

BILLS INTRODUCED
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<i>Serial No.</i>	<i>Title</i>	<i>Sponsor</i>
82	Builders Registration Bill 1975	Mr Tambling
81	Environment Bill 1975	Mr Withnall
83	Territory Parks and Wildlife Conservation Bill 1975	Dr Letts

THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

Relating to the Prevention of Nuisance and the Protection of the Environment

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the *Environment Ordinance* 1976. Short Title
2. This Ordinance shall commence on a date to be notified by the Administrator in Council by notice in the Gazette.

PART I—PRELIMINARY

3. In this Ordinance unless the contrary intention appears—

Definitions

“aggrieved person” means any person whose enjoyment of life has been, is or is likely to be substantially and unreasonably adversely affected by a private nuisance or whose use or enjoyment of land, or some right over or in connection with land is, or is likely to be substantially or unreasonably interfered with by reason of a private nuisance;

“beneficial use” means a use of the environment or any part thereof that is conducive to human safety, welfare, benefit or health, but does not include a use that is conducive to the benefit of a particular person or group of persons where that use is likely to affect adversely the welfare, safety or health of human beings generally;

Court Ordinance;

“dangerous substance” means any liquid, gas, powder or other substance which is likely to poison or adversely affect the health of human beings or the health or subsistence of animals or plants;

“deleterious substance” means any substance whether solid, liquid, gaseous or in a molecular form which, if it were allowed to escape into air, water or soil, would affect or be likely to affect the air, water or soil to the detriment of the health or well-being of human beings or the health or subsistence of animals or plants;

“Director” means the Director of the Environment appointed under section 6 and includes a person appointed as Acting Director of the Environment under that section;

“emit” includes deposit and discharge;

“environment officer” means a person appointed by the Administrator to be an environment officer for the purposes of this Ordinance and includes the Director;

“environmental protection order” means an environmental protection order made under this Ordinance by the Administrator in Council or by the Director;

“land” includes buildings and structures on land and parts of such buildings and structures;

“noise” includes infrasonic and ultrasonic vibrations;

“pollution” means any direct or indirect contamination or alteration of any part of the environment so as—

(a) to affect adversely any beneficial use of land, or

(b) to cause a condition that is detrimental or hazardous or is likely to be detrimental or hazardous to human health, safety or welfare, or the health or subsistence of animals or plants;

“the Board” means the Environment Protection Board appointed under section 10;

“the environment” means the biosphere insofar as it is a part of the Northern Territory of Australia;

“waste” means a substance produced in the course of a trade, manufacture, mining or of farming, or use of land, not being a substance which is a commodity for sale or use.

(2) Nothing in this Ordinance prohibits or restricts the control or destruction of plants or animals (including fungal, viral or bacterial life) which are inimical to the health, safety, comfort or welfare of human beings or tend to adversely affect or limit the production of food but an environmental protection order may contain such a prohibition or restriction.

Savings of other Ordinances

4. This Ordinance shall be read and construed as being in addition to and not in derogation or in substitution for any other Ordinance.

Ordinance binds the Crown

5. This Ordinance binds the Crown.

PART II—ADMINISTRATION

Appointment of Director

6.(1) The Administrator in Council shall appoint a Director of the Environment who, subject to the directions of the Administrator in Council, shall be responsible for the administration of this Ordinance.

(2) In the event of—

(a) the illness of the Director;

(b) the temporary inability of the Director to perform the duties of his office; or

(c) the absence of the Director from the Territory, the Administrator may appoint a person to be the Acting Director of the Environment during that illness, temporary inability, or absence.

(3) An acting Director while acting in the office of Director has all the powers and shall perform all the duties and functions of the Director.

Delegation

7.(1) The Director, may, either generally or in relation to a matter or class of matters and either in relation to the whole or a part of the Territory,

by writing under his hand, delegate all or any of his powers and functions under this Ordinance, 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.

8.(1) It is the duty of the Director to use his best endeavours in accordance with this Ordinance—

Duties and
functions of
Director

- (a) to protect the environment;
- (b) to exercise control over public and private nuisances and pollution; and
- (c) to co-ordinate all activities, by whomsoever directed or performed, as are necessary to protect or restore the environment of the Territory.

(2) Without derogating from any other provision of this Ordinance the Director has the following functions:

- (a) to initiate action for the protection of the environment and to control, abate and mitigate public or private nuisances or pollution with respect to which he has power by virtue of this Ordinance;
- (b) to investigate ways and means of protecting the environment;
- (c) to obtain the advice of and consult with persons having special knowledge, experience or responsibility in regard to the protection of the environment;
- (d) to keep under review the progress made in the attainment of the objects and purposes of this Ordinance;
- (e) to publish reports and provide information on the administration of this Ordinance;
- (f) to advise on standards and criteria to be observed for the use of any substance or any manufacturing, industrial or mining process and methods of sampling, testing and analysis to be used under this Ordinance;
- (g) to promote, encourage, co-ordinate and carry out planning and projects related to the protection of the environment; and
- (h) to administer and give effect to the provisions of this Ordinance.

9.(1) The Administrator may appoint such environment officers as he thinks necessary for the purposes of this Ordinance.

Environment
Officers

(2) An environment officer may at any time enter any land, place, vehicle or vessel where he has reasonable cause to believe a private nuisance exists or a provision of this Ordinance is being breached or is likely to be breached and may there—

- (a) examine and inspect any equipment, machinery or industrial or commercial plant or substance which appears to the environment officer to contribute or to be likely to be contributing to a public or private nuisance or to pollution;
- (b) take and remove samples of any substance on or in the land, place, vehicle or vessel, or emitted therefrom; and
- (c) make such examination or inquiry, conduct such tests and trials

and make such measurements as he considers necessary to ascertain whether the provisions of this Ordinance are being observed.

(3) In the course of his duties an environment officer may take such photographs in or on any land, place, vehicle or vessel as he considers necessary.

(4) An environment officer may—

(a) by notice in writing, require the occupier or person in charge of any land, place, vehicle or vessel or any other person to produce to the environment officer writings, reports, books, plans, maps or other recorded information relating to—

(i) pollution or noise coming or emitted from that land, place, vehicle or vessel; or

(ii) any manufacturing, industrial or trade process carried on on that land or in that place, vehicle or vessel;

(b) use or install equipment for sampling, measuring or analysing any substance, noise or waste found on the premises or being emitted from the premises; and

(c) reproduce or copy any writings, reports, books, plans, maps or other recorded information produced under paragraph (a) of this subsection.

(5) An environment officer may, with respect to matters arising under this Ordinance—

(a) question a person whom he finds on any land, place, vehicle or vessel entered by him under this section; and

(b) require any such person to give such information as it is within his power to give as to the name and address of the occupier or owner of the land, place, vehicle or vessel.

(6) Except in the course of his duty under this Ordinance, an officer shall not disclose any information acquired by him in the course of his duty and shall not make available to a person any photograph taken by him or any recorded information or document coming into his possession in pursuance of a notice requiring information of the kind specified in subsection (4)(a)(ii).

Penalty: 1,000 dollars or imprisonment for six months or both.

(7) The Administrator shall cause to be issued to every environment officer an authority in writing bearing a photograph of the officer and, on applying for admission to any land, place, vehicle or vessel which he is empowered by this Ordinance to enter, the authorised officer shall, if so requested, produce the authority to the occupier or person in charge of that land, place, vehicle or vessel.

(8) A person shall not—

(a) refuse or fail to produce to an environment officer any writings, reports, books, plans, maps or other recorded information which he has been duly required by notice in writing to produce to the environment officer under subsection (4);

(b) refuse or fail to answer a question asked of him by an environment officer under subsection (5)(a); or

(c) fail to give information to an environment officer information required by the environment officer under subsection (5)(b).

Penalty: 400 dollars

10.(1) There shall be an Environment Protection Board.

