as the case requires, alter the plan accordingly.

(11A)

Where the Director and the Board are unable to agree on:

- (a) the preparation under subsection (2) of a plan of management in respect of that park or reserve;
- (b) the alteration or alterations to be made under subsection (11) to the plan of management in respect of that park or reserve; or
- (c) the submission of the plan of management to the Minister under subsection (12);

the Director and the Board shall advise the Minister accordingly.

(11B)

Where the Minister is advised under subsection (11A) of a disagreement between the Director and the Board, the Minister shall take such steps as the Minister considers appropriate to resolve the disagreement.

(11C)

Where the Minister is unable to resolve the disagreement, the Minister shall appoint an arbitrator (being a person whom the Minister considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.

(11D)

A person appointed under subsection (11C) shall inquire into the matter and submit a report, together with the person's recommendations, to the Minister.

(11E)

Where the Minister receives a report and recommendations under subsection (11D), the Minister shall give such directions as the Minister thinks appropriate to the Director and the Board, together with a statement of the Minister's reasons for giving the directions and a copy of the report and recommendations given to the Minister under subsection (11D).

(11F)

The Director and the Board shall comply with any directions given by the Minister under subsection (11E).

(12)

The Director shall, subject to subsection (12A), thereupon submit to the Minister:

- (a) the plan of management; and
- (b) if representations have been made under subsection (11); those representations, together with the comments of the Director, or the Director and the Board, as the case requires, on those representations.

(12A)

Where a Board, in conjunction with the Director, is preparing a plan of management in respect of that park or reserve, the Director shall not submit the plan of management to the Minister under subsection (12) without the consent of the Board.

(13)

Subject to subsection (20):

- (a) in a case where the Minister is satisfied that, in relation to a plan of management in respect of a park or reserve wholly or partly within a prescribed area, there is a substantial difference of opinion between the relevant Chairperson, on the one hand, and the Director, or the Director and the Board, as the case requires, on the other hand, the Minister shall refer the plan to the Director, together with his or her suggestions, for further consideration by the Director, or by the Director together with the Board, as the case requires; or
- (b) in any other case, the Minister may:
 - (i) accept the plan of management as submitted under subsection (12); or
 - (ii) refer it to the Director, together with his or her suggestions, for further consideration by the Director, or by the Director together with the Board, as the case requires.

(14)

Where, under subsection (13), the Minister refers to the Director the plan of management in respect of a park or reserve wholly or partly within the Northern Territory, he or she shall cause a copy of his or her suggestions referred to the Director with the plan to be served on the Conservation Commission and,

if the park or reserve is also wholly or partly within a prescribed area, on the relevant Chairperson, and the Commission and, as the case may be, the Chairperson may, within the period of 14 days after receiving a copy of the suggestions, make representations to the Director in connexion with the suggestions.

(14A)

If, under subsection (13), the Minister refers to the Director a plan of management in respect of the Jervis Bay National Park or the Jervis Bay Botanic Gardens, the Minister must serve on the Chairperson of the Wreck Bay Aboriginal Community Council a copy of the suggestions that he or she referred to the Director with the plan. The Chairperson may, within 14 days after receiving a copy of the suggestions, make representations to the Director in relation to the suggestions.

(15)

Where the plan of management has been referred to the Director under subsection (13), the Director, or the Director together with the Board, as the case requires, shall, as soon as practicable after receipt of the plan or, in a case to which subsection (14) applies, after the expiration of the period referred to in that subsection, give further consideration to the plan, having regard to the suggestions of the Minister and any representations received under subsection (14), and the Director shall, subject to subsection (15A), again submit the plan, with or without alterations, to the Minister, together with:

- (a) his or her comments on the suggestions of the Minister; and
- (b) a copy of any representations received under subsection (14), together with his or her comments on those representations.

(15A)

Where a Board, in conjunction with the Director, is preparing a plan of management in respect of that park or reserve, the Director shall not submit the plan of management to the Minister under subsection (15) without the consent of the Board.

(15B)

Where the Director and the Board are unable to agree on the submission of the plan of management to the Minister under subsection (15), the Director and the Board shall advise the Minister accordingly and the provisions of subsections (11B) to (11F) (inclusive) apply to and in relation to the disagreement as if the disagreement were a disagreement of the kind referred to in subsection (11A).

(16)

Where, under subsection (15), the Director submits a plan of management, with or without alterations, to the Minister and the plan is in respect of a park or reserve wholly or partly within a prescribed area, the Director shall, not later than the date on which the plan is so submitted to the Minister, serve on the relevant Chairperson copies of the plan and of any comments and representations submitted to the Minister under subsection (15), and the Chairperson may, within the period of 14 days after receiving the copies, submit to the Minister representations in connexion with the plan.

(17) Where the Minister receives representations under subsection (16) and he or she is satisfied that there is a substantial difference of opinion between the relevant Chairperson and the Director in relation to the plan of management, the Minister may appoint a person (being a person whom the Minister considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.

(18) A person appointed under subsection (17) shall inquire into the matter and submit a report, together with his or her recommendations, to the Minister.

(19) Subject to subsection (20), as soon as practicable after the plan of management is submitted to the Minister under subsection (15) or, in a case to which subsection (16) applies, after the expiration of the period referred to in that subsection, the Minister shall accept the plan as so submitted or, if he or she is of the opinion that the plan as so submitted should be altered, the plan as so submitted and altered by him or her in such manner as he or she thinks fit.

(20) The Minister shall not take any action:

- (a) under subsection (13); except after giving due consideration to any representations or comments submitted to him or her under subsection (12); or
- (b) under subsection (19); except after giving due consideration to any representations or comments submitted to him or her under subsection (15) or (16), and to any report and recommendations submitted to him or her under subsection (18).

(21) When a plan of management is laid before both Houses of Parliament under section 12, the Minister shall cause the plan to be accompanied by:

- (a)

copies of any representations and comments, and of any report and recommendations, submitted to him or her under this section in connexion with the plan, other than those that have been given effect to in the plan; and

(b) in a case where he or she has made alterations to the plan under subsection (19); a report specifying the alterations and setting out any views in respect of matters to which the alterations relate expressed by the Director and:

(i) in the case of a plan of management in respect of a park or reserve wholly or partly within the Northern Territory:

(A) by the Conservation Commission; and

(B) if the park or reserve is also wholly or partly within a prescribed area; by the relevant Chairperson; and

(ii) in the case of a plan of management in respect of the Jervis Bay National Park or the Jervis Bay Botanic Gardens; by the Chairperson of the Wreck Bay Aboriginal Community Council.

(22)

In this section:

prescribed area means:

(a) an area situated wholly or partly within the Region, and for which an Aboriginal Land Council has been established under the Aboriginal Land Rights (Northern Territory) Act 1976; or

(b) the Jervis Bay National Park or the Jervis Bay Botanic Gardens.

relevant Chairperson means:

(a) in relation to a prescribed area wholly or partly within the Region; the Chairperson of the Aboriginal Land Council for the area; or

(b) in relation to the Jervis Bay National Park or the Jervis Bay Botanic Gardens; the Chairperson of the Wreck Bay Aboriginal Community Council.

- SECT 12

Plan of management to be laid before Parliament

- (1) The Minister shall, as soon as practicable after a plan of management has been accepted under section 11, cause it to be laid before both Houses of the Parliament.
- (2) Either House of the Parliament, within 20 sitting days of that House after the plan of management has been laid before that House, may, in pursuance of a motion upon notice, pass a resolution disallowing the plan of management.
- (3) If neither House of the Parliament passes a resolution in accordance with subsection (2) disallowing the plan of management, the plan of management comes into operation on the day immediately following the last day upon which such a resolution could have been passed by either House.
- (4) If, before the expiration of 20 sitting days of a House of the Parliament after the plan of management has been laid before that House:
 - (a) that House is dissolved or, being the House of Representatives, expires, or the Parliament is prorogued; and
 - (b) a resolution for the disallowance of the plan of management has not been passed by that House;

the plan of management shall, for the purposes of this section, be deemed to have been laid before that House on the first sitting day of that House after the dissolution, expiry or prorogation, as the case may be.

- (5) If either House of the Parliament passes a resolution in accordance with subsection (2) disallowing the plan of management, the Minister shall give to the Director a direction that a fresh plan of management be prepared and, where the Minister gives such a direction, a fresh plan of management shall be prepared in accordance with section 11.
- (6) As soon as practicable after a plan of management has come into operation, the Minister shall publish a notice in the Gazette and in such newspapers as he or she thinks fit, stating that the plan of management has come into operation, specifying an address or addresses where copies of the plan of management may

be inspected or purchased and specifying the day (being a day not later than 10 years after the day on which the plan of management came into operation) on which the plan of management is to cease to have effect.

- (7) The plan of management shall, unless sooner revoked, cease to have effect on the day specified by the Minister in the notice published in the Gazette.
- (8) It is the duty of the Director, or of the Director and the Board, as the case requires, to ensure, so far as is practicable, that, on the day on which the plan of management in respect of a park or reserve ceases to have effect under subsection (7) or as soon as practicable thereafter, a new plan of management in respect of that park or reserve comes into operation.
- (9) Subsections 11(2A) to (22) (inclusive) and subsections (1) to (8) (inclusive) of this section apply in relation to the new plan of management in like manner as they apply in relation to a plan of management that is not a new plan of management.

- SECT 13
Amendment or revocation of plan of management

- (1) Subject to subsection (2), a plan of management may be amended at any time and subsections 11(2A) to (22) (inclusive) and section 12 apply in relation to any such amendment in like manner as they apply in relation to a plan of management.
- (2) A plan of management shall not be amended so as to extend the period of operation of the plan to a day later than the day specified under subsection 12(6).
- (3) A plan of management in respect of a park or reserve may be revoked by a new plan of management in respect of that park or reserve, but the revocation shall not take effect until the new plan comes into operation.

- SECT 14
Director to comply with plan of management

- (1) While a plan of management is in force, the Director shall perform his or her functions and exercise his or her powers in relation to the park or reserve to which the plan relates in

accordance with that plan and not otherwise.

- (2) Where, in respect of Aboriginal land wholly or partly within the area for which an Aboriginal Land Council has been established under the Aboriginal Land Rights (Northern Territory) Act 1976, being an area wholly or partly within the Region, a difference of opinion arises between the Chairperson of that Council and the Director as to whether the Director is performing his or her functions or exercising his or her powers in accordance with a plan of management, the Minister shall appoint a person (being a person whom he or she considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.

- (2A) If, in respect of the Jervis Bay National Park or the Jervis Bay Botanic Gardens, a difference of opinion arises between the Chairperson of the Wreck Bay Aboriginal Community Council and the Director as to whether the Director is performing functions or exercising powers in accordance with a plan of management, the Minister must appoint a person (whom the Minister considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.

- (3) A person appointed under subsection (2) shall inquire into the matter and submit a report, together with his or her recommendations, to the Minister.

- (4) Upon receipt of a report and recommendations under subsection (3), the Minister shall give the Director such directions in the matter as he or she thinks fit, and the Director shall comply with those directions.

- SECT 14A

Disagreement between the Director and Board over implementation of plan of management

- (1)

Where:

- (a) a Board has been established under Part IIA for a park or reserve; and
- (b) the Director is of the opinion that:
- (i) the implementation of a decision of the Board is likely to be substantially detrimental to the good management of that park or reserve; or
- (ii) a decision of the Board is contrary to the plan

of management in respect of that park or reserve;

the Director shall advise the Minister accordingly.

- (2) Where the Minister is advised under subsection (1) of a disagreement between the Director and the Board, the Minister shall take such steps as the Minister considers appropriate to resolve the disagreement.
- (3) Where the Minister is unable to resolve the disagreement, the Minister shall appoint an arbitrator (being a person whom the Minister considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.
- (4) A person appointed under subsection (3) shall inquire into the matter and submit a report, together with the person's recommendations, to the Minister.
- (5) Where the Minister receives a report and recommendations under subsection (4), the Minister shall give such directions as the Minister thinks appropriate to the Director and the Board, together with a statement of the Minister's reasons for giving the directions and a copy of the report and recommendations given to the Minister under subsection (4).
- (6) The Director and the Board shall comply with any directions given by the Minister under subsection (5).