Environment
Protection Board

(2) The Board shall consist of 3 members, appointed by the Administrator in Council, one of whom shall be a legal practitioner within the meaning of the *Legal Practitioners Ordinance* of at least 5 years standing, and another of whom shall be a qualified engineer.

(3) The Board shall elect one of its members to be Chairman.

11.(1) Subject to this section a member of the Board—

Term and
conditions of
office

- (a) holds office for 3 years but is eligible for re-appointment;
- (b) may resign his office by writing under his hand addressed to the Administrator;
- (c) shall be paid such fees and allowances as are prescribed; and
- (d) is liable to have his appointment terminated by the Administrator in Council for inability, inefficiency, misbehaviour or physical or mental incapacity.

(2) Where a member of the Board is or is expected to be unable to attend a meeting of the Board, or there is a vacancy in the office of a member, the Administrator may appoint a person to act in the place of that member during that inability or until the filling of the vacancy.

12.(1) The functions of the Board are—

Functions of the
Board

- (a) to advise the Administrator in Council upon measures to be taken for the control of pollution of the environment and upon machinery and equipment available or suitable for such control;
- (b) to review the operation and administration of this Ordinance and to report to the Administrator in Council thereon and on any amendments to this Ordinance which it considers necessary or desirable;
- (c) to recommend to the Administrator in Council the making of particular environmental protection orders; and
- (d) to hear and determine applications for the cancellation of environmental protection orders made by the Director.

(2) In addition to meetings held to hear and determine applications for the cancellation of environmental protection orders made by the Director, the Board shall meet at least 4 times in each year.

13.(1) Where the Director delivers an environmental protection order to a person, the notice containing the order shall contain a statement that the person to whom it is delivered may, within 7 days, apply to the Board for a cancellation of the order.

Persons may
apply for
cancellation of
environmental
protection order

(2) A person may apply in writing or by telegram addressed to the Board for the cancellation by the Board of an environmental protection order delivered to him under this Ordinance at any time within seven days of the delivery to him of the order.

(3) A person may not apply under subsection (2) for a cancellation of an environmental protection order if he has on a day after the day on which the order was delivered to him, done any act or been guilty of any omission contrary to the terms of the order or, where the order relates to the use of machinery or a manufacturing, industrial or mining process he has continued the use of that machinery or that process.

(4) Notwithstanding the provisions of subsection (3) where a person establishes to the satisfaction of the Board that, owing to the nature of the undertaking, business or process carried on by him, it was impossible to comply with the environmental protection order within one day the Board may receive and determine his application for a cancellation if it is satisfied that the person has complied with the order at the earliest practicable point of time.

(5) Where a person applies to the Board for cancellation of an environmental protection order he shall not, unless and until the Board cancels the order, do any act contrary to the terms of the order and, where the order relates to the use of machinery or of a manufacturing, industrial or mining process, he shall not unless and until such a cancellation takes effect, use the machinery or continue the use of the process.

(6) Where a person establishes to the satisfaction of the Board that, owing to the nature of the undertaking, business or industrial process carried on by him it is impossible for him to comply with subsection (5) the Board may, by an order, postpone compliance by that person with that subsection until a date fixed by the Board in the order.

(7) The Board shall proceed with the hearing of an application under this section with all expedition.

(8) Upon an application to the Board under this section the Board may confirm, cancel or amend the environmental protection order.

(9) Where the Board confirms or amends an environmental protection order the person to whom the order was delivered shall comply with the order as confirmed or amended and in default of so complying shall be liable to the same proceedings and penalty as he would have been liable to had he not applied for cancellation of the order.

PART III—PRIVATE NUISANCES

Meaning of
private nuisance

14.(1) Subject to the provisions of subsection (2) a private nuisance exists when a person does any act or causes or permits a state of affairs to exist on land (whether public or private) which substantially and unreasonably affects or interferes with or is likely substantially and unreasonably to affect or interfere with the enjoyment or use by another person of other land or of any right with respect to other land.

(2) Without derogating from the provisions of subsection (1) the following acts and omissions and conditions existing on land (whether public or private) are private nuisances:

- (a) premises in such a condition that they are likely to be injurious or prejudicial to the health of any person not occupying the premises;
- (b) the existence of a swamp, pool, ditch, gutter, watercourse, sanitary convenience, or other accumulation of water, or a receptacle holding water, in such a state that it is a breeding ground for insect life which is or may be injurious or prejudicial to the health of any person;
- (c) the keeping or holding of an animal or bird in such a manner or under such conditions as to be or be likely to be injurious or prejudicial to the ordinary enjoyment of life of a person occupying adjoining land or land in the vicinity of the place where the animal or bird is so kept;

- (d) an accumulation or deposit of materials including solid or liquid waste, litter and garbage, which is or is likely to be injurious or prejudicial to the health of any person;
- (e) the infestation by rats, mice or other vermin, or by any form of insect life to an extent that causes or is likely to cause injury to the health of a person;
- (f) the maintaining of land in such a condition as to be likely to cause any injury or damage by fire to persons or to other land;
- (g) the pollution of water, whether saltwater or fresh, by any matter or waste, whether solid, liquid or gaseous;
- (h) the pollution of air, by any matter or waste, whether solid, liquid, gaseous or in a molecular form;
- (i) the pollution of soil by any matter or waste, whether solid, liquid or gaseous;
- (j) the use of pesticides or weedicides in such a way as to be or to be likely to be injurious or prejudicial to the health of a person;
- (k) the emission of noise of a volume, intensity or quality that is, or is likely to be, harmful or unduly offensive to a person; and
- (l) the emission of odours which, by virtue of their nature, concentration, volume or extent, are obnoxious or unduly offensive to a person.

(3) In order that an act or state of affairs should constitute a private nuisance under subsection (2), it is not necessary (except where otherwise stated in that subsection) to prove that the act or state of affairs has affected or interfered with or to be likely to affect or interfere with the reasonable enjoyment or use by an aggrieved person of land or of a right with respect to land, but it is necessary to prove that the act or state of affairs complained of has adversely and substantially affected or interfered with or is likely to adversely and substantially affect or interfere with the reasonable enjoyment of life by an aggrieved person.

15. The provisions of this Ordinance do not affect the common law as to nuisance or any remedy or form of action available (whether at common law or by statute) to punish or restrain the commission or continuance of a nuisance or to compensate a person for any injury or damage sustained by reason of the commission or continuance of a nuisance.

Common law remedies for nuisance saved

16.(1) A person aggrieved by a private nuisance may institute proceedings for an order or orders under sections 17 or 18 of this Ordinance in the Supreme Court established under the Supreme Court Act 1961 or a Local Court established under the Local Courts Ordinance.

Action to be brought in Supreme or Local Court

(2) An order made by a Local Court under section 18(1)(a) for payment of damages shall not award damages in excess of \$2,000.

(3) Subject to this Ordinance the forms and procedures appropriate to the Supreme Court and to a Local Court shall be used in a proceeding instituted under this section and all such proceedings shall be commenced—

- (a) in the Supreme Court by a writ of summons; and
 - (b) in a Local Court by the issue of a summons in the appropriate form.
- (4)—
- (a) where a proceeding has been instituted under this section and the

Director is of the opinion that by reason of the complexity of questions of law that may arise or by reason of the fact that the outcome of the proceedings may affect members of the public other than the parties, he may at any time before the hearing apply to the Supreme Court for an order removing the proceedings in the Local Court into the Supreme Court;

- (b) where proceedings are removed to the Supreme Court under this subsection they shall be conducted in accordance with such forms and procedures as the Supreme Court may, by order, direct.

(5) The Director shall conduct all proceedings removed into the Supreme Court in the name of the aggrieved person and, subject to any order made by the Supreme Court as to costs, shall bear the costs of conducting those proceedings and shall reimburse to the aggrieved person any costs which that person may have incurred prior to the making of the order for removal.

Court may order
abatement of
nuisance

17. If, in proceedings instituted under section 16, the Court is satisfied that a private nuisance exists, and that the plaintiff is an aggrieved person by that private nuisance, it may make an order—

- (a) requiring the person by whose act, default or neglect the nuisance arose, arises or continues, or if no such person can be found, the occupier or owner of the land on which the nuisance exists, to abate the nuisance within a time specified in the order and to do all things that are necessary for that purpose;
- (b) prohibiting the recurrence or continuance of the nuisance, and directing a defendant to carry out any works necessary to prevent the recurrence or continuance of the nuisance; or
- (c) both requiring abatement and prohibiting the recurrence or continuance of the nuisance.

Court may order
payment of
damages

18.(1) The Court in which the proceedings are conducted, in addition to an order under section 17 may, if it considers that it is appropriate, in the proceeding—

- (a) order a defendant to pay to the plaintiff a sum by way of damages or recompense; or
- (b) order a defendant to pay to the Court a sum, by way of penalty, not exceeding 200 dollars.

(2) The Court in which the proceedings are conducted shall not make an order under this section for the payment of a sum of money by way of penalty unless the Court is satisfied beyond reasonable doubt—

- (a) that a private nuisance has been proved by the plaintiff to exist; and
- (b) that the defendant to be required to pay the penalty was or is a person responsible for the creation or continuance of the private nuisance.

(3) A person may not be required by an order made under section 17 or 18 to do or to refrain from doing any act or to pay any money unless he has had due notice of the proceedings under this Ordinance in which the order was made, and has had a reasonable opportunity to appear in those proceedings and to object to the making of an order against him in those proceedings.

19. An act or state of affairs which would otherwise be a private nuisance under this Ordinance is not a private nuisance if the Court in which the proceedings are instituted is satisfied that—

Defence to
action for private
nuisance

- (a) a standard prescribed with respect to and applicable to the act done, the existence of the state of affairs or the use of the thing or substance in respect of which the proceeding were instituted has been and is being complied with; or
- (b) if no such standard has been prescribed the person to whom the act or state of affairs or the use of the thing or substance the subject of the proceedings was or is attributable has used the best practicable means in current use to prevent the private nuisance; or
- (c) the act done or omitted to be done was reasonably done or omitted to be done or the state of affairs reasonably existed or the use of the thing or the substance was a reasonable use of that thing or substance in the normal and ordinary course of living or enjoyment of the use of land.

20.(1) If the Director is satisfied of the existence of a private nuisance, he may, upon complaint by at least six aggrieved persons, give notice to the person by whose act, default or sufferance the private nuisance, in the opinion of the Director, arises or continues, to abate or remedy the private nuisance within a time specified in the notice.

Director may
give notice to
abate a private
nuisance

(2) If a private nuisance, the subject of a notice under this section, is not abated or remedied within the time specified in the notice, the Director may institute proceedings for an order under section 17 and subject to subsection (3) such proceedings shall be conducted as though the proceedings were instituted under section 16 by an aggrieved person.

(3) A court shall not proceed to determine proceedings instituted by the Director under subsection (2) unless it is satisfied that the proceedings have been instituted as a result of bona fide complaints to the Director by at least six aggrieved persons.

(4) Where the Director is satisfied of the existence of a private nuisance as a result of the complaints of at least six aggrieved persons but the person by whose act, default or sufferance the private nuisance arises or continues is not known or cannot be found, the Director may enter upon the land from or with respect to which the private nuisance arises and abate or remedy the nuisance, creating as little disturbance as possible having regard to his duty under this section.

(5) The Director shall not be liable for any damage or injury caused by the reason or an act necessarily and reasonably done in pursuance of subsection (4)

(6) Where the Director has taken action under subsection (4) he may, at any time, serve on the person by whose act, default or sufferance the private nuisance arose a notice requiring that person to pay the cost and expenses incurred by the Director in the abatement of the private nuisance, and upon service of that notice the sum of money stated in the notice to be the amount of those costs and expenses becomes a debt payable to the Director by the person served with the notice.

(7) Where a person served with a notice under subsection (5) fails within 14 days to pay the amount stated in the notice, the Director may institute proceedings in a court of competent jurisdiction for the recovery of that amount.

PART IV—CONTROL OF INDUSTRY

Use of dangerous
substances

21.(1) The Administrator in Council may, by an environmental protection order published in the *Gazette*—

- (a) prohibit the use of a dangerous substance either generally or in a specified area;
- (b) direct that a dangerous substance be not used except in a mixture with another specified substance at or not above a specified concentration;
- (c) direct that a dangerous substance be used only in a specified form or in a specified manner or at a specified manner or at a specified time of the day or year;
- (d) direct that a dangerous substance be used only in conjunction with such safety equipment as is specified or after the taking of, or in conjunction with, such measures as are specified for the safety of the user or other persons;
- (e) prohibit the sale or possession in the Northern Territory of a specified dangerous substance; or
- (f) prohibit or regulate the transport of dangerous substances within the Territory.

(2) The Director may, by an environmental protection order in writing under his hand delivered to a person—

- (a) give to that person any direction that may be given by the Administrator in Council by notice in the *Gazette* under subsection (1); or
- (b) prohibit that person from doing any act that may be prohibited by the Administrator in Council by notice in the *Gazette* under subsection (1).

(3) Where an environmental protection order given under this section refers to a substance as being a dangerous substance the production of the order is *prima facie* proof that the substance referred to is a dangerous substance.

Use of certain
machinery or
processes may be
prohibited

22.(1) The Administrator in Council, for the purpose of preventing or minimising pollution of the environment, may, by an environmental order published in the *Gazette*, prohibit the use of specified machinery or of a manufacturing, industrial or mining process or method—

- (a) in a specified area;
- (b) unless specified modifications are made to the machinery or in the process within a specified time;
- (c) unless specified equipment for the prevention of pollution is fitted or incorporated in the machinery or used in the process within a specified time; or
- (d) unless the process or method is altered within a specified time to use specified substances less likely to cause pollution than a substance proposed to be used in the process or method.

(2) The Director may, by an environmental protection order in writing under his hand delivered to a person, prohibit that person from doing any act that may under subsection (1) be prohibited by the Administrator in Council by an environmental protection order published in the *Gazette*.

23.(1) The Administrator in Council may, by notice in the *Gazette*, establish or proclaim for the purpose of this Ordinance, such dumps and waste disposal areas for dangerous waste or deleterious substances as he may think fit and may specify the conditions and occasions upon which such dumps and waste disposal areas may be used.

Establishment of
dumps and
dangerous waste
disposal areas

(2) Except in pursuance of a notice given under this section or by the authority of the Director a person shall not go upon a dump or waste disposal area established under subsection (1) Penalty: 500 dollars.

(3) The Administrator in Council, by notice published in the *Gazette*, may require waste of a specified kind to be dumped in a specified dump or waste disposal area, and in a specified manner.

(4) The Director may by an environmental protection order in writing under his hand delivered to a person, require that person to deliver waste of a specified kind to a specified dump or waste disposal area.

(5) An environmental protection order under subsection (3) or (4) may require to be treated in a specified manner before it is dumped or delivered.

(6) The Administrator in Council shall not establish a dump or waste disposal area on private land without the consent of the owner or lessee of that land.

(7) A person, (not being the owner or lessee of land on which a dump or waste disposal area is established) shall pay such fees as are prescribed for the dumping of material upon a dump or waste disposal area established under this section.

(8) Nothing in this section shall prevent the establishment and management by the council of a municipality of a garbage dump for domestic or industrial waste that is not normally dangerous to human health or well-being.

24. A person shall not contravene or fail to comply with the terms of a notice or order given under sections 21, 22 or 23 which is applicable to him.

Penalty

Penalty: 2,000 dollars.

Daily penalty: 100 dollars.