Part IIA; Boards

- SECT 14B
Interpretation

In this Part, unless the contrary intention appears:

relevant Council means:

- (a) in relation to Aboriginal land in the Region; the Aboriginal Land Council established under the Aboriginal Land Rights (Northern Territory) Act 1976 for the area in which the land is situated; or
- (b) in relation to the Jervis Bay National Park or the Jervis Bay Botanic Gardens; the Wreck Bay

Aboriginal Community Council.

relevant preconditions, in relation to an office of member of a Board, means the preconditions that a person must satisfy, in accordance with the section 14C notice in relation to the Board, in order to be eligible for appointment to that office.

section 14C notice means a notice under subsection 14C(1) and includes such a notice as amended or further amended under subsection 14C(4).

- SECT 14C
Boards

(1)

Where:

- (a) an area of Aboriginal land is situated wholly or partly within a prescribed park or reserve; and
- (b) the Minister and the relevant Council in relation to the land:
 - (i) agree that a Board should be established for that park or reserve; and
 - (ii) agree on the matters to be specified, in accordance with subsection (2), in the notice in respect of the Board;

the Minister shall, by notice published in the Gazette, establish a Board for that park or reserve.

(2)

A notice under subsection (1) establishing a Board shall:

- (a) specify the park or reserve for which the Board is established;
- (b) specify the name by which the Board is to be known;
- (c) specify the number of persons who are to constitute the Board; and
- (d) subject to subsection (5), specify, in relation to each office of member of the Board, the preconditions that a person must satisfy in order to be eligible

for appointment to that office.

- (3) Subject to subsection (6), the Minister may, by notice published in the Gazette, revoke a notice under subsection (1) in relation to a Board.
- (4) Subject to subsections (5) and (6), the Minister may, by notice published in the Gazette, amend, or further amend, a notice under subsection (1) in relation to a Board so as to:
 - (a) change the specification of the name by which the Board is to be known;
 - (b) increase the number of persons who are to constitute the Board and specify, in relation to each additional office of member of the Board so created, the preconditions that a person must satisfy in order to be eligible for appointment to that office;
 - (c) decrease the number of persons who are to constitute the Board and specify which office or offices of member of the Board is or are abolished; or
 - (d) change the specification, in relation to an office of member of the Board, of the preconditions that a person must satisfy in order to be eligible for appointment to that office.
- (5) Where a Board is established for a park or reserve that consists wholly of Aboriginal land, a majority of the members of the Board shall be Aboriginals nominated by the traditional Aboriginal owners of that Aboriginal land.
- (6) Where a Board is established for a park or reserve, the Minister shall not revoke, amend or further amend a notice under subsection (1) in relation to that park or reserve unless the relevant Council in relation to the Aboriginal land situated in that park or reserve has agreed to the revocation, amendment or further amendment, as the case requires.
- (7) Where the Minister, under subsection (4), amends or further amends a notice under subsection (1) in relation to a Board so as to alter the name of the Board or so as to alter the constitution of the Board, section 25B of the Acts Interpretation Act 1901 applies in relation to that alteration as if the alteration had been made by an Act.
- (8) The performance of the functions and the exercise of the powers

of a Board are not affected by a vacancy or vacancies in the membership of the Board.

- SECT 14D
Functions of Boards

- (1) The functions of a Board established for a park or reserve are:
 - (a) to prepare, in conjunction with the Director, plans of management in respect of that park or reserve;
 - (b) to make decisions, being decisions that are consistent with the plan of management in respect of that park or reserve, in relation to the management of that park or reserve;
 - (c) to monitor, in conjunction with the Director, the management of that park or reserve; and
 - (d) to give advice, in conjunction with the Director, to the Minister on all aspects of the future development of that park or reserve.
- (2) A Board shall, in performing its functions under this Act, comply with any directions given by the Minister to the Board under section 11, 13 or 14A.

- SECT 14E
Appointment of members of Boards

- (1) The Minister may, by instrument in writing, appoint to an office of member of a Board a person who satisfies the relevant preconditions in relation to that office.
- (2) Where an office of member of a Board becomes vacant, the Minister shall appoint a person to that office in accordance with subsection (1) as soon as practicable after that office becomes vacant.
- (3) A member of a Board 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.

- SECT 14F

Tenure of office

- (1) A person appointed to an office of member of a Board holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (2) Where the instrument of appointment of a member does not specify a period of appointment in accordance with subsection (1), the instrument of appointment shall be deemed to specify that the member holds office for a period of 5 years commencing on the day of appointment.
- (3) Where a person is appointed to an office of member of a Board and the person ceases to satisfy the relevant preconditions in respect of the office, the person's appointment to the office terminates at the time when the person ceases to satisfy those preconditions.
- (4) A member of a Board may resign office by writing signed by the member and delivered to the Minister.
- (5) The Minister may terminate the appointment of a member of a Board for misbehaviour or physical or mental incapacity.
- (6) If a member of a Board is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board of which the member has had notice, the Minister may terminate the appointment of the member.
- (7) If a member of a Board fails, without reasonable excuse, to comply with the member's obligations under section 14J, the Minister shall terminate the appointment of the member.
- (8) Where a person is appointed as a member of a Board on the nomination of a particular person, body or group of persons, the Minister shall terminate the appointment of the member if that person, body or group requests the Minister, in writing, to do so.
- (9) The appointment of a member of a Board is not invalidated, and shall not be called in question, by reason of a deficiency or irregularity in, or in connection with, the nomination, selection or appointment of the member.

- SECT 14G Deputy members

- (1)

Where an appointment to an office of member of a Board established for a park or reserve may be made only in pursuance of a nomination by the traditional Aboriginal owners of Aboriginal land situated in that park or reserve, those traditional Aboriginal owners may nominate a person who satisfies the relevant preconditions in relation to that office to be the deputy of the member of the Board holding that office.

- (2) A member of a Board who was appointed otherwise than pursuant to a nomination by the traditional Aboriginal owners of Aboriginal land situated in the park or reserve for which the Board is established may, with the approval of the Minister, nominate a person who satisfies the relevant preconditions in relation to the member's office to be the deputy of the member.
- (3) Where a person is nominated to be the deputy of a member of a Board, the person so nominated may, if the member is absent from a meeting of the Board, attend that meeting and, when so attending, shall, subject to subsection (4), be deemed to be a member of the Board.
- (4) A person who is nominated to be the deputy of a member of a Board shall not preside at a meeting of the Board.
- (5) Where the traditional Aboriginal owners of Aboriginal land situated in the park or reserve for which a Board is established nominate a person, pursuant to subsection (1), to be the deputy of a member of the Board, those traditional Aboriginal owners may revoke that nomination.
- (6) A member of a Board who was appointed otherwise than pursuant to a nomination by the traditional Aboriginal owners of Aboriginal land situated in the park or reserve for which the Board is established may, with the approval of the Minister, revoke a nomination made by the member under subsection (2).
- (7) The nomination of a person as the deputy of a member of a Board is not invalidated, and shall not be called in question, by reason of a deficiency or irregularity in or in connection with the selection or nomination of the person.

- SECT 14H

Presiding members

- (1) A Board may, by resolution, appoint a member of the Board to be the presiding member of the Board.
- (2) A member appointed to be presiding member of a Board holds

office, subject to subsection (3), for such period as is determined by the Board at the time of the member's appointment to that office.

- (3) A member of a Board ceases to hold office as presiding member of the Board if:
- (a) the member resigns that office;
 - (b) the Board revokes the member's appointment to that office; or
 - (c) the member ceases to be a member of the Board.

- SECT 14J

Disclosure of interests

- (1) A member of a Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of that interest at a meeting of the Board.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board.

- SECT 14K

Meetings

- (1) Meetings of a Board shall be held at such times and places as the Board, from time to time, determines.
- (2) The presiding member of a Board may at any time, and, if so directed by the Minister, shall, convene a meeting of the Board.
- (3) Subject to the provisions of this Act, a Board shall determine its procedures and determine which persons are to be permitted to attend or participate in meetings of the Board.
- (4) Subject to subsections (5) and (6), at a meeting of a Board, a number of members greater than half the number of persons who constitute the Board constitute a quorum.
- (5) Where a Board is established for a park or reserve that consists wholly of Aboriginal land, a meeting of the Board

shall not be held, or shall not continue, unless the majority of the members of the Board present at the meeting are members appointed pursuant to nominations by the traditional Aboriginal owners of that Aboriginal land.

- (6) A meeting of a Board shall not be held, or shall not continue, unless at least one of the members of the Board present at the meeting is a member appointed otherwise than pursuant to a nomination by the traditional Aboriginal owners of the Aboriginal land situated in the park or reserve for which the Board is established.
- (7) Subject to subsection (8), the presiding member of a Board shall preside at all meetings of the Board.
- (8) If the presiding member of a Board is absent from a meeting of the Board, the members of the Board who are present shall elect one of their number to preside at the meeting.
- (9) Decisions of a Board shall be determined by a majority of the members of the Board present and voting.
- (10) The member of a Board who is presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Part III; The Director of National Parks and Wildlife

- SECT 15

Director of National Parks and Wildlife

- (1) There shall be a Director of National Parks and Wildlife, who shall be a corporation with perpetual succession.

Note: Subject to section 15A, the Commonwealth Authorities and Companies Act 1997 applies to the Director. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (2) The corporation shall have a seal, and may sue or be sued in its corporate name.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the corporation affixed to documents and shall presume that it was duly affixed.

- (4) At all times after the first appointment of a person to the office of Director, the corporation continues in existence notwithstanding any vacancy in that office.

- SECT 15A

Modification of the Commonwealth Authorities and Companies Act 1997

- (1) Subsection 15(1) provides that the Director is a corporation. The Commonwealth Authorities and Companies Act 1997 applies (subject to subsections (2) and (3)) in relation to the corporation as if the person holding, or performing the duties of, the office of Director were a director of the corporation for the purposes of that Act.
- (2) Sections 27F to 27L of the Commonwealth Authorities and Companies Act 1997 do not apply in relation to the Director.
- (3) The Commonwealth Authorities and Companies Act 1997 applies to the Fund as though the Fund were money of the Director.

- SECT 16

Functions

- (1) The functions of the Director are:
- (a) to administer, manage and control parks, reserves and conservation zones;
 - (b) to protect, conserve, manage and control wildlife;
 - (c) to conduct surveys, and collect statistics, of and in relation to animals and plants;
 - (d) to co-operate with any country in matters relating to the protection and conservation of animals and plants in that country and the establishment and management of national parks and nature reserves in that country;
 - (e) to provide, and assist in the provision of, training in the knowledge and skills relevant to the protection, conservation and management of wildlife and the establishment and management of national parks and nature reserves;
 - (f)

to carry out by himself or herself or in co-operation with other institutions and persons, and to arrange for any other institution or person to carry out, research and investigations relevant to the establishment and management of national parks and nature reserves and the protection, conservation and management of wildlife;

(g) to make recommendations to the Minister in relation to:

(i) the establishment and naming of parks and reserves; and

(ii) the protection and conservation of wildlife throughout Australia;

(h) to administer the Fund;

(ha) any other functions conferred on the Director under any other Act; and

(i) to do anything incidental or conducive to the performance of any of the foregoing functions.

(2) Except as otherwise provided by this Act, the Director shall perform his or her functions and exercise his or her powers in accordance with any directions given by the Minister.

(4) In relation to the performance of his or her functions and the exercise of his or her powers with respect to a park, reserve or conservation zone wholly or partly within the Northern Territory, the Director shall, from time to time, consult with, and have regard to the views of, the Conservation Commission and, if the park, reserve or conservation zone is also wholly or partly within an area for which an Aboriginal Land Council has been established under the Aboriginal Land Rights (Northern Territory) Act 1976, the Chairperson of the Council.

(4A) When performing functions and exercising powers with respect to the Jervis Bay National Park or the Jervis Bay Botanic Gardens, the Director must, from time to time, consult with, and have regard to the views of, the Chairperson of the Wreck Bay Aboriginal Community Council.

- SECT 17
Powers

(1) The Director 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 and, in particular, has power:

- (a) to enter into contracts; and
- (b) to erect buildings and structures and carry on works; and
- (c) to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Director; and
- (d) to acquire, hold and dispose of real or personal property; and
- (da) despite section 49, obtain goods or services on credit from any person by the use of a credit card; and
- (e) to accept gifts, devises and bequests made to the Director whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Director upon trust; and
- (f) to do anything incidental to any of his or her powers.

(1A) The Director may, subject to the approval of the Minister, determine and impose charges:

- (a) for entering or using a park or reserve or part of a park or reserve;
- (b) for using services or facilities provided by the Director in or in connexion with a park, reserve or conservation zone; and
- (c) for:

- (i) the parking or stopping of vehicles;
- (ii) the mooring or landing of vessels;
- (iii) the landing of aircraft; and
- (iv) the use of vehicles and vessels;

in parks and reserves.

- (2) Notwithstanding anything contained in this Act, any moneys or property vested in the Director upon trust shall be dealt with in accordance with the powers and duties of the Director as trustee.
- (3) The Director has power to perform any of his or her functions in co-operation with a State, with an authority of the Commonwealth or of a State or with a local governing body.

- SECT 17AA

Disclosure of interest by Director

If the Director has a material personal interest in a matter that the Director is considering or is about to consider, the Director must give written notice of the interest to the Minister.

- SECT 17A

Director may obtain information and documents in relation to the Region

- (1) The Director may, by notice in writing served either personally or by post on any person involved in or associated with uranium mining operations in the Region, 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 the functions or the exercise of the powers of the Director under this Act so far as those functions or powers relate to those operations.

(2)

A person shall not, in purported compliance with a notice served on him or her under subsection (1), knowingly furnish information that is false or misleading.

Penalty: \$1,000.

(3)

It is a reasonable excuse for a person to fail to furnish information or a document that he or she is required to furnish under this section if the furnishing of the information, or the document, may tend to incriminate him or her.

- SECT 17B

Director to have access to buildings and places in the Region

(1)

The Director, or a person authorized by the Director in writing, is entitled, with the consent of the occupier, to full and free access to all buildings and places in the Region for the purpose of the performance of the functions or the exercise of the powers of the Director under this Act, so far as those functions or powers relate to uranium mining operations.

(2)

A person shall not, without reasonable excuse, obstruct or hinder the Director, or a person authorized by him or her, in the exercise of the powers conferred by subsection (1).

Penalty: \$1,000 or imprisonment for 6 months, or both.

- SECT 17C

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 17A has refused or failed to comply, or to comply fully, with the notice, the Director may apply to the Supreme Court of the Northern Territory of Australia for an order under this section against that person.

(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 paragraph 17A(1)(a) or (b);

the Court may make an order requiring the person against whom the order is sought to furnish to the Director, 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.

- SECT 17D

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 Director or an authorized person into that building or place under section 17B, the Director 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 Director or an authorized person to the building or place to which the proceedings relate is necessary for the purpose referred to in subsection 17B(1), 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 Director or an authorized person into that building or place for that purpose.
- (4) In this section, authorized person, means a person who is an authorized person for the purposes of section 17B.

- SECT 17E
Secrecy

- (1) Subsection (2) applies to every person who is or has been the Director or a member of the staff assisting the Director.
- (2) Subject to subsection (3), a person to whom this subsection applies shall not, either directly or indirectly, except in the performance of a duty under or in connexion with this Act, make a record of, or divulge or communicate to any person, any information relating to uranium mining operations in the Region, being 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 or otherwise in the performance of functions or the exercise of powers under this Act.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (3) Subsection (2) does not prevent the communication of information or the production of a document by the Director or a member of the staff assisting the Director authorized by him or her for that purpose:
 - (a) to the Minister, to the Secretary of a Department that deals with matters arising under this Act or to an officer of, or employee in, such a 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 be produced.
- (4) Neither the Secretary of a Department that deals with matters arising under this Act nor an officer of, or employee in, that Department approved by him or her for the purposes of subsection (3) shall, either directly or indirectly, except for the purpose of advising the Minister in connexion with this Act, make a record of, or divulge or communicate to any person, any information relating to uranium mining operations in the Region communicated to him or her by the Director or by a member of the staff assisting the Director, being information concerning the affairs of another person acquired by the

Director or by a member of that staff by reason of his or her office or employment under or for the purposes of this Act or otherwise in the performance of functions or the exercise of powers under this Act.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (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 Director is a reference to a member of the Service or a person engaged under section 35 or performing functions and exercising powers by virtue of section 36 or a person to whom a delegation has been made under section 20.

- SECT 17F

Application of Aboriginal Land Rights (Northern Territory) Act

Subsection 70(1) of the Aboriginal Land Rights (Northern Territory) Act 1976 does not prevent a person from entering or remaining on Aboriginal land in the exercise of powers or the performance of functions or duties under this Act.

- SECT 18

Co-operation with Aboriginals

- (1) Subject to subsection (2), the Director may assist and co-operate with Aboriginals in managing land to which this section applies for the purpose of the protection and conservation of wildlife in that land and the protection of the natural features of that land.
- (2) The Director shall not take any action under subsection (1) in relation to any land (not being land within a park, reserve or conservation zone) except:
 - (a) after consultation with the Aboriginals, if any, as to whom the Minister is satisfied that they have traditional rights in relation to the land; and
 - (b) in accordance with an agreement between the Director and:

- (i) in the case of land vested in the Commonwealth; the Minister of State for Aboriginal Affairs;
 - (ii) in the case of land vested in a State; the Minister of that State or the authority of that State, as the case may be, having responsibility for the administration of that land; or
 - (iii) in the case of any other land; the person in whom, or body in which, the land is vested.
- (3) With the consent of the person with whom, or the party or body with which, such an agreement is made by the Director in relation to any land, the Governor-General may, by Proclamation, assign a name to that land.
- (4) This section applies to:
- (a) land vested in an Aboriginal or Aborigines or in a body corporate that is wholly owned by Aborigines;
 - (b) land held upon trust for the benefit of Aborigines; or
 - (c) any other land occupied by Aborigines.

- SECT 19
Wildlife conservation programs

- (1) The Director may:
- (a) formulate and implement; and
 - (b) co-operate with a State or the Northern Territory or with an authority of a State or of the Northern Territory in formulating and implementing;
- programs for the purposes of the protection, conservation, management and control of wildlife.
- (2) A program formulated under subsection (1) shall be based upon, among other matters:

- (a) an examination of the habitat of the wildlife to which the program relates;
- (b) an evaluation of the extent to which parks and reserves (including parks and reserves established under a law of a State or Territory) assist in the conservation of the wildlife to which the program relates;
- (c) an assessment and analysis of the population of the wildlife to which the program relates; and
- (d) consideration of the obligations of Australia under agreements between Australia and other countries relating to the protection and conservation of wildlife;

and shall provide for the review, at appropriate intervals, of the matters referred to in paragraphs (a), (b), (c) and (d).

- (3) This section is not intended to exclude or limit the concurrent operation of any law of a State or of the Northern Territory.
- (4) A program shall not be implemented by the Director under this section until it has been approved by the Minister.

- SECT 20
Delegation

- (1) Subject to any directions of the Minister, the Director may, by writing signed by him or her, delegate to a person all or any of his or her powers and functions under this Act (except this power of delegation).
- (2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.
- (3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Director.

- SECT 21
Contracts and leases

(1) The Director shall not, without the approval of the Minister:

- (a) enter into a contract involving the payment or receipt of an amount exceeding \$250,000 or, if a higher amount is prescribed, that higher amount; or
- (b) take any land on lease for a period exceeding 10 years.

(2) Subsection (1) does not apply in relation to a lease of Aboriginal land.

- SECT 22
Appointment of Director

(1) The Director shall be appointed by the Governor-General.

(2) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

- SECT 23
Qualifications

A person shall not be appointed to be the Director unless he or she has such qualifications and experience in connexion with national parks or the conservation and management of animals and plants as, in the opinion of the Governor-General, render him or her suitable for the appointment.

- SECT 24
Term of office

(1) The Director shall be appointed for such period, not exceeding 7 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Director, and a person shall not be appointed or re-appointed as the Director for a period that extends beyond the date on which he or she will attain the age of 65 years.

- SECT 25

Remuneration and allowances

(1)

The Director shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he or she shall be paid such remuneration as is prescribed.

(2)

Subject to the Remuneration Tribunal Act 1973-1974, the Director shall be paid such allowances as are prescribed.

- SECT 26

Leave of absence

(1)

The Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

(2)

The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

- SECT 27

Resignation

The Director may resign his or her office by writing signed by him or her and delivered to the Governor-General.

- SECT 28

Termination of office

(1)

The Governor-General may terminate the appointment of the Director by reason of misbehaviour or physical or mental incapacity.

(2)

If the Director:

(a)

engages in paid employment outside the duties of his or her office without the approval of the Minister;

(b)

is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months;
or

- (c) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

the Governor-General shall terminate his or her appointment.

- SECT 29
Acting Director

- (1) The Minister may appoint a person to act as the Director:
 - (a) during a vacancy in the office of Director, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Director is absent from duty or from Australia or, for any reason, is unable to perform the functions of his or her office.
- (2) A person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (3) The Minister may:
 - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed under this section; and
 - (b) at any time terminate such an appointment.
- (4) Where a person is acting in the office of Director in accordance with paragraph (1)(b), and the office becomes vacant while he or she is so acting, he or she may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (5) The appointment of a person under this section ceases to have

effect if he or she resigns the appointment by writing signed by him or her and delivered to the Minister.

- (6) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for his or her appointment had not arisen or that his or her appointment had ceased to have effect.

- SECT 30
Powers etc. of Acting Director

- (1) At any time when a person is acting in the office of Director he or she has, and may exercise, all the powers, and shall perform all the functions, of the Director and shall be deemed to be the Director for the purposes of any reference to the Director in any other law.
- (2) At any time when a person is acting in the office of Director in accordance with paragraph 29(1)(a), he or she shall be deemed to constitute the corporation referred to in section 15.

Part IV; Administration and enforcement

Division 1;

- SECT 33
Establishment of Service

There is established by this Act, for the purpose of assisting the Director in the performance of his or her functions, a Service by the name of the Australian National Parks and Wildlife Service.

- SECT 34
Constitution of Service

- (1) The persons who constitute the Service shall be persons engaged under the Public Service Act 1999 and having duties for the purposes of the Service.
- (2) For the purposes of the Public Service Act 1999:
- (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and

- (b) the Director is the Head of that Statutory Agency.

- SECT 35
Performance of services by other persons

Notwithstanding section 34, the Director may, with the consent of the Minister, engage persons, not being persons referred to in that section, to provide services for the Director.

- SECT 36
Officers and employees of governments and authorities

- (1) The Government of the Commonwealth may make arrangements with the Government of a State for the performance of functions and the exercise of powers under this Act by officers or employees of that State or of an authority of that State.
- (2) The Director may make arrangements with an Agency Head (within the meaning of the Public Service Act 1999), or with an authority of the Commonwealth, for the performance of functions and the exercise of powers under this Act by officers or employees of the Agency or of the authority, as the case may be.
- (3) The Government of the Commonwealth:
 - (a) shall, from time to time, consult with, and have regard to the views of, the Administrator of the Northern Territory in relation to the performance of functions and the exercise of powers under this Act by officers or employees of the Territory or of an authority of the Territory; and
 - (b) may make arrangements with the Administrator for the performance of those functions and the exercise of those powers by such officers or employees.
- (4) The Director may make arrangements with the Head of a Department of the Public Service of the Northern Territory, or with an authority of the Territory, for the performance of functions and the exercise of powers under this Act by officers or employees of the Department or of the authority, as the case may be.
- (5) An arrangement under this section must not be inconsistent

with:

- (a) any law; or
 - (b) any agreement between the Commonwealth and an Aboriginal Land Council established under the Aboriginal Land Rights (Northern Territory) Act 1976 or between the Director and any such Land Council; or
 - (c) any agreement between the Commonwealth and the Wreck Bay Aboriginal Community Council or between the Director and the Council.
- (6) The references in paragraphs (3)(a) and (b) to the Administrator of the Northern Territory shall be read as references to the Administrator of the Northern Territory acting with the advice of the Executive Council of the Northern Territory.

- SECT 37

Appointment of wardens and rangers

The Director may, by instrument in writing, appoint:

- (a) an officer of, or employee in, the Service; or
- (b) an officer or employee referred to in section 36;

as a warden or as a ranger.

- SECT 38

Wardens ex officio

By force of this section, the Director and any member or special member of the Australian Federal Police or member of the police force of a Territory is a warden.

- SECT 38A

Appointment of wildlife inspectors

The Director may, by instrument in writing, appoint:

- (a) an officer of, or employee in, the Service; or

(b)
an officer or employee referred to in section 36;
as a wildlife inspector.