PART V—POLLUTION OF AIR WATER AND SOIL

Division 1—definitions

25. In this Part—

Definitions

“waters” includes—

- (a) the sea; and
- (b) a lake, river, stream, water course, billabong, marsh or swamp whether permanently, temporarily or occasionally flowing or filled with water, whether fresh or salt.

Division 2—Clean Water

26. A person shall not—

- (a) discharge or place a deleterious substance into or on any waters or

Person not to
pollute water

on or at a place from which the deleterious substance is likely to find its way into waters whether by falling, draining, blowing, percolating, evaporation or washing;

- (b) place any deleterious substance in the dry bed of any waters; or
- (c) raise the temperature of waters beyond the prescribed temperature.

Penalty: 5,000 dollars.

Daily penalty: 500 dollars.

Director may
require person to
avoid pollution
of water

27.(1) The Director may, by an environmental protection order in writing under his hand delivered to a person, require that person—

- (a) to cease the discharge of a specified deleterious substance or waste into any waters;
- (b) to treat waste in a specified way before it is discharged into any waters; or
- (c) to limit the discharge of waste or a specified substance into waters to an extent specified in the order.

(2) A person shall comply with the requirements of an order delivered to him under this section.

Penalty: 5,000 dollars.

Daily Penalty: 500 dollars.

Director may
direct repair of
damage

28.(1) Where a contravention, or a failure to comply with a provision of this Division has caused damage to the environment, the Director may, by notice in writing under his hand delivered to the person responsible for that damage, direct that person to repair the damage within a time specified, and in default of that person repairing the damage within the time specified, may repair the damage himself and may sue for and recover in any court of competent jurisdiction the cost of that repair from the person responsible for the damage.

(2) Upon a prosecution for an offence against section 27, the Court may, upon the conviction of the defendant, in addition to any penalty imposed under that section, order the defendant to pay the Director a sum of money for the purpose of making good any damage occasioned by the commission of the offence or for the reimbursement of the Director for any cost incurred by the Director in pursuance of subsection (1) of this section.

Division 3—Clean Air

Person shall not
pollute
atmosphere

29. A person shall not—

- (a) discharge, release or emit into the atmosphere any deleterious substance;
- (b) establish, otherwise than in accordance with this Ordinance or another law of the Territory, a refuse dump, garbage tip, sludge deposit site or waste injection well so that the land becomes obnoxious or offensive to the senses of human beings;
- (c) discharge or emit odours into the atmosphere which, by virtue of their nature, concentration, volume or extent are obnoxious or offensive to the senses of human beings;

- (d) use an internal combustion engine not equipped with a prescribed device to be fitted to that engine for the prevention of pollution.

Penalty: 2,000 dollars.

Daily Penalty: 100 dollars.

30.(1) The Director may, by an environmental protection order in writing under his hand delivered to a person, specify a use of machinery or premises which, in his opinion, is a contravention of this Division, and may require that person to fit to machinery or install on premises such equipment as is specified in the order for the purpose of preventing or limiting the discharge or emission into the atmosphere of a deleterious substance.

Director may require equipment to be attached to machinery to prevent pollution

(2) A person to whom an order made under this section is delivered shall comply with the order.

Penalty: 2,000 dollars.

Daily Penalty: 100 dollars.

Division 4—Soil and Underground Water Pollution

31. A person shall not—

- (a) place in or on soil or in or at any place from which it may gain access to any soil, any deleterious substance;
- (b) use land or premises in such a way as to adversely affect or be likely to adversely affect the quality of underground water;
- (c) leave a well or borehole in such a condition that it is likely that the quality of underground water will be adversely affected.

Person not to pollute soil

Penalty: 2,000 dollars

Daily penalty: 100 dollars.

32. A person who in a well or borehole, taps or exposes an aquifer the water in which, by reason of the amount of mineral salts dissolved in it, is unuseable for humans, animals or plants shall take all reasonable steps to ensure that that water does not escape into any adjoining aquifer containing potable or useable water.

Person not to allow mineralised water to escape into useable water

Penalty: 2,000 dollars.

Division 5—Control of Noise

33.(1) A person shall not emit or cause or permit to be emitted from any land or premises noise of a volume intensity or quality that is harmful or offensive to the senses of human beings.

Person no to emit noise from land

Penalty: 2,000 dollars.

Daily penalty: 100 dollars.

(2) A prosecution for an offence against this section may be instituted by the Director or by any person who alleges that the emission of the noise complained of has been harmful or offensive to him on 3 or more occasions within a period of 3 months.

34.(1) The Administrator in Council may, by notice in the *Gazette* make an environmental protection order prohibiting—

Use of noisy machinery may be prohibited at certain times

- (a) the use of a machine of a specified description either generally or on specified days or during specified hours or in a specified area; or

- (b) the use of a specified machine unless it is fitted with a device eliminating or limiting the volume or intensity of noise.

(2) A person who uses a machine in contravention of an environmental protection order made under this section is guilty of an offence.

Penalty: 2,000 dollars.

Daily penalty: 200 dollars.

Director may
order
suppression of
noise

35.(1) The Director may by an environmental protection order in writing under his hand delivered to a person, require that person—

- (a) to cease the emission of noise from specified premises either generally or during specified times;
- (b) to cease to carry on a specified noisy trade, occupation, manufacture or process on specified premises;
- (c) to fit or install specified equipment, fittings or baffles for the reduction or limiting of noise whether on premises or on mobile machinery or a vehicle; or
- (d) to limit the emission of noise from premises to an extent specified in the order.

(2) A person shall comply with the terms of an order delivered to him under this section.

Penalty: 2,000 dollars.

Daily penalty: 200 dollars.

PART VI—CONTROL OF ROADSIDE ADVERTISING

Consent to
erection of
boardings

36.(1) A person shall not without the consent of the Director erect or exhibit or cause to be erected or exhibited any sign, placard, poster, or hoarding or any device whatsoever designed to be an advertisement, on any public road, beach, or waterway or on any place or thing which is visible from such road, beach or waterway.

Penalty: 500 dollars.

Daily penalty: 25 dollars.

(2) The Director may consent to the erection or exhibition of a sign, poster, placard or hoarding, or may refuse that consent on the ground that the erection or exhibition would injuriously affect the amenity of the area in which the erection or exhibition is proposed, or would jeopardise the safety of the public.

(3) A consent given by the Director in pursuance of this section does not authorise the erection or exhibition of a sign, poster, placard or hoarding in a place where otherwise the erection or exhibition would be unlawful.

(4) Notwithstanding subsection (1) a person may display upon premises (including a vehicle or vessel) upon or in which a business calling, trade or profession is being carried on, a sign, poster, placard or hoarding relating to that business, calling, trade or profession unless that sign, poster, placard or hoarding constitutes a danger to persons using a public place or the place upon which that sign, poster, placard or hoarding is erected or exhibited.

PART VII—GENERAL

37.(1) It is a defence to a prosecution under this Ordinance for any offence relating to the pollution of waters, air or soil or the emission of noise if the defendant proves that—

Defence to prosecution for pollution

- (a) a standard relating to the emission of the noise or of the discharge or use of the substance alleged to have been discharged or used which has resulted in the pollution charged has been prescribed and the defendant has complied with the standard so prescribed; or
- (b) where no standard relating to the emission of the noise or of the discharge or use of the substance has been prescribed, that the defendant has used the best known practicable means to prevent or minimize the noise or the pollution.
- (c) in the case of a prosecution for an offence against section 26 or 31 of this Ordinance that the deleterious substance was placed in a waste disposal area proclaimed or established under section 23.

38.(1) Where in or at the foot of any section or subsection of a section there appears the expression “Daily penalty”, it indicates that a person who is convicted of an offence against this Ordinance in relation to that section is guilty of a further offence against this Ordinance on each day during which the act or state of affairs continues after he is so convicted, and that for each such further offence he is liable to an additional penalty for each day during which the offence continues of the amount expressed in the section or subsection as the amount of the daily penalty.