Note: Section 44F confers powers on wildlife inspectors.

- SECT 39
Identity cards

- (1)
The Director shall cause to be issued to each warden, other than a member of a police force, to each ranger and to each wildlife inspector, an identity card in the form prescribed, containing a photograph of the holder.
- (2)
A person who ceases to be a warden, a ranger or a wildlife inspector shall forthwith return his or her identity card to the Director.

Penalty: \$100.

Division 2;

- SECT 40
Extent of powers

- (1)
The powers conferred by this Division may be exercised anywhere within or outside Australia in relation to:
- (a)
Australian nationals; or
 - (b)
Australian aircraft and Australian vessels; or
 - (c)
the members of the crew (including persons in charge) of Australian aircraft and Australian vessels.
- (2)
Subject to this section, the powers conferred by this Division may be exercised (other than in relation to a person, aircraft or vessel of a kind mentioned in subsection (1)) anywhere:
- (a)
in Australia; or
 - (b)
on or in the Australian coastal sea; or
 - (c)

on, or in the waters above, the continental shelf of Australia; or

(d) on or in the Australian fishing zone.

(3) On, or in the waters above, the continental shelf of Australia, the powers conferred by this Division may only be exercised, as provided for in subsection (2), in relation to an offence against this Act committed:

(a) on, or in the waters above, the continental shelf of Australia; or

(b) in a park, reserve or conservation zone.

(4) On or in the Australian fishing zone, the powers conferred by this Division may only be exercised, as provided for in subsection (2), in relation to an offence against this Act committed on or in the Australian fishing zone.

(5) Nothing in subsection (2), (3) or (4) affects the operation of section 44E.

Note: Regulations made under section 71 may confer additional powers on wardens, rangers and wildlife inspectors.

- SECT 41

Arrest without warrant

(1) A warden may, without warrant, arrest a person if the warden has reasonable grounds to believe:

(a) that the person has committed an offence against this Act; and

(b) that proceedings against the person by summons would not be effective.

(2) A warden (other than a member of a police force who is in uniform) who arrests a person under subsection (1) must:

(a) in the case of a member of a police force; produce, for inspection by the person,

written evidence of the fact that the warden is a member of a police force; or

- (b) in any other case; produce the warden's identity card for inspection by the person.
- (3) Nothing in this section prevents the arrest of a person under any other law.

- SECT 42

Confiscation and forfeiture

- (1) If a court convicts a person of an offence against this Act, the court may order the forfeiture to the Commonwealth of any vehicle, aircraft, vessel or article used or otherwise involved in the commission of the offence.
- (2) In considering whether it is appropriate to make such an order in respect of a vehicle, aircraft, vessel or article, the court may have regard to:
- (a) any hardship that may reasonably be expected to be caused to any person by the operation of such an order; and
 - (b) the use that is ordinarily made, or was intended to be made, of the vehicle, aircraft, vessel or article; and
 - (c) the gravity of the offence concerned.
- (3) A warden may:
- (a) seize any vehicle, aircraft, vessel or article that the warden reasonably believes to have been used or otherwise involved in the commission of an offence against this Act; and
 - (b) retain it until:
 - (i) the end of the period of 60 days after the seizure; or
 - (ii) if proceedings for an offence against this Act

in the commission of which it may have been used or otherwise involved are instituted within that period; the proceedings (including any appeal to a court in relation to those proceedings) are completed.

- (4) The Director may authorise a vehicle, aircraft, vessel or article seized under subsection (3) to be released to its owner, or to the person from whose possession it was seized, either:
 - (a) unconditionally; or
 - (b) on such conditions as the Director thinks fit, including conditions as to giving security for payment of its value if it is forfeited.
- (5) A vehicle, aircraft, vessel or article forfeited under this section may be sold or otherwise disposed of as the Director thinks fit.
- (6) A warden may seize:
 - (a) any animal or plant that the warden reasonably believes to have been killed or taken in contravention of this Act; or
 - (b) any animal or plant that the warden reasonably believes to have been used or otherwise involved in the commission of an offence against this Act.
- (7) If an animal or plant has been seized under subsection (6), the Director may cause it to be:
 - (a) retained; or
 - (b) sold or otherwise disposed of.
- (8) If an animal or plant seized under subsection (6) was not killed or taken in contravention of this Act or used or otherwise involved in the commission of an offence against this Act, any person who has suffered loss or damage because of the seizure is entitled to reasonable compensation.

- SECT 43

Searches of vehicles, aircraft and vessels

(1)

This section applies in relation to a vehicle, aircraft or vessel if:

(a)

a warden believes on reasonable grounds that there is in or on the vehicle, aircraft or vessel:

(i)

anything in respect of which an offence against this Act has been committed; or

(ii)

anything that may afford evidence about the commission of an offence against this Act; or

(b)

the vehicle, aircraft or vessel is in a park, reserve or conservation zone and a search of the vehicle, aircraft or vessel is reasonably necessary for the purpose of ascertaining whether there is in that vehicle, aircraft or vessel:

(i)

anything in respect of which an offence against this Act has been committed; or

(ii)

anything that may afford evidence about the commission of an offence against this Act.

(2)

The warden may:

(a)

stop and detain the vehicle or vessel, or detain the aircraft, as the case requires; and

(b)

search the vehicle, aircraft or vessel; and

(c)

break open and search any compartment, container or other receptacle, in or on the vehicle, vessel or aircraft, in which the warden suspects on reasonable grounds there to be anything of a kind referred to in subsection (1); and

(d)

examine and seize:

(i)

anything in respect of which the warden suspects on reasonable grounds an offence against this Act has been committed; or

- (ii) anything that the warden suspects on reasonable grounds may afford evidence about the commission of an offence against this Act.

- (3) A warden (other than a member of a police force who is in uniform) who stops or proposes to search or detain a vehicle, aircraft or vessel must:

- (a) in the case of a member of a police force; produce, for inspection by the person in charge of the vehicle, aircraft or vessel, written evidence of the fact that the warden is a member of a police force; or
- (b) in any other case; produce the warden's identity card for inspection by the person;

and, if the warden fails to do so, he or she is not authorised to search or detain the vehicle, aircraft or vessel.

- SECT 44

Searches of land or premises

- (1) This section applies if a warden suspects on reasonable grounds that there is in or on land or premises:

- (a) anything in respect of which an offence against this Act has been committed; or
- (b) anything that may afford evidence about the commission of an offence against this Act.

- (2) The warden may, with the consent of the owner or occupier of the land or premises or under a warrant issued under section 44A:

- (a) enter the land or premises; and
- (b) search the land or premises; and
- (c)

break open and search a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in which the warden suspects on reasonable grounds there to be anything of a kind referred to in subsection (1); and

- (d) examine and seize:
 - (i) anything in respect of which the warden suspects on reasonable grounds an offence against this Act has been committed; or
 - (ii) anything that the warden suspects on reasonable grounds may afford evidence about the commission of an offence against this Act.
- (3) A warden (other than a member of a police force who is in uniform) who proposes to enter land or premises under subsection (2) must:
- (a) in the case of a member of a police force; produce, for inspection by the owner or occupier of the land or premises, written evidence of the fact that the warden is a member of a police force; or
 - (b) in any other case; produce the warden's identity card for inspection by the owner or occupier;

and, if the warden fails to do so, he or she is not authorised to enter the land or premises.

- (4) If the entry is under a warrant issued under section 44A, the warden is taken not to have complied with subsection (3), unless he or she also produces the warrant for inspection by the owner or occupier.

- SECT 44A

Warrants for searches of land or premises

- (1) If:
- (a) an information on oath is laid before a magistrate alleging that a warden suspects on reasonable grounds

that there may be, in or on land or premises:

- (i) anything in respect of which an offence against this Act has been committed; or
 - (ii) anything that may afford evidence about the commission of an offence against this Act; and
- (b) the information sets out those grounds;

the magistrate may issue a search warrant authorising a warden named in the warrant, with such assistance, and by such force, as is necessary and reasonable, to enter the land or premises and exercise the powers referred to in paragraphs 44(2)(b), (c) and (d) in respect of the thing.

(2) The magistrate must not issue the warrant unless:

- (a) the informant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) There must be stated in the warrant:

- (a) the purpose for which the warrant is issued, and the nature of the offence in relation to which the entry and search are authorised; and
- (b) whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
- (c) a description of the kind of things to be seized; and
- (d) a day, not later than 7 days after the day of issue of the warrant, upon which the warrant ceases to have effect.

(4) If, in the course of searching, under the warrant, for a

particular thing in relation to a particular offence, a warden finds a thing that the warden believes on reasonable grounds to be:

- (a) a thing that will afford evidence about the commission of the offence, although not the thing specified in the warrant; or
- (b) a thing that will afford evidence about the commission of another offence against this Act;

and the warden believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence, the warrant is taken to authorise the warden to seize that thing.

- SECT 44B

Warrants may be granted by telephone or other electronic means

- (1) If, because of circumstances of urgency, a warden thinks it necessary to do so, the warden may apply for a warrant under subsection 44A(1) by telephone, telex, fax or other electronic means under this section.
- (2) Before applying, the warden must prepare an information of a kind referred to in subsection 44A(1) that sets out the grounds on which the issue of the warrant is being sought, but may, if it is necessary to do so, make the application before the information has been sworn.
- (3) If the magistrate to whom an application under subsection (1) is made is satisfied:
 - (a) after having considered the terms of the information prepared under subsection (2); and
 - (b) after having received such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought;

that there are reasonable grounds for issuing the warrant, the magistrate must complete and sign such a search warrant as the magistrate would issue under section 44A if the application had been made under that section.

- (4) If the magistrate signs a warrant under subsection (3):
- (a) the magistrate must:
 - (i) inform the warden of the terms of the warrant; and
 - (ii) inform the warden of the day on which and the time at which the warrant was signed; and
 - (iii) inform the warden of the day (not more than 7 days after the magistrate completes and signs the warrant) on which the warrant ceases to have effect; and
 - (iv) record on the warrant the reasons for issuing the warrant; and
 - (b) the warden must:
 - (i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
 - (ii) write on it the magistrate's name and the day on which and the time at which the warrant was signed.
- (5) The warden must, not later than the day after the date of expiry or execution of the warrant, whichever is the earlier, send to the magistrate:
- (a) the form of warrant completed by the warden; and
 - (b) the information duly sworn in connection with the warrant.
- (6) Upon receiving the documents referred to in subsection (5), the magistrate must:
- (a) attach to them the warrant signed by the magistrate; and

- (b) deal with the documents in the way in which the magistrate would have dealt with the information if the application for the warrant had been made under section 44A.
- (7) A form of warrant duly completed by a warden under subsection (4) is, if it is in accordance with the terms of the warrant signed by the magistrate, authority for any entry, search, seizure or other exercise of a power that the warrant so signed authorises.
- (8) If:
 - (a) it is material, in any proceedings, for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised in accordance with this section; and
 - (b) the warrant signed by a magistrate under this section authorising the entry, search, seizure or other exercise of power is not produced in evidence;

the court is to assume, unless the contrary is proved, that the entry, search, seizure or other exercise of power was not authorised by such a warrant.

- SECT 44C

Retention of things seized

- (1) If a warden seizes a thing under paragraph 43(2)(d) or 44(2)(d), the warden may retain it until:
 - (a) the end of the period of 60 days after the seizure;
or
 - (b) if proceedings for an offence against this Act in the commission of which it may have been used or otherwise involved, or in respect of which it may afford evidence, are instituted within that period; until the proceedings (including any appeal to a court in relation to those proceedings) are completed.
- (2) The Director may authorise a thing seized under

paragraph 43(2)(d) or 44(2)(d) to be released to its owner, or to the person from whose possession it was seized, either:

- (a) unconditionally; or
- (b) on such conditions as the Director thinks fit, including conditions as to giving security for payment of its value if it is forfeited.

- SECT 44D

Wardens may require certain information etc.

(1)

A warden who:

- (a) detains or searches a vehicle, aircraft or vessel under section 43; or
- (b) enters or searches land or premises under section 44;

may require a person found in or on the vehicle, aircraft or vessel, or on the land or premises, to state the person's full name and address.

(2)

A warden who detains or searches a vessel under section 43 may require the person in charge of the vessel to give the warden such information concerning:

- (a) the vessel and its crew; and
- (b) any person on board the vessel;

as the warden requests.