Penalty for continuing offences

(2) A prosecution for further offences in respect of which a daily penalty is fixed may be instituted by one complaint made in respect of any number of days on which the further offences are alleged to have been committed.

39. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out, or giving effect to, this Ordinance, and in particular—

Regulations

- (a) prescribing the duties and regulating the exercise and discharge of all or any of the powers or functions of the Director and other officers appointed or employed under this Ordinance;
- (b) prohibiting or regulating the emission of pollutants or dangerous or deleterious substances;
- (c) prescribing standards to be complied with in the use of any substances that contain pollutants or dangerous or deleterious substances;
- (d) prescribing methods of analysis and testing and sampling;
- (e) prohibiting or regulating the sale, manufacture, supply, receiving, possession or disposal of things that are or contain pollutants or dangerous or deleterious substances or that will or may cause or increase pollution of the environment;
- (f) relating to the making or emission of noise;

- (g) prohibiting or regulating the disposal of—
 - (i) waste; and
 - (ii) domestic, commercial or industrial garbage or rubbish;
 - (h) prohibiting or regulating the burning of specified kinds of fuel;
 - (i) regulating the burning of rubbish, grass, weeds, undergrowth and trees, whether standing or fallen; and
 - (j) requiring the fitting to engines and other machinery devices to prevent or reduce pollution or noise.
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BUILDERS' REGISTRATION BILL 1975

(Serial 82)

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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

Relating to the Licensing of Builders

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

PART I—PRELIMINARY

1. This Ordinance may be cited as the *Builders' Registration Ordinance* 1975. Short title

2.(1) Parts I, II, III and IV shall come into operation on the day on which this Ordinance receives assent. Commence-
ment

(2) The remaining provisions of this Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. In this Ordinance, unless the contrary intention appears— Interpreta-
tion

“approved” means approved by the Board;

“builder’s licence” means a class A builder’s licence and a class B builder’s licence described in section 16;

“building work” means work in connexion with the erection, alteration or demolition of a residential building;

“company” has the same meaning as in the *Companies Ordinance*;

“employee”, in relation to a licensee, means a person who is employed full-time by the licensee;

“licensee” means a person to whom a builder’s licence has been granted;

“owner” means—

(a) in the case of a parcel of land held under a lease from the Commonwealth for a term of years—the person who is the lessee of the parcel of land;

(b) in the case of a parcel of land held in fee simple—the person in whom the fee simple is vested; and

(c) in the case of a parcel of land occupied under a tenancy from the Commonwealth—the person who occupies the parcel of land;

“Registrar” means the Building Registrar appointed under section 6 and includes an Acting Building Registrar appointed under that section;

“Supreme Court” means the Supreme Court of the Northern Territory of Australia;

“town planning scheme” means a town planning scheme under the *Town Planning Ordinance* or a general planning and development scheme under the *Darwin Reconstruction Act 1975*.

Application

4.(1) This Ordinance does not affect the operation of any other law in force in the Northern Territory relating to town planning, the use of a building, the provision in a building of services, including works for sewerage and drainage or for water or electricity supply, or relating to or affecting building work.

(2) This Ordinance does not apply in relation to a temporary building (not being a dwelling place) erected on the site of building work in connexion with the erection or alteration of a building for which a building permit under the *Building Ordinance* or the *Darwin Reconstruction Act 1975* has been obtained, and being a building that is to be removed on completion of the building work.

(3) The provisions of this Ordinance are in addition to, and do not derogate from, the provisions of any other law in force in the Territory relating to scaffolding or construction safety.

Savings

5. Nothing in this Ordinance shall be construed to require a person who, at the date of commencement of Parts V and VI, was in the course of progress, or had entered into a contract for the undertaking of, building work, to obtain a builder's licence in respect of that work.

PART II—ADMINISTRATION

Building Registrar

6.(1) The Administrator in Council may appoint a member of the Public Service of Australia or the Territory to be the Building Registrar.

(2) The Administrator may appoint a person to be Acting Building Registrar during a temporary vacancy in the office of Registrar, and a person so appointed, may exercise all the powers and functions of the Registrar.

Functions of Registrar

7. The Registrar shall, subject to the directions of the Administrator, be responsible for the administration of this Ordinance and for the provision of administrative and other services to the Board.

Establishment of Builders' Registration Board

8.(1) There is established by this Ordinance a Board by name of the Builders' Registration Board.

(2) The Board shall consist of the Registrar who shall be the Chairman of the Board, and 5 other members appointed by the Administrator in Council of whom—

- (a) 2 shall be chosen from a panel of 3 persons nominated by the Master Builders' Association of the Northern Territory;
- (b) one shall be chosen from a panel of 3 architects nominated by the Northern Territory Area Committee of the Royal Australian Institute of Architects;
- (c) one shall be chosen from a panel of 3 structural engineers nominated by the Darwin Branch of the Royal Australian Institution of Engineers; and
- (d) one shall be a legal practitioner within the meaning of the *Legal Practitioners' Ordinance* who shall have practised in the Territory for not less than 3 years.

9.(1) Where an appointed member is, or is expected to be, unable to attend a meeting of the Board, or there is a vacancy in an office of a member, the Administrator may appoint a person with as near as possible the same qualifications as the absent member, to act in the place of that member during that inability or until the filling of the vacancy. Acting appointment

(2) The validity of an act done by the Board shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

10.(1) Subject to this section, an appointed member of the Board holds office for 5 years but is eligible for re-appointment. Term of office of members of Board

(2) An appointed member of the Board may resign his office by writing under his hand addressed to the Administrator.

11. The appointed members of the Board shall be paid, in respect of meetings of the Board, or while engaged on the business of the Board, such fees and allowances as are prescribed. Fees and allowances

12.(1) The Administrator in Council may terminate the appointment of an appointed member for inability, inefficiency, misbehaviour, or physical or mental incapacity. Termination of appointment

(2) If an appointed member—
 (a) is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board;
 (b) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
 or
 (c) commits an offence against this Ordinance,
 the Administrator in Council shall terminate the appointment of the member.

13.(1) The Board shall hold such meetings as are necessary for the performance of its functions. Meetings

(2) The Registrar may at any time convene a meeting of the Board.
 (3) At a meeting of the Board, 4 members constitute a quorum.
 (4) The Registrar shall preside at all meetings of the Board.
 (5) A member of the Board shall not vote on any matter in relation to which he has, or his spouse or children have, a financial interest.

14. When the members constituting the Board are divided in opinion as to the decisions to be made on any question— Voting

- (a) if there is a majority of the one opinion—the question shall be decided according to the opinion of the majority; or
- (b) in any other case subject to section 13(5)—
 - (i) if the meeting of the Board is not a meeting of all the members of the Board—the question shall be referred to a meeting of the Board comprised of all members; or

- (ii) if the meeting of the Board is a meeting of all the members of the Board—the question shall be decided in the negative.

Board to regulate
its proceedings

15. Subject to this Ordinance, the Board may regulate the proceedings at its meetings as it thinks fit.

PART III—BUILDERS' LICENCES

Application for
builder's licence

16.(1) A person may apply to the Board for the grant of—

- (a) a class A builder's licence;
- (b) a class B builder's licence; or
- (c) an owner builder's permit.

(2) Subject to this Ordinance a class A builder's licence entitles a person to whom it is granted to carry out any building work.

(3) Subject to this Ordinance, a class B builder's licence entitles a person to whom it is granted to carry out any building work in connexion with a detached building for residential purposes comprising not more than 2 floor levels, other than a detached building the principal structure of which consists of reinforced concrete, reinforced masonry or structural steel.

(4) Subject to this Ordinance, an owner builder's permit entitles a person to whom it is granted to carry out work of the kind specified in subsection (3) under a class B builder's licence on land of which he is the owner and which is occupied or intended to be occupied by him as his place of residence.