(3)

A warden or ranger may, in a park, reserve or conservation zone:

- (a) require any person whom the warden or ranger finds committing, or suspects on reasonable grounds to be committing or to have committed, an offence against this Act to state the person's full name and address; and
- (b) require any person whom the warden or ranger finds

committing, or suspects on reasonable grounds to be committing or to have committed, an offence against this Act to leave the park, reserve or conservation zone; and

- (c) require any person whom the warden or ranger suspects on reasonable grounds of doing or having done an act in respect of which the person is required to hold a licence, permit or other authority under this Act to produce such a licence or permit, or evidence of such an authority.

- (4) If a warden (other than a member of a police force who is in uniform) or a ranger makes a requirement of a person under this section, the warden or ranger must:

- (a) in the case of a member of the police force; produce, for inspection by that person, written evidence of the fact that the warden is a member of a police force; or
- (b) in any other case; produce the warden's or ranger's identity card for inspection by that person;

and, if the warden or ranger fails to do so, that person is not obliged to comply with the requirement.

- SECT 44E

Power to pursue persons and vessels

- (1) A warden may exercise, in relation to foreign vessels and foreign nationals in any place, but not within the territorial sea of another country, a power conferred on the warden under section 41 or 43 if:

- (a) one or more wardens (whether or not including the warden exercising the power) have pursued the person or vessel from a place within one of the areas referred to in subsection 40(2) to such a place; and
- (b) the pursuit was not terminated or interrupted at any time before the warden concerned arrived at such a place with a view to exercising that power.

- (2) For the purposes of paragraph (1)(b), a pursuit of a person or

vessel is not taken to be terminated or interrupted only because the warden or wardens concerned lose sight of the person or vessel.

- (3) A reference in subsection (2) to losing sight of a person or vessel includes a reference to losing output from a radar or other sensing device.

- SECT 44F

Powers of wildlife inspectors

- (1) A wildlife inspector has, in relation to the offences specified in his or her instrument of appointment, the same powers as a warden has under this Division.

- (2) In this section:

offence means an offence against the regulations.

- SECT 44G

Offences against Part III excluded

A reference in this Division to an offence against this Act is taken not to include a reference to an offence against:

- (a) a provision of Part III; or
- (b) a regulation made for the purposes of such a provision.

- SECT 44H

Obstruction of wardens etc.

- (1) A person must not:
- (a) without reasonable excuse, refuse or fail to comply with a requirement made by an officer in the exercise of powers under section 44D (including the exercise of those powers by virtue of section 44F); or
 - (b) state a false name and address, or give false information, to an officer when lawfully required by the officer, in the exercise of powers under section 44D (including the exercise of those powers by virtue

of section 44F), to state the person's full name and address, or to give information, to the officer.

Penalty: Imprisonment for 6 months.

(2)

In this section:

officer means a warden, ranger or wildlife inspector.

Part V; Finance

- SECT 45

Establishment of Fund

(1)

There is established by this Act a fund by the name of the Australian National Parks and Wildlife Fund.

(2)

The Fund is vested in the Director.

- SECT 46

Payments to Fund

(1)

The following amounts are to be paid into the Fund:

(a)

any money appropriated by the Parliament for the purposes of this Act;

(b)

the proceeds of the sale of any property acquired out of money standing to the credit of the Fund;

(c)

any amounts paid to the Director in respect of leases, licences, permits and other authorities granted by the Director;

(d)

any other amount paid by a person to the Director if payment of the amount into the Fund would be consistent with the purposes for which the amount was paid by the Director and the Minister for Finance considers it appropriate that the amount should be paid into the Fund;

(e)

any charges paid under subsection 17(1A);

(f)

any other money received by the Director in the performance of his or her functions.

(2)

There is to be transferred to the Fund from the Consolidated Revenue Fund amounts equal to the following amounts:

- (a) the proceeds of a sale made under section 42;
- (b) any amount paid as a fine or other penalty imposed under this Act;
- (c) any fees collected under section 79 of the Wildlife Protection (Regulation of Exports and Imports) Act 1982.

(3)

The Consolidated Revenue Fund is appropriated for the purposes of transferring amounts to the Fund under subsection (2).

- SECT 48

Application of moneys

(1)

The moneys of the Fund shall be applied only:

- (a) in payment or discharge of the costs, expenses and other obligations incurred by the Director in the performance of his or her functions; and
- (b) in payment of any remuneration and allowances, and of any compensation (other than compensation payable under subsection 8B(2)), payable under this Act.

(2)

Subsection (1) does not prevent investment of surplus money of the Fund under section 18 of the Commonwealth Authorities and Companies Act 1997.

- SECT 49

No borrowing

The Director must not borrow money in the performance of his or her functions.

- SECT 52

Extra matters to be included in annual report

The annual report prepared by the Director under section 9 of the Commonwealth Authorities and Companies Act 1997 must also include:

- (a) particulars of any directions given by the Minister under subsection 16(2) of this Act during the year to which the report relates; and
- (b) the report prepared by the Director under section 49 of the Endangered Species Protection Act 1992.

- SECT 54
Exemption from taxation

The income of the Fund and the property and transactions of the Director are not subject to taxation under a law of the Commonwealth or of a State or Territory.

Part VI; Transfer of certain officers and employees

- SECT 55
Interpretation

In this Part, unless the contrary intention appears:

employed, in relation to the Public Service, means employed under Division 10 of Part III of the Public Service Act, and employment and employee shall be construed accordingly.

officer of the Reserves Board means a person employed under section 19 of the National Parks and Gardens Ordinance 1959, as amended, of the Northern Territory.

Public Service means the Service constituted under the Public Service Act.

Public Service Act means the Public Service Act 1922-1974.

Public Service Board means the Board constituted under the Public Service Act.

Reserves Board means the Board continued in existence under the National Parks and Gardens Ordinance 1959, as amended, of the Northern Territory.

- SECT 56
Incorporation with Public Service Act

The provisions of this Part relating to the appointment of persons to, and the employment of persons in, the Public Service are incorporated and shall be read as one with the Public Service Act.

- SECT 57
Arrangement for transfer

The Public Service Board may enter into an arrangement with the Reserves Board with respect to the transfer of officers of the Reserves Board to the Public Service.

- SECT 58
Right to elect to transfer

- (1) For the purposes of giving effect to an arrangement entered into under section 57, the Public Service Board may, by notice in writing addressed to an officer of the Reserves Board:
 - (a) inform him or her that he or she may elect to be appointed to the Public Service; or
 - (b) inform him or her that he or she may elect to be employed in the Public Service in the Australian National Parks and Wildlife Service.
- (2) An election in pursuance of a notice given under subsection (1) shall be in writing addressed to the Public Service Board and shall be delivered to the Secretary of that Board within the period of 60 days after the date of the notice or within such further period as that Board, within that period of 60 days, allows.
- (3) A notice under subsection (1) shall include particulars of the proposed appointment or employment.

- SECT 59

Appointment to Public Service

Where a person elects, in pursuance of a notice given under section 58, to be appointed to the Public Service, the Public Service Board may (notwithstanding anything contained in the Public Service Act, except in paragraphs 34(1)(a) and

- (c) of that Act) appoint him or her accordingly.

- SECT 60

Temporary employment in Public Service

(1)

Where a person elects, in pursuance of a notice given under section 58, to be employed in the Public Service in the Australian National Parks and Wildlife Service, the Public Service Board may authorize his or her employment accordingly.

(2)

Subsections 82(1) and (2) of the Public Service Act do not apply in relation to any employment authorized by the Public Service Board under subsection (1).

- SECT 61

Rate of remuneration

(1)

Subject to this section, the provisions of Division 6 of Part III of the Public Service Act relating to the reduction in, or suspension of, remuneration payable to an officer, the Commonwealth Employees (Redeployment and Retirement) Act 1979 and to any law providing for a reduction in the remuneration payable to officers of the Public Service generally, the rate of remuneration of a person appointed or employed under this Part shall, while he or she continues in the Public Service, be not less favourable than that to which, in the opinion of the Public Service Board, he or she would have been entitled in respect of the normal position which he or she occupied as an officer of the Reserves Board immediately before his or her appointment or employment under this Part.

(2)

Where, by virtue of subsection (1), the remuneration to which a person is entitled would or might be increased by reason of an increment of salary in respect of the normal position which he or she occupied as an officer of the Reserves Board, his or her entitlement to the increase is subject to the provisions of the regulations under the Public Service Act, and of the determinations in force under subsection 9(7A) or section 82D

of that Act that are applicable to him or her, relating to increments of salary.

(3)

In this section, remuneration means salary or pay and includes such allowances as, in the opinion of the Public Service Board, should be regarded as having formed part of the salary or pay of the person in his or her normal position as an officer of the Reserves Board.

- SECT 62

Prior service reckoned as service in Public Service

Where a person is appointed or employed under this Part and his or her service in the Public Service is continuous with permanent service or temporary service, as the case may be, of that person with the Reserves Board (including any service deemed under the law of the Northern Territory to have been continuous service) that service with the Reserves Board shall be reckoned, for the purposes of the Public Service Act and the Long Service Leave (Commonwealth Employees) Act 1976, as service in the Public Service.

- SECT 63

Accrued recreation or sick leave

A person appointed or employed under this Part preserves his or her eligibility for the grant of leave of absence for recreation or sickness that had accrued immediately prior to his or her being so appointed or employed.

- SECT 64

Special conditions of employment

(1)

For the purpose of ensuring that the conditions of employment of a person appointed or employed under this Part are, as far as possible, as favourable as those which, in the opinion of the Public Service Board, he or she enjoyed as an officer of the Reserves Board, the Public Service Board may, notwithstanding anything in the Public Service Act or any other law:

(a)

determine any conditions of employment that are to apply to him or her; or

(b)

determine that an allowance is payable to him or her as compensation;

or both.

(2)

In this section, conditions of employment includes conditions relating to salary, pay or allowances, but does not include conditions relating to superannuation.

Part VII;Miscellaneous

- SECT 65

Averment in relation to parks, reserves and conservation zones

In any proceedings for an offence against this Act, an averment of the prosecutor, contained in the information or complaint, that, at a specified time:

(a)

the defendant was in a specified park, reserve or conservation zone; or

(b)

an animal, plant, vehicle, aircraft, vessel or article referred to in the information or complaint was in a specified park, reserve or conservation zone;

is prima facie evidence of the matter averred.

- SECT 68

Changes in office of Director

An authority given, or a delegation or appointment made, by a person for the time being holding or acting in the office of Director continues in force notwithstanding that the person ceases to hold or act in that office, but may be revoked by a person later holding or acting in that office.

- SECT 69

International agreements

(1)

The Governor-General may make regulations for and in relation to giving effect to an agreement specified in the Schedule.

(2)

Regulations made under subsection (1) in relation to an agreement that has not entered into force for Australia shall not come into operation on a date earlier than the date on

which the agreement enters into force for Australia.

- (3) Subsections 71(5), (7) and (8) apply in relation to regulations made under this section in like manner as they apply in relation to regulations made under section 71.

- SECT 70

Traditional use of land and water by Aboriginals

- (1) Subject to subsection (2) and to the operation of this Act in relation to parks, reserves and conservation zones, nothing in this Act prevents Aboriginals from continuing, in accordance with law, the traditional use of any area of land or water for hunting or food;gathering (otherwise than for purposes of sale) and for ceremonial and religious purposes.
- (2) The operation of subsection (1) is subject to regulations made for the purpose of conserving wildlife in any area and expressly affecting the traditional use of the area by Aboriginals.