Applications by
company or firm

17.(1) Where an application for a builder's licence is made by a company, the Board shall refuse the application unless the company has, in its application, nominated as the person who is to be responsible for the direction and supervision of building work to be undertaken by the company, a director or an employee of the company who is the holder of a licence included in the class of licences to which the application relates.

(2) In the case of an application by 2 or more persons carrying on business in partnership, the Board shall refuse the application unless the applicants have, in the application, nominated as the person to be responsible for the direction and supervision of building work to be undertaken by the partnership one of the partners or an employee of the partnership who is the holder of a licence included in the class of licences to which the application relates.

Information to
accompany
application

18.(1) In making an application under section 16 the following information shall be supplied to the Board by the applicant:

- (a) the full name of the applicant;
- (b) his age;
- (c) his business and residential addresses;
- (d) the formal qualifications obtained by him relating to his employment in the building industry;
- (e) the length of his experience in that industry;
- (f) the financial resources available to him as a builder;
- (g) the details of any present or past registration as a builder under a law in force in any State or Territory of Australia, and any cancellation or action taken against him under that law; and

- (h) such further or additional information as the Board considers necessary.

(2) In the case of an application for a builder's licence by a company or by 2 or more persons carrying on business in partnership, the information specified in subsection (1)(a), and the number of the person's builder's licence shall, in addition, be supplied in respect of the person who is to be responsible for the direction and supervision of the building work to be undertaken by the company or partnership as the case may be.

19.(1) A person other than a company is not eligible for the grant of a class B builder's licence unless— Qualifications of applicant

- (a) he holds a certificate issued by the appropriate body in a place within Australia that certifies that he has completed the term required to be completed as an apprentice in a trade relating to the building industry, that he has successfully completed the technical course, and has attained the standards of practical and theoretical training for such a trade, as required by the law in force in that place, and in addition, has had at least 3 years practical experience in the building industry after having completed his apprenticeship training; or
- (b) he is, in the opinion of the Board, a person who has skills and has had experience that make him as capable of carrying out building work as a person who has the certificate and training referred to in paragraph (a), and he has, in the opinion of the Board, satisfactorily carried out building work under supervision or on his own account for periods that total not less than 5 years.

(2) A person other than a company is not eligible for the grant of a class A builder's licence unless—

- (a) he is a person who—
 - (i) holds a certificate issued by an approved institution certifying that he has completed a Building Foreman and Clerk of Works course conducted by that institution;
 - (ii) holds a certificate issued on the successful completion of a trade course conducted by an authority, being a course that is, in the opinion of the Board, of equivalent standard to the course referred to in subparagraph (i); or
 - (iii) has, in the opinion of the Board, qualifications and skills that make him as capable of carrying out building work as a person who holds a certificate referred to in subparagraphs (i) and (ii); and
- (b) he has—
 - (i) been employed as a Clerk of Works or Building Foreman on building work in respect of which a class A builder's licence would be required under this Ordinance for periods that total not less than 2 years; or
 - (ii) been employed on his own account for periods that total not less than 3 years on building work in respect of which a class B builder's licence would be required under this Ordinance.

(3) A company is not, or 2 or more persons carrying on business in partnership are not, eligible for the grant of a builder's licence included in

the class of licence to which the application relates unless the person nominated in the application for the licence as the director or employee of the company or the partner or employee of the partnership, as the case requires, who is to be responsible for the direction and supervision of building work to be undertaken by the company or partnership is the holder of such a licence.

(4) A person other than a company is not eligible for the grant of a builder's licence unless in the opinion of the Board he is a fit and proper person to hold such a licence.

(5) A person shall not be granted a builder's licence unless the Board is satisfied that he has the financial resources or business capability necessary to carry out building work authorized by the licence.

Grant of licences

20.(1) The Board shall consider each application for a builder's licence and—

- (a) shall grant to the applicant the builder's licence of the kind applied for; or
- (b) subject to this section—
 - (i) may refuse to grant a builder's licence of the kind applied for and may grant to the applicant a builder's licence for the grant of which the applicant is eligible.

(2) The Board shall only exercise the powers referred to in subsection (1)(b) if

- (a) it has reason to believe that the applicant is not eligible for the grant of a builder's licence of any kind or of the kind applied for, as the case may be;
- (b) it has, within 21 days after the receipt of the application, given to the applicant notice in writing specifying the grounds upon which it bases its belief that the applicant is not eligible for the grant of the builder's licence for which he has applied; and
- (c) the applicant fails, within the period specified in that notice, to establish that he or it is eligible for the grant of the builder's licence applied for.

(3) A builder's licence is, unless sooner cancelled, in force for the period of 12 months commencing on the day immediately following the day on which the licence is granted.

Cancellation of licences

21.(1) Each of the following is a ground for the cancellation of a builder's licence;

- (a) that the licence has been granted in error or in consequence of a false statement made or misleading information given by the holder of the licence;
- (b) that the holder of the licence carried out building work that did not comply with the standards required or permitted under a law in force in the Territory;
- (c) that—
 - (i) the holder of the licence has; or
 - (ii) a person working under the direction and supervision of the holder of the licence has, with the knowledge of the holder,

attempted to deceive the Board, or any person authorized under the *Building Ordinance* or the *Darwin Reconstruction Act 1975* to inspect building work, with respect to building work that has been or is being carried out;

- (d) that—
 - (i) the holder of the licence has; or
 - (ii) a person working under the direction and supervision of the holder of the licence has, with the knowledge of the holder, contravened, or failed to comply with, a provision of this Ordinance the *Building Ordinance* or the *Darwin Reconstruction Act 1975*;
- (e) that the holder of the licence is no longer a fit and proper person to hold such a licence;
- (f) that, in the case of a licence granted to a company or partnership, the company has not had, for a period exceeding 30 days, a director or employee, or the partnership has not had, for a period exceeding 30 days, a partner or employee, who holds a builder's licence included in the class held by the company or partnership;
- (g) that, in the case of a licence granted to a company or partnership, the company or the partners have not, within 7 days after the person nominated or last nominated by it or them has ceased to be responsible for the direction and supervision of building work undertaken by it or them notified the Registrar of that fact;
- (h) that the holder of the licence, or in the case of a licence granted to a company or partnership, the nominee of the company or the partnership has failed to exercise due skill, care and diligence in the carrying out of building work undertaken by him, them or it;
- (i) that the holder or, in the case of a licence issued to a company or a partnership, the nominee of the company or partnership, has failed to exercise adequate direction and supervision of the building work undertaken by him, them or it;
- (j) that the holder has himself or by his agent or employee wilfully obstructed a person authorized to inspect building work from carrying out his duties under a law in force in the Territory;
- (k) that the holder has committed or by his action has knowingly caused another person to commit, an offence in relation to building work under a law in force in the Territory; or
- (l) that the holder has carried out, commenced to carry out, or has accepted payment in connexion with, building work without having first entered into a contract of a type approved for that work.

(2) Where it appears to the Board on the complaint of the Registrar or another person that there exists one or more of the grounds specified in subsection (1) for the cancellation of a builder's licence, the Registrar may, by notice in writing served on the holder of the licence, require the holder to show cause before the Board why his licence should not be cancelled.

- (3) A notice under subsection (2) shall—
 - (a) contain full particulars of the facts or circumstances on which the Board has formed the opinion that the grounds exist;
 - (b) specify a time not less than 10 day after the date of the service of the notice within which the holder of the licence may give to the Registrar notice of his intention to show cause why his licence should not be cancelled.

(4) The Board may, if it considers the circumstances justify it in so doing, suspend a builder's licence, and in that case the Registrar shall give notice of the suspension to the holder of the licence in the notice under subsection (2).

(5) Where the holder of a builder's licence on whom a notice under subsection (2) has been served gives, within the time specified in that notice or within such further time as the Registrar, on an application made before or after expiration of the time so specified, allows, to the Registrar notice of his intention to show cause why the licence should not be cancelled, the Registrar shall refer the matter to the Board which shall fix a time and place for the holding by the Board of an inquiry at which the holder of the licence may show cause.