- SECT 71

Regulations

- (1) 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.
- (2) Without limiting the generality of subsection (1), regulations may be made:
- (a) providing for functions and powers to be conferred, and duties to be imposed, upon wardens, rangers and wildlife inspectors;
 - (b) providing for the protection and conservation of wildlife;
 - (c) regulating trade and commerce in connexion with wildlife in a Territory;
 - (d) regulating or prohibiting the pollution of soil, air or water in a manner that is, or is likely to be, harmful to people or wildlife in, or to the natural features of, parks and reserves;

- (da) regulating or prohibiting tourism in parks and reserves;
- (e) providing for the protection and preservation of parks and reserves and property and things in parks and reserves;
- (f) regulating or prohibiting access to the whole or part of a park or reserve by persons or classes of persons;
- (g) providing for the removal of trespassers from parks and reserves;
- (h) regulating or prohibiting camping in parks and reserves;
- (i) providing for the safety of persons in parks and reserves;
- (j) regulating or prohibiting the use of fire in parks and reserves;
- (k) regulating the conduct of persons in parks and reserves;
- (l) regulating or prohibiting the carrying on of any trade or commerce in a park or reserve;
- (n) regulating or prohibiting the use of vehicles in parks and reserves and providing for signs and road markings for those purposes;
- (p) providing for the removal of vehicles, aircraft or vessels from places in parks and reserves where they have been left in contravention of the regulations or have been abandoned and for the impounding of such vehicles, aircraft or vessels;
- (q) making provision to the effect that, where a contravention of a provision of the regulations relating to the parking or stopping of vehicles in a park or reserve occurs in respect of a motor vehicle, the person who is to be regarded as the owner of the motor vehicle for the purposes of the regulations (who may, in accordance with the regulations, be or include a person in whose name the motor vehicle is registered under the law of a State or Territory) is to be, except as provided otherwise, deemed to have committed an offence against the provision so

contravened, whether or not he or she in fact contravened that provision;

(r) enabling a person who is alleged to have contravened a provision of the regulations relating to:

- (i) littering;
- (ii) the use of vehicles or vessels;
- (iii) the parking or stopping of vehicles;
- (iv) the mooring or landing of vessels; or
- (v) the landing, use or flying of aircraft;

to pay to the Director, as an alternative to prosecution, a specified penalty, not exceeding the maximum penalty by which a contravention of that provision is otherwise punishable;

- (s) regulating or prohibiting the use of vessels in, and the passage of vessels through, parks and reserves and the landing and use of aircraft in, and the flying of aircraft over, parks and reserves;
- (t) providing for giving effect to plans of management in relation to parks and reserves;
- (u) regulating or prohibiting the taking of animals or plants into, or out of, parks and reserves;
- (v) providing for the impounding, removal, destruction or disposal of animals found straying in parks and reserves;
- (w) regulating or prohibiting the taking into parks and reserves, and the use in parks and reserves, of weapons, traps, nets, snares, fishing apparatus and other devices;
- (x) regulating or prohibiting the laying of baits and the use of explosives and poisons in parks and reserves;
- (y) providing for the collection of specimens and the pursuit of research in parks and reserves for scientific purposes;
- (z) providing for the issue of licences, permits and authorities, the conditions subject to which they are

issued and the charging of fees by the Director in respect of such licences, permits and authorities;
and

- (za) providing for any matter incidental to or connected with any of the foregoing.

- (3) A provision of the regulations regulating or prohibiting the flying of aircraft over a park or reserve does not have any force or effect to the extent to which it is inconsistent with a law of the Commonwealth, but such a provision shall not be taken for the purposes of this subsection to be inconsistent with such a law if it can be complied with without contravention of that law.

- (3A) A law of a Territory has effect to the extent to which it is not inconsistent with a provision of the regulations having effect in that Territory, but such a law shall not be taken for the purposes of this subsection to be inconsistent with such a provision to the extent that it is capable of operating concurrently with that provision.

- (4) Regulations with respect to a matter shall be regulations applicable to that matter only so far as that matter may be dealt with under the powers of the Parliament, including its powers with respect to:

- (a) the government of a Territory;
- (b) places acquired by Australia for public purposes;
- (c) the Australian coastal sea;
- (d) matters arising out of the rights (including sovereign rights) of Australia in relation to the continental shelf of Australia;
- (e) trade and commerce with other countries including the import or export of animals and plants;
- (f) fisheries in Australian waters beyond territorial limits; and
- (g) statistics relating to animals and plants.

- (5) The power to make regulations conferred by this Act may be exercised:

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
 - (b) so as to make, as respects the cases in relation to which it is exercised, the same provision for all those cases or different provision for different cases or classes of case.
- (6) The power to make regulations conferred by this Act shall not be taken, by implication, to exclude the power to make provision for or in relation to a matter by reason only of the fact that:
 - (a) a provision is made by this Act in relation to that matter or another matter; or
 - (b) power is expressly conferred by this Act to make provision by regulation for or in relation to another matter.
- (7) The regulations may provide, in respect of an offence against the regulations, for the imposition of:
 - (a) a fine not exceeding \$5,000; or
 - (b) a fine not exceeding \$1,000 for each day during which the offence continues.
- (8) The limitation imposed by subsection (7) on the penalties that may be prescribed by the regulations does not prevent the regulations from requiring a person to make a statutory declaration.

Schedule;Agreements between Australia and other countries

Section 69

1. Convention on Wetlands of International Importance especially as Waterfowl Habitat adopted on 2 February 1971 by the International Conference on the Conservation of Wetlands and Waterfowl held at Ramsar, Iran.

3. Convention concerning the protection of the world cultural and natural heritage adopted on 16 November 1972 by the General Conference of the United Nations Educational, Scientific and Cultural Organisation at its seventeenth session held at Paris.
4. Convention on International Trade in Endangered Species of Wild Fauna and Flora signed at Washington on 3 March 1973.
5. Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment signed at Tokyo on 6 February 1974.
6. Convention on Conservation of Nature in the South Pacific, signed at Apia, Western Samoa on 12 June 1976.
7. Convention on the Conservation of Migratory Species of Wild Animals signed at Bonn on 23 June 1979.
8. Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment, signed at Canberra on 20 October 1986.

Notes to the National Parks and Wildlife Conservation Act 1975

Note 1

The National Parks and Wildlife Conservation Act 1975 as shown in this compilation comprises Act No. 12, 1975 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 24 October 1997 is not included in this compilation. For subsequent information see Table A.

Table of Acts

Act

Number
and year

Date
of Assent

Date of commencement

Application, saving or transitional provisions

National Parks and Wildlife Conservation Act 1975

12, 1975

13 Mar 1975

13 Mar 1975

National Parks and Wildlife Conservation Amendment Act 1978

29, 1978

9 June 1978

9 June 1978

;

Administrative Changes (Consequential Provisions) Act 1978

36, 1978

12 June 1978

12 June 1978

S. 8

National Parks and Wildlife Conservation Amendment Act 1979

42, 1979

14 June 1979

14 June 1979

;

Australian Federal Police (Consequential Amendments) Act 1979

155, 1979

28 Nov 1979

19 Oct 1979 (see s. 2 and Gazette 1979, No. S206)

;

Australian Federal Police (Consequential Amendments) Act 1980

70, 1980

28 May 1980

28 May 1980

;

Public Service Acts Amendment Act 1982

111, 1982

5 Nov 1982

S. 93: Royal Assent (a)

;

Australian Government Solicitor (Consequential Amendments) Act 1984

10, 1984

10 Apr 1984

1 July 1984 (see s. 2(1) and Gazette 1984, No. S231)

S. 4(1)

Public Service Reform Act 1984

63, 1984

25 June 1984

S. 151(1): 1 July 1984 (see Gazette 1984, No. S245) (b)

S. 151(9)

Statute Law (Miscellaneous Provisions) Act (No. 1) 1984

72, 1984

25 June 1984

S. 3: 23 July 1984 (c)

S. 5(1)

National Parks and Wildlife Conservation Amendment Act 1985

94, 1985

2 Sept 1985

2 Sept 1985

S. 11(2) and (3)

Statute Law (Miscellaneous Provisions) Act (No. 1) 1986

76, 1986

24 June 1986

S. 3: (d)

S. 9

National Parks and Wildlife Conservation Amendment Act 1987

15, 1987

18 May 1987

18 May 1987

S. 7

National Parks and Wildlife Conservation Amendment Act (No. 2) 1987

16, 1987

18 May 1987

18 May 1987 (see s. 2)

S. 7

Statute Law (Miscellaneous Provisions) Act 1988

38, 1988

3 June 1988

S. 3: Royal Assent (e)

S. 5(1)

Lands Acquisition (Repeal and Consequential Provisions) Act 1989

21, 1989

20 Apr 1989

9 June 1989 (see s. 2 and Gazette 1989, No. S185)

;

Arts, Environment, Tourism and Territories Legislation Amendment Act
1990

88, 1990

20 Nov 1990

Part 6 (ss. 12, 13): Royal Assent (f)

;

Arts, Sport, Environment, Tourism and Territories Legislation
Amendment Act 1991

33, 1991

21 Mar 1991

S. 3: Royal Assent (g)

;

Arts, Sport, Environment, Tourism and Territories Legislation
Amendment Act (No. 2) 1991

179, 1991

25 Nov 1991

25 Nov 1991

S. 3(2)

Arts, Sport, Environment and Territories Legislation Amendment Act
1992

21, 1992

10 Apr 1992

8 May 1992

;

National Parks and Wildlife Conservation Amendment Act 1992

120, 1992

17 Oct 1992

17 Oct 1992

;

Arts, Environment and Territories Legislation Amendment Act 1992

130, 1992

24 Oct 1992

24 Oct 1992

;

Endangered Species Protection (Consequential Amendments) Act 1992

195, 1992

21 Dec 1992

30 Apr 1993 (see s. 2 and Gazette 1993, No. S46)

;

Arts, Environment and Territories Legislation Amendment Act 1993

6, 1994

18 Jan 1994

S. 5: Royal Assent (h)

;

Environment, Sport and Territories Legislation Amendment Act 1994

113, 1994

16 Sept 1994

16 Sept 1994

;

Environment, Sport and Territories Legislation Amendment Act 1995

25, 1995

6 Apr 1995

6 Apr 1995

;

Aboriginal Land Grant and Management (Jervis Bay Territory)
Legislation Amendment Act 1995

103, 1995

29 Sept 1995

29 Sept 1995

Sch. 2 (item 1)

Statute Law Revision Act 1996

43, 1996

25 Oct 1996

Schedule 4 (item 110) and Schedule 5 (items 99-102): Royal Assent (I)

;

Environment, Sport and Territories Legislation Amendment Act 1997

118, 1997

7 July 1997

Schedule 1 (item 49): Royal Assent (j)

;

Audit (Transitional and Miscellaneous) Amendment Act 1997

152, 1997

24 Oct 1997

Schedule 2 (items 1030-1038): 1 Jan 1998 (see Gazette 1997, No. GN49) (k)

S. 4(3), Sch. 4 [see Table A]

Judiciary Amendment Act 1999

7, 1999

31 Mar 1999

Schedules 1-3: 1 Sept 1999 [see Gazette 1999, No. S395]
Remainder: Royal Assent

;

Environmental Reform (Consequential Provisions) Act 1999

92, 1999

16 July 1999

Schedule 4 (item 1): [see (l) and Note 3]

Sch. 4 (items 2-11) [see Note 3]

Public Employment (Consequential and Transitional) Amendment Act 1999

146, 1999

11 Nov 1999

Schedule 1 (items 665-669): 5 Dec 1999 (see Gazette 1999, No. S584)
(m)

;

Corporate Law Economic Reform Program Act 1999

156, 1999

24 Nov 1999

Schedule 10 (items 106, 107): 13 Mar 2000 (see Gazette 2000, No.

S114) (n)

;

(a) The National Parks and Wildlife Conservation Act 1975 was amended by section 93 only of the Public Service Acts Amendment Act 1982, subsection 2(1) of which provides as follows:

(1) Sections 1, 2 and 3, subsection 4(2), sections 7, 8, 9, 10, 11, 12, 16 and 17, subsections 18(1) and 25(1), sections 28, 44, 45, 46, 47, 48, 52, 57, 68 and 72, subsection 74(2), sections 75, 77 and 82 and Part IV (other than sections 89, 90, 94 and 95) shall come into operation on the day on which this Act receives the Royal Assent.

(b) The National Parks and Wildlife Conservation Act 1975 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.

(c) The National Parks and Wildlife Conservation Act 1975 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 National Parks and Wildlife Conservation Act 1975 was amended by section 3 only of the Statute Law (Miscellaneous Provisions) Act (No. 1) 1986, subsection 2(15) of which provides as follows:

(15) The amendment of the National Parks and Wildlife Conservation Act 1975 made by this Act shall be deemed to have come into operation on 2 September 1985.

(e) The National Parks and Wildlife Conservation Act 1975 was amended by section 3 only of the Statute Law (Miscellaneous Provisions) Act 1988, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(f) The National Parks and Wildlife Conservation Act 1975 was amended by Part 6 (sections 12 and 13) only of the Arts, Environment, Tourism and Territories Legislation Amendment Act 1990, subsection

2(1) of which provides as follows:

(1) Parts 1, 4, 5, 6, 7 and 8 commence on the day on which this Act receives the Royal Assent.

(g) The National Parks and Wildlife Conservation Act 1975 was amended by section 3 only of the Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act 1991, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(h) The National Parks and Wildlife Conservation Act 1975 was amended by section 5 only of the Arts, Environment and Territories Legislation Amendment Act 1993, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(i) The National Parks and Wildlife Conservation Act 1975 was amended by Schedule 4 (item 110) and Schedule 5 (items 99-102) only of the Statute Law Revision Act 1996, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(j) The National Parks and Wildlife Conservation Act 1975 was amended by Schedule 1 (item 49) only of the Environment, Sport and Territories Legislation Amendment Act 1997, subsection 2(3) of which provides as follows:

(3) Item 49 of Schedule 1 commences on the day on which this Act receives the Royal Assent only if Schedule 2 to the Audit (Transitional and Miscellaneous) Amendment Act 1997 has not commenced before then.

(k) The National Parks and Wildlife Conservation Act 1975 was amended by Schedule 2 (items 1030-1038) only of the Audit (Transitional and Miscellaneous) Amendment Act 1997, subsection 2(2) of which provides as follows:

(2) Schedules 1, 2 and 4 commence on the same day as the Financial Management and Accountability Act 1997.

(l) The National Parks and Wildlife Conservation Act 1975 was amended by Schedule 4 (item 1) 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. [see Note 3]

(m) The National Parks and Wildlife Conservation Act 1975 was amended by Schedule 1 (item 665-669) only of the Public Employment (Consequential and Transitional) Amendment Act 1999, subsections 2(1) and (2) of which provide as follows:

(1) In this Act, commencing time means the time when the Public Service Act 1999 commences.

(2) Subject to this section, this Act commences at the commencing time.

(n) The National Parks and Wildlife Conservation Act 1975 was amended by Schedule 1 (item 665-669) only of the Corporate Law Economic Reform Program Act 1999, subsection 2(2) of which provides as follows:

(2) The following provisions commence on a day or days to be fixed by Proclamation:

(a) section 3;

(b) the items in Schedules 1 to 7 (other than item 18 of Schedule 7);

(c) the items in Schedules 10, 11 and 12.

Table of Amendments

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

Provision affected

How affected

S. 3

am. No. 29, 1978; No. 72, 1984; No. 94, 1985; Nos. 15 and 16, 1987; Nos. 21 and 120, 1992; No. 113, 1994; No. 103, 1995

S. 3A

ad. No. 15, 1987

Ss. 4, 5

am. No. 29, 1978

S. 6

am. No. 29, 1978; No. 113, 1994

S. 7

am. No. 29, 1978; No. 94, 1985; No. 38, 1988; No. 43, 1996

S. 8

rs. No. 29, 1978

am. No. 10, 1984; No. 21, 1989; No. 43, 1996; No. 7, 1999

S. 8A

ad. No. 29, 1978

am. No. 16, 1987

S. 8B

ad. No. 29, 1978

am. Nos. 15 and 16, 1987

S. 8C

ad. No. 29, 1978

S. 8D

ad. No. 42, 1979

am. No. 72, 1984; No. 16, 1987; No. 103, 1995; No. 43, 1996

S. 9

am. No. 29, 1978; No. 42, 1979; No. 94, 1985; No. 38, 1988; No. 21, 1989; No. 43, 1996

S. 10

am. No. 29, 1978; No. 42, 1979; No. 15, 1987; No. 43, 1996

S. 11

am. No. 29, 1978; No. 72, 1984; No. 94, 1985; No. 21, 1992; No. 103, 1995; No. 43, 1996

S. 12

am. No. 94, 1985; No. 43, 1996

S. 13

am. No. 94, 1985

S. 14

am. No. 29, 1978; No. 103, 1995; No. 43, 1996

S. 14A

ad. No. 94, 1985

Part IIA
(ss. 14B-14K)

ad. No. 94, 1985

S. 14B

ad. No. 94, 1985

am. No. 103, 1995

S. 14C

ad. No. 94, 1985

am. No. 76, 1986; No. 103, 1995

Ss. 14D-14K

ad. No. 94, 1985

Note to s. 15(1)

ad. No. 152, 1997

S. 15A

ad. No. 152, 1997

am. No. 156, 1999

S. 16

am. No. 29, 1978; No. 72, 1984; No. 195, 1992; No. 103, 1995; No. 43, 1996; No. 152, 1997

S. 17

am. No. 29, 1978; No. 25, 1995; No. 43, 1996

S. 17AA

ad. No. 152, 1997

Ss. 17A, 17B

ad. No. 29, 1978

am. No. 43, 1996

S. 17C

ad. No. 29, 1978

S. 17D

ad. No. 29, 1978

am. No. 43, 1996

S. 17E

ad. No. 29, 1978

am. No. 63, 1984; No. 43, 1996

S. 17F

ad. No. 29, 1978

Ss. 18, 19

am. No. 29, 1978

S. 20

am. No. 29, 1978; No. 43, 1996

S. 21

am. No. 29, 1978; No. 38, 1988; No. 130, 1992

Ss. 23-25

am. No. 43, 1996

S. 26

rs. No. 179, 1991

am. No. 146, 1999

S. 27

am. No. 43, 1996

S. 28

am. No. 179, 1991; No. 43, 1996

S. 29

am. No. 43, 1996

S. 30

am. No. 29, 1978; No. 43, 1996

S. 31

rep. No. 94, 1985

S. 32

rep. No. 29, 1978

Heading to Part IV

am. No. 120, 1992

Heading to Div. 1 of Part IV

ad. No. 120, 1992

S. 33

am. No. 43, 1996

S. 34

am. No. 63, 1984; No. 146, 1999

S. 36

am. No. 29, 1978; No. 63, 1984; No. 103, 1995; No. 146, 1999

S. 38

am. No. 155, 1979; No. 70, 1980

S. 38A

ad. No. 120, 1992

S. 39

am. No. 120, 1992; No. 43, 1996

S. 40

rep. No. 120, 1992

Ss. 41, 42

am. No. 29, 1978

rep. No. 120, 1992

Ss. 43, 44

rep. No. 120, 1992

Div. 2 of Part IV
(ss. 40-44, 44A-44H)

ad. No. 120, 1992

Ss. 40, 41

ad. No. 120, 1992

S. 42

ad. No. 120, 1992

am. No. 195, 1992; No. 6, 1994

Ss. 43, 44, 44A

ad. No. 120, 1992

S. 44B

ad. No. 120, 1992

am. No. 195, 1992

Ss. 44C, 44D

ad. No. 120, 1992

S. 44E

ad. No. 120, 1992

am. No. 195, 1992

Ss. 44F-44H

ad. No. 120, 1992

S. 46

am. Nos. 29 and 36, 1978; No. 33, 1991; No. 113, 1994

rs. No. 25, 1995

S. 47

am. No. 33, 1991; No. 47, 1996

rep. No. 152, 1997

S. 48

am. No. 29, 1978; No. 43, 1996; No. 152, 1997

S. 49

rs. No. 33, 1991

S. 49A

ad. No. 33, 1991

rep. No. 152, 1997

S. 50

am. No. 43, 1996

rep. No. 152, 1997

S. 51

rep. No. 152, 1997

S. 52

am. No. 36, 1978; No. 195, 1992; No. 43, 1996; No. 118, 1997

rs. No. 152, 1997

S. 53

am. No. 43, 1996

rep. No. 152, 1997

S. 54

am. No. 29, 1978

S. 58

am. No. 43, 1996

S. 59

am. No. 111, 1982; No. 43, 1996

S. 60

am. No. 43, 1996

Ss. 61, 62

am. No. 111, 1982; No. 43, 1996

Ss. 63, 64

am. No. 43, 1996

S. 65

am. No. 29, 1978

S. 66

rep. No. 29, 1978

S. 67

rep. No. 88, 1990

S. 70

am. No. 29, 1978

S. 71

am. No. 29, 1978; No. 120, 1992; No. 43, 1996

Schedule

am. No. 94, 1985; No. 21, 1992

Note 2

Section 7(2);The date fixed was 3 March 1993 (see Gazette 1993, No. GN8, p. 614).

Note 3

Environmental Reform (Consequential Provisions) Act 1999 (No. 92, 1999)

The following amendments commence when No. 91 of 1999 comes into operation (16 July 2000 if not proclaimed earlier):

Schedule 4

Part 1;Repeal

1 The whole of the Act

Repeal the Act.

Part 2;Saving and transitional provisions

2 Definitions

In this Part:

Director means the Director of National Parks and Wildlife established by the Parks Act.

new Act means the Environment Protection and Biodiversity Conservation Act 1999.

Parks Act means the National Parks and Wildlife Conservation Act 1975.

3 Continuation of parks and reserves

(1) A Proclamation under Part II of the Parks Act of an area as a park or reserve that was in force immediately before the commencement of the new Act continues in force as if it had been made under section 344 of the new Act immediately after that commencement, so that the area is declared as a Commonwealth reserve under the new Act.

(2) A Proclamation of an area as a park under the Parks Act continues in force as if it stated that the purposes for which the area was declared were:

- (a) the preservation of the area in its natural condition; and
- (b) the encouragement and regulation of the appropriate use, appreciation and enjoyment of the area by the public.

(3) If, immediately before the commencement of the new Act, an area was proclaimed as a park or reserve under the Parks Act and was managed as a botanic garden (as defined in the Parks Act), the Proclamation of the area continues in force as if it included a statement that the purposes for which the area was declared included the object specified in paragraph 11(8)(ca) of the Parks Act.

(4) This item does not prevent amendment of the Proclamation by another Proclamation made under Division 4 of Part 15 of the new Act.

(5) To avoid doubt, paragraphs 357(1)(a) and (2)(a) of the new Act do not apply to a Commonwealth reserve to which this item relates until the reserve is assigned to an IUCN category by a Proclamation made under Division 4 of Part 15 of the new Act or a management plan made under that Division.

(6) Paragraph 368(3)(a) of the new Act applies in relation to the preparation of a management plan for a Commonwealth reserve to which this item relates as if the reference in the paragraph to a report considered by the Minister under section 351 of that Act included a reference to a report considered by the Executive Council under subsection 7(11) of the Parks Act in relation to the park or reserve taken to have been declared as the Commonwealth reserve.

4 Continuation of plans of management

(1) A plan of management in force for a park or reserve under Part II of the Parks Act immediately before the commencement of the new Act continues in force after that commencement as a management plan for the corresponding Commonwealth reserve as if:

- (a) the Minister administering the new Act had approved it under section 370 of that Act; and
- (b) it were not required to be laid before each House of the Parliament and were not able to be disallowed because of section 371 of the new Act.

(2) However, the plan ceases to have effect on the earlier of the following days (or either of them if they are the same):

- (a) the day it would have ceased to have had effect if the Parks Act had not been repealed;
 - (b) the day 7 years after the commencement of the new Act.
- (3) This item has effect in relation to a plan even if the plan does not comply with section 367 of the new Act.
- (4) This item does not prevent amendment of the plan by another management plan approved under Division 4 of Part 15 of the new Act.

5 Continuation of preparation of plans

- (1) If, before the commencement of the new Act:
- (a) the Director published a notice under subsection 11(2A) of the Parks Act relating to a park or reserve that later became a Commonwealth reserve because of this Schedule; and
 - (b) the Minister administering the Parks Act had not accepted under section 11 of the Parks Act a plan of management for the park or reserve submitted by the Director after the Director published the notice;

Division 4 (the new Division) of Part 15 of the new Act applies in relation to the preparation of a management plan for the Commonwealth reserve with the applicable modifications set out in this item.