(6) The Registrar shall give notice of the time and place fixed for the inquiry to the holder of the licence.

(7) Where the Board, after having held an inquiry under this section, is satisfied that, in relation to the holder of the builder's licence, a ground referred to in sub-section (1) exists, it may—

- (a) suspend the licence for such period as it thinks fit;
- (b) cancel the licence; or
- (c) if it is satisfied that, in the circumstances, the licence should not be suspended or cancelled, reprimand the holder of the licence.

(8) Where the holder of a licence on whom a notice under sub-section (2) has been served does not, within the time specified in that notice, give to the Registrar notice of his intention to show cause why his licence should not be cancelled, the Board may cancel the licence.

(9) A suspension of a builder's licence under sub-section (4) remains in force—

- (a) in the case where the holder of the licence gives notice under sub-section (5)—until the Board hears and determines the matter; or
- (b) in any other case—until the Board revokes the suspension or cancels the licence.

(10) A builder's licence shall, during the period for which it is suspended under this section, be deemed not to be in force.

Register of
Builder's
Licences

22.(1) There shall be kept in the office of the Registrar a register to be called the Register of Builder's Licences in which the Registrar shall enter the names and addresses of persons holding builder's licences and owner builders permits granted under this Ordinance and, in appropriate cases, the nominees of those persons, the class of licences in which the licence issued to each of those persons is included and the number given to each licence in the class in which the licence is included.

(2) The Registrar shall record any cancellations or suspensions of builder's licences in the Register.

(3) A person may inspect the Register of Builder's Licences at the office of the Registrar during the hours during which that office is open for business.

Loss, &c., of
Licence

23. If the Registrar is satisfied that a builder's licence granted to a person under this Ordinance has been lost, defaced or destroyed, he may issue

to that person a certified copy of the builder's licence and that copy shall be deemed to have, for the purposes of this Ordinance, the same effect as the builder's licence.

24.(1) A company or partnership that is the holder of a builder's licence may, by notice in accordance with the prescribed form lodged with the Registrar, nominate a director or an employee of the company or in the case of a partnership the partner or employee of the partnership who is the holder of a builder's licence included in the class of builder's licences in which the company's or partnerships licence is included as the person responsible, in the place of a person previously nominated, for the direction and supervision of building work undertaken by the company or partnership.

Change of
nominee

(2) The Registrar shall, as soon as practicable after receipt of the notice, enter particulars of the change in the Register.

25.(1) Where the address of the holder of a builder's licence is changed, the holder shall, within 7 days after the change, furnish to the Registrar notice in writing of the change.

Notice of change
of address

Penalty: 50 dollars.

(2) The Registrar shall, as soon as practicable after the receipt of the notice, enter the particulars of the change of address in the Register.

PART IV—REVIEW OF BOARD DECISIONS

26. A person who is aggrieved by a decision of the Board may, within 30 days after the date upon which the person receives notification of the decision, request the Supreme Court to review the decision of the Board.

Application to
Supreme Court
for review

27.(1) Where the Supreme Court reviews a decision of the Board, it shall consider the grounds upon which the decision of the Board was made, and the grounds upon which the Court is asked to review the decision, and shall—

Power of
Supreme Court

- (a) uphold the decision;
- (b) vary the decision in such manner as it thinks fit; or
- (c) overrule the decision and replace it with a decision of its own.

(2) Where the Supreme Court varies the decision of the Board or overrules and replaces the decision with a decision of its own, the decision as so varied or replaced by the Supreme Court is deemed to be a decision of the Board but shall not be capable of being reviewed under section 26.

PART V—BUILDING WORK

28. In this Part, unless the contrary intention appears, "licensee" includes the holder of an owner builder's permit.

Interpretation

29.(1) Building work shall not be commenced or carried out except—

- (a) by a licensee being the holder of an owner builder's permit;
- (b) by a licensee (other than the holder of an owner builder's permit) licensed to carry out that class of work;

No building
work except by
licensee

- (c) by the employee of a licensee licensed to carry out the class of work; or
- (d) by a person who carried out the work pursuant to a contract entered into with the licensee, or at the request and on the instructions of the licensee.

Penalty: 2000 dollars.

Daily penalty: 500 dollars.

(2) In this section "building work" includes entering into a contract for the performance of building work or accepting payment, whether or not as a deposit, in respect of building work.

General
requirements for
carrying out of
building work

30.(1) Building work shall not be commenced or carried out by a licensee except in accordance with a building permit issued under the *Building Ordinance* or the *Darwin Reconstruction Act 1975*.

Penalty: 2000 dollars.

Daily penalty: 500 dollars.

(2) The requirements of sub-section (1) do not apply where building work is exempted under the provisions of the *Darwin Reconstruction Act 1975* from the requirement to be authorized by a building permit.

Contracts for
building work

31.(1) A licensee shall not commence to carry out building work under a contract under which he or others undertake to carry out building work in connexion with which a licence is required unless—

- (a) the contract is an approved contract; and
- (b) he has supplied the Registrar with a copy of that contract.

Penalty: 2000 dollars.

(2) For the purposes of this section "approved contract" means—

- (a) a contract substantially in the terms from time to time approved by the Master Builders' Association of the State of New South Wales for use by its members;
- (b) a contract substantially in the terms of the lump sum building contract prepared from time to time under the auspices of the Royal Australian Institute of Architects and the Master Builders' Federation of Australia Incorporated; or
- (c) such other form of contract as may be approved from time to time by the Board.

Building work to
conform to lease
conditions town
planning
schemes

32. A licensee shall not commence or carry out building work—

- (a) if the land on which the building work is to commence or be carried out is land held under lease from the Commonwealth—contrary to a covenant, condition or other provision of the lease; and
- (b) if there is in existence at the commencement or carrying out of the building work a town planning scheme affecting the land—except in conformity with that town planning scheme.

Warranties as to
building work

33.(1) This section applies to a contract, whether entered into before or after the commencement of this Ordinance—

- (a) under which the licensee undertakes to carry out by himself or itself or by others any building work specified in the contract; or
- (b) for the sale of land on which building work has been carried out by the licensee.

(2) A contract to which this section applies shall be deemed to contain a warranty by the licensee or by the vendor under the contract of sale, as the case may be, as if the purchaser or person on whose behalf the work is being carried out were a party for valuable consideration, to the contract and warranty, that the building work will be, or has been, carried out in an efficient and workmanlike manner and in accordance with the requirements of the contract and approved plans and specifications and in accordance with the requirements of the law in force in the Territory.

(3) The provisions of this section have effect notwithstanding any provision in a contract for building work or a contract for the sale of land.

(4) Nothing in this section affects any rights or remedies that a purchaser may have in relation to any building work apart from this section.

PART VI—GENERAL

34. A person shall not, unless he is the holder of the relevant licence under this Ordinance, hold himself out to any other person as a licensee.

Penalty: 2000 dollars.

Daily penalty: 500 dollars.

Unlicensed person not to hold himself out as licensed builder

35.(1) Where in or at the foot of any section or sub-section there appears the expression "Daily penalty", it indicates that a person who is convicted of an offence against this Ordinance in relation to that section is guilty of a further offence against this Ordinance on each day during which the act or state of affairs continues after he is so convicted, and that for each such further offence he is liable to an additional penalty for each day during which the offence continues of the amount expressed in the section or sub-section as the amount of the daily penalty.

Penalty for continuing offence

(2) A prosecution for a further offence in respect of which a daily penalty is fixed may be instituted by one complaint made in respect of any number of days during which the further offence is alleged to have been committed.

36. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance, are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the carrying out or giving effect to this Ordinance.