- (2) The new Division applies as if paragraph 368(1)(a) and subsection 368(2) were omitted from the new Act.
- (3) If the Director published a notice under subsection 11(10) of the Parks Act after publishing the notice referred to in paragraph (1)(a) of this item, the new Division applies as if:

- (a) paragraphs 368(1)(b) and (c) and subsection 368(5) were also omitted from the new Act; and
 - (b) if the date specified in the notice under paragraph 11(10)(b) of the Parks Act has passed; paragraph 368(1)(d) were also omitted from the new Act.
- (4) If subitem (3) does not apply, the new Division applies as if the reference in paragraph 368(1)(b) of the new Act to comments were a reference to representations received in response to the notice referred to in paragraph (1)(a) of this item.
- (5) If the Director submitted a plan of management for the park or reserve under subsection 11(12) of the Parks Act to the Minister

administering that Act after publishing the notice referred to in paragraph (1)(a) of this item, the new Division applies as if:

- (a) paragraphs 368(1)(d) and (e) were also omitted from the new Act; and
- (b) the plan had been given to the Minister administering the new Division under subsection 370(1) of the new Act when it commenced and subsection 370(2) of the new Act had been complied with in relation to the plan.

(6) If subitem (5) does not apply but subitem (3) does, the new Division applies as if the reference in paragraph 368(1)(e) of the new Act to comments were a reference to representations received in response to the notice under subsection 11(10) of the Parks Act.

(7) Subitems (1) to (6) (inclusive) do not apply to the preparation of a management plan for a Commonwealth reserve after the first approval under the new Division of a management plan for the reserve.

6 Continuation of Boards for parks and reserves

(1) This item effectively continues in existence each of the following Boards (the old Boards) that was established under Part IIA of the Parks Act and was in existence immediately before the commencement of the new Act:

- (a) the Board for the park that was declared under Part II of the Parks Act and assigned the name Booderee National Park;
- (b) the Board for so much of the reserve declared under Part II of the Parks Act and assigned the name Australian National Botanic Gardens as was in the Jervis Bay Territory;
- (c) the Board for the park that was declared under Part II of the Parks Act and assigned the name Kakadu National Park;
- (d) the Board for the park that was declared under Part II of the Parks Act and assigned the name Uluru-Kata Tjuta National Park.

(2) A section 14C notice (as defined in Part IIA of the Parks Act) that was in force immediately before the commencement of the new Act continues in force as if:

- (a)

it had been published in the Gazette under section 377 of the new Act immediately after that commencement; and

- (b) it provided for an additional member of the Board, whose qualification for membership is nomination by the Northern Territory, in the case of a section 14C notice relating to Kakadu National Park or Uluru-Kata Tjuta National Park.

(3) The Minister administering Division 4 of Part 15 of the new Act must appoint under that Division a person as a member of the Board referred to in paragraph (2)(b) within 3 months of:

- (a) the Northern Territory nominating the person; or
- (b) if the Northern Territory informs that Minister it believes that the members of the Board nominated by the traditional owners are unreasonably withholding consent to the appointment; that Minister referring the matter to the person holding the office of Commonwealth Ombudsman under the Ombudsman Act 1976.

(4) This item does not prevent amendment of the notice under section 378 of the new Act.

(5) For the purposes of the new Act, a person who was a member of an old Board immediately before the commencement of that Act holds office as a member of the Board established because of subitem (2).

(6) The person holds office as a member of the Board for so much of the period specified in the instrument appointing him or her a member of the old Board as had not elapsed before the commencement of the new Act. This subitem has effect subject to sections 380 and 382 of that Act.

Note: Subsection 14F(2) of the Parks Act provided that certain instruments of appointment were taken to specify a 5 year period of appointment.

7 Continuation of town plans

A town plan that was in force for the purposes of section 8C of the Parks Act immediately before the commencement of the new Act continues in force as a town plan for the purposes of the new Act.

8 Continuation of conservation zones

A Proclamation under section 8A of the Parks Act declaring an area to be a conservation zone that was in force immediately before the commencement of the new Act continues in force as if it had been made

under Division 5 of Part 15 of the new Act immediately after that commencement, so that:

- (a) the area; and
- (b) the subsoil and seabed (if any) specified in the Proclamation under the area; and
- (c) the waters under the sea (if any) in the area;

are declared as a conservation zone under the new Act.

9 Continued appointment of wardens, rangers and wildlife inspectors

Wardens and rangers

(1) An instrument appointing a person as a warden or ranger that was in force under section 37 of the Parks Act immediately before the commencement of the new Act continues in force for the purposes of the new Act as if it had been made under section 392 of the new Act (so the person is appointed as a warden or ranger (as appropriate) under section 392 of the new Act).

Inspectors

(2) An instrument appointing a person as a wildlife inspector that was in force under section 38A of the Parks Act immediately before the commencement of the new Act continues in force for the purposes of the new Act as if it had been made under section 396 of the new Act (so the person is appointed as an inspector under section 396 of the new Act).

Appointments terminated if appointee ceases to be officer of the Department

(3) A person appointed as a warden, ranger or inspector for the purposes of the new Act because of subitem (1) or (2) ceases to be a warden, ranger or inspector if he or she ceases to be an officer of, or an employee in, a Department administering a provision of the new Act.

Persons covered by arrangements under section 36 of Parks Act

(4) If a person was appointed as a warden, ranger or inspector for the purposes of the new Act because of subitem (1) or (2) because he or she was an officer or employee referred to in section 36 of the Parks Act, he or she ceases to be a warden, ranger or inspector for the purposes of the new Act:

- (a)

at the end of the period for which he or she was appointed under the Parks Act, if he or she was appointed for a specified period; or

- (b) at the end of the period for which the relevant arrangement under section 36 of the Parks Act would have continued in force if that Act had not been repealed, if the arrangement was in force for a specified period; or
- (c) 6 months after the commencement of the new Act, if neither paragraph (a) nor paragraph (b) applies.

Termination of appointments

(5) This item does not prevent the revocation of an instrument of appointment.

Identity cards for wardens and rangers

(6) An identity card issued under section 39 of the Parks Act to a person who is appointed as a warden or ranger for the purposes of the new Act because of this item continues in force as if it had been issued to the person under section 395 of the new Act.

Identity cards for inspectors

(7) An identity card issued under section 39 of the Parks Act to a person who is appointed as an inspector for the purposes of the new Act because of this item continues in force as if it had been issued to the person under section 399 of the new Act.

10 Saving of regulations applied as by-laws for Aboriginal Land in Jervis Bay Territory

The repeal of the Parks Act does not affect any by-law that:

- (a) was made under section 52A of the Aboriginal Land Grant (Jervis Bay Territory) Act 1986; and
- (b) applied a regulation made under the Parks Act; and
- (c) was in force immediately before the commencement of the new Act.

11 Transitional provision; approved wildlife programs

(1) In this item:

approved management program means a program for the management

of a species that was declared to be an approved management program by a declaration in force under regulation 58 of the National Parks and Wildlife Conservation Regulations immediately before the commencement of the new Act.

(2) So far as a provision of the new Act listed in subitem (3) relates to the taking of an action:

- (a) relating to a species that is:
 - (i) a subject of an approved management program; and
 - (ii) either listed under the Division of that Act in which the provision occurs or, in the case of the provision of that Act listed in paragraph (3)(b), a cetacean species; and
- (b) in a Territory where the program applies;

the provision has effect as if a reference in the provision to the taking of an action not being inconsistent with a wildlife conservation plan for that species that is in force included a reference to the taking of an action not being inconsistent with the program for that species.

(3) Subitem (2) applies in relation to the following provisions of the new Act:

- (a) subparagraph 216(3)(b)(ii);
- (b) subparagraph 238(3)(b)(ii);
- (c) subparagraph 258(3)(b)(ii).

(4) When taking an action in a Territory where an approved management program applies, a Commonwealth agency (as defined in the new Act) must take all reasonable steps to act in accordance with the program.

(5) This item does not apply in relation to an approved management program for a species after:

- (a) a recovery plan for the species has been made or adopted for the species under the new Act; or
- (b) a wildlife conservation plan for the species has been made or adopted under section 285 of the new Act.

As at 21 March 2000 the amendments are not incorporated in this consolidation.

Table A

Application, saving or transitional provisions

Audit (Transitional and Miscellaneous) Amendment Act 1997
(No. 152, 1997)

4 Some amendments in Schedule 2 may not take effect or may take effect in a modified way

(3) If:

- (a) an Act is amended by Schedule 2; and
- (b) the short title of the Act is changed on or before the commencement of that Schedule;

the amendment made by Schedule 2 has effect as an amendment of the Act under its new short title.

Schedule 4

1 This Schedule binds the Crown

This Schedule binds the Crown in right of the Commonwealth, but does not make the Crown liable to be prosecuted for an offence.

2 This Schedule extends to things outside Australia

This Schedule extends to acts, omissions, matters and things outside Australia.

3 Interpretation

In this Schedule, unless the contrary intention appears:

Audit Act means the Audit Act 1901.

Commercial Activities Fund means the Commercial Activities Fund established by the Financial Management and Accountability Act 1997.

Finance Minister means the Minister who administers this Act.

new Loan Fund means the Loan Fund established by the Financial Management and Accountability Act 1997.

old Loan Fund means the Loan Fund established by the Audit Act.

old Trust Fund means the Trust Fund established by the Audit Act.

replacement Acts means the Auditor-General Act 1997, the Financial Management and Accountability Act 1997 and the Commonwealth Authorities and Companies Act 1997.

Reserved Money Fund means the Reserved Money Fund established by the Financial Management and Accountability Act 1997.

4 Transfers from old Funds to new Funds

(1) Money in the old Loan Fund immediately before the commencement of this Schedule must be transferred to the new Loan Fund.

(2) If:

- (a) immediately before the commencement of this Schedule, money was in an account (however described) that was established or continued in existence by an Act that is amended by Schedule 2 to this Act; and
- (b) that account formed part of the old Trust Fund;

the money must be transferred from that account to the component of the Reserved Money Fund that is established to replace that account.

(3) If an amendment made by Schedule 2 substitutes a component of the Reserved Money Fund for an account (however described), any reference in any Act or other instrument to that component is to be read as including a reference to the account for which it is substituted, unless the context otherwise requires.

(4) Money in the old Trust Fund immediately before the commencement of this Schedule (other than money covered by subitem (2)) must be transferred to components of the Reserved Money Fund and Commercial Activities Fund that are established by determinations under subsections 20(2) and 21(2) of the Financial Management and Accountability Act 1997.

(5) The disallowance rules in section 22 of the Financial Management and Accountability Act 1997 do not apply to an original determination made for the purposes of subitem (4) of this item. However, the disallowance rules do apply to any revocation or variation of an original determination.

(6) The old Loan Fund and the old Trust Fund are appropriated for the purposes of this item.

5 Auditor-General

The person holding office as Auditor-General under the Audit Act immediately before the commencement of this Schedule holds office after the commencement of this Schedule as if the person had been properly appointed as Auditor-General under the Auditor-General

Act 1997 for the remainder of the period of 10 years that started when the person was appointed under the Audit Act.

6 Independent Auditor

(1) This item applies if, immediately before the commencement of this Schedule, an arrangement was in operation under section 48K of the Audit Act for a person to perform the functions of the Independent Auditor under the Audit Act.

(2) The person is taken to be properly appointed on the commencement of this Schedule as the Independent Auditor under the Auditor-General Act 1997.

(3) The appointment is for a term that commences on the commencement of this Schedule and ends on the expiry of the arrangement referred to in subitem (1).

(4) While the person holds office as Independent Auditor in accordance with this item, the person is entitled to be paid fees and allowances in accordance with the arrangement referred to in subitem (1), but is not entitled to be paid fees or allowances under clause 3 of Schedule 2 to the Auditor-General Act 1997.

7 Exempt accounts

(1) In this item:

preserved provisions means section 70D of the Audit Act and the regulations made for the purposes of that section.

replacement provisions means section 56 of the Auditor-General Act 1997, section 46 of the Commonwealth Authorities and Companies Act 1997 and section 58 of the Financial Management and Accountability Act 1997.

(2) The preserved provisions continue to have effect until the first regulations are in operation for the purposes of the replacement provisions.

(3) If those first regulations, or any of them, are later disallowed by a House of the Parliament, the preserved provisions continue to have effect, to the extent that they cover matters no longer covered by regulations in operation under the replacement provisions, until further regulations are in operation under those provisions that cover those matters.

8 Regulations

(1) The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed;
- or
- (b)

necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, regulations may be made:

- (a) providing for bank accounts under section 21 of the Audit Act to continue in effect as official accounts for the purposes of the Financial Management and Accountability Act 1997; and
- (b) for other transitional matters arising out of the repeal of the Audit Act or the enactment of the replacement Acts, or the transition from the Audit Act to the replacement Acts; and
- (c) for other transitional matters arising out of the amendments made by Schedules 2 and 3.