Regulations

TERRITORY PARKS AND WILDLIFE CONSERVATION BILL 1976

(Serial 83)

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THE NORTHERN TERRITORY OF AUSTRALIA

A BILL

for

AN ORDINANCE

To make provision for and in relation to the
Establishment of Territory Parks and other Parks
and Reserves and the Protection and Conservation
of Wildlife

BE it ordained by the Legislative Assembly for the Northern Territory of
Australia as follows:

PART 1—PRELIMINARY

1. This Ordinance may be cited as the *Territory Parks and Wildlife Conservation Ordinance 1976*. Short title
2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*. Commence-
ment
3. The Ordinances listed in the Schedule are repealed. Repeal
- 5.(1) In this Ordinance, unless the contrary intention appears—
“Aboriginal” means a member of the Aboriginal race of Australia;
“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;
“Bylaws” means Bylaws under this Ordinance;
“Commission” means the Territory Parks and Wildlife Commission established by this Ordinance;
“Council” means the Territory Parks and Wildlife Advisory Council established by this Ordinance;
“Director” means the Director of Territory Parks and Wildlife and includes a person who is acting as the Director;

Interpreta-
tion

- “Director of Law” means the person for the time being holding, or acting in or performing the duties of the office in the Attorney-General’s Department of Director of Law;
- “Fund” means the Fund established by this Ordinance;
- “game” means an animal declared by the Regulations to be game, while it is game;
- “hovercraft” means a vehicle designed to be supported on a cushion of air;
- “member” means a member of the Commission;
- “operations for the recovery of minerals” includes prospecting or exploration for minerals;
- “park” means a park declared under section 8;
- “partly protected animal” means an animal declared by the Regulations to be a partly protected animal, while it is a partly protected animal;
- “pest” means an animal declared by this Ordinance or the Regulations to be a pest, while it is a pest;
- “Place Names Committee” means the Place Names Committee for the Northern Territory established under the *Place Names Ordinance*;
- “plan of management” means a plan of management in force under section 14;
- “plant” means any member, alive or dead, of the plant kingdom or of the fungus kingdom, and includes seeds and parts of plants;
- “Police Force” or “Police Force of the Territory” means the Police Force of the Northern Territory within the meaning of the *Police and Police Offences Ordinance*;
- “prohibited entrant” means an animal declared under this Ordinance or by the Regulations to be a prohibited entrant, while it is a prohibited entrant;
- “protected animal” means an animal declared by this Ordinance or the Regulations to be a protected animal, while it is a protected animal;
- “ranger” means a person appointed as a ranger under section 76;
- “Regulations” means Regulations under this Ordinance;
- “reserve” means a reserve declared under section 8;
- “Service” means the Territory Parks and Wildlife Service established by this Ordinance;
- “State” means a State of Australia;
- “this Ordinance” includes the Regulations;
- “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 76; or
 - (b) a person referred to in section 77;
- “wilderness zone” means a wilderness zone declared under section 8;
- “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 seabed and subsoil beneath that sea;
- (c) migratory animals that periodically or occasionally visit Australia or the Australian coastal sea;
- (d) animals and plants of a kind introduced into Australia, directly or indirectly, by Aborigines before the year 1788; and
- (e) such other animals and plants, not being domesticated animals or cultivated plants, as are prescribed.

(2) In this Ordinance, a reference to the seabed 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 Ordinance, 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 a newspaper circulating throughout the Territory.

6. This Ordinance binds the Crown.

Ordinance binds
the Crown

PART II—PARKS AND RESERVES

7. The object of this Part is to make provision for the establishment and management of parks and reserves appropriate to be established by the Administrator in Council, having regard to the status of the Administrator in Council as the person charged with the duty of administering the government of the Territory on behalf of Australia being advised by the Council established to advise him, and this Ordinance shall be administered accordingly.

Object of this
Part

8.(1) In this section, “area” means an area of land in respect of which all right, title and interest is vested in Australia.

Parks and
reserves
established by
Administrator in
Council

(2) Subject to this section and to section 10, the Administrator in Council may—

- (a) by notice in the *Gazette*, declare an area specified in the notice to be a park or a reserve and, after receiving a report from the Place Names Committee, assign a name to that park or reserve; and
- (b) by the same or by another notice in the *Gazette*, declare the whole or a specified part of the park or reserve to be a sanctuary or a wilderness zone.

(3) A notice under subsection (2) 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 under subsection (2)(b) in relation to the park or reserve except in accordance with the plan of management.

(5) A park may be named as a Territory park or by such other designation as the Administrator in Council thinks fit.

(6) Where an area is declared by notice under subsection (2) 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 notice;

(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 notice,

shall be taken to be within that park or reserve.

(7) Upon the declaration of a park or reserve under subsection (2), all right, title and interest held by Australia 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 Commission.

(8) Where any land is acquired by Australia for the purposes of this section, the Administrator shall, as soon as practicable after the acquisition, but subject to compliance with section 10, cause the carrying out of that purpose to be submitted for consideration by the Administrator in Council.

Revocation of
Park or Reserve

9.(1) Subject to this section and to section 10, the Administrator in Council may, by notice in the *Gazette*, revoke or amend a notice given under section 8.

(2) A notice under subsection (1) by virtue of which any land (including any subsoil) or sea ceases to be land or sea within a park or reserve or within a sanctuary or a wilderness zone shall not be given except in accordance with a resolution passed by the Legislative Assembly.

(3) If, by virtue of a notice given under subsection (1), any land (including any sea-bed or any sub-soil) ceases to be land within a park or reserve, all right, title and interest held by the Commission in respect of that land becomes, by force of this subsection, vested in Australia.

Report by
Commission

10.(1) The Administrator in Council shall not publish a notice under section 8 or 9 except after consideration by the Administrator in Council of a report by the Commission in relation to the matter dealt with by the notice.

(2) Before submitting a report for the purposes of subsection (1), the Commission 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, it shall attach to the report any representations so made, together.

Registration of
changes in title to
land

11.(1) Where, by reason of a notice under section 8 or 9, any land (including any subsoil) becomes vested in the Commission or in Australia, the Director of Law may lodge with the Registrar-General a copy of the notice, certified under the hand of the Director of Law.

(2) The Registrar-General may deal with and give effect to the copy of the notice as if it were a grant, conveyance, memorandum or instrument of transfer of the land duly executed under the laws in force in the Territory.

12.(1) Notwithstanding any law of the Territory, but subject to subsection (2), no right, title or interest held by the Commission in respect of land within a park or reserve shall be sold, leased or otherwise disposed of.

Restriction on disposal &c., of land and reserves

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

13.(1) This section has effect notwithstanding any law of the Territory.

Mining, works, forestry, &c., in parks and reserves and wilderness zones

(2) No operations for the recovery of minerals shall be carried on in a park or reserve other than operations that are carried on, with the approval of the Administrator in Council, in accordance with the plan of management relating to that park or reserve.

(3) Subject to subsection (4)—

- (a) no excavation 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 park or reserve, subsection (3) does not prevent the Commission from performing its functions in that park or reserve for the purpose of preserving or protecting the park or reserve, protecting or conserving wildlife in the park or reserve, controlling authorized scientific research or protecting persons or property in the park or reserve.

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

(6) Notwithstanding subsection (4)—

- (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 sanctuary or a wilderness zone except by the Commission, in accordance with the plan of management relating to the place, for purposes essential to the management of the place.

14.(1) As soon as practicable after a park or reserve has been declared, the Commission shall prepare a plan of management in respect of that park or reserve.

Plans of management

(2) Before preparing a plan of management in respect of a park or reserve, the Commission shall, by public notice—

- (a) state that it intends to prepare a plan of management in respect of that park or reserve;
- (b) invite interested persons to make representations in connexion with the proposed plan by such date, not being less than one 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.

(3) A person may, not later than the date specified in the notice, make representations to the Commission in connexion with the proposed plan of management, and the Commission shall give due consideration to any representations so made.

(4) 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.

(5) The plan of management shall set out on detailed description of the manner in which it is proposed to manage the park or reserve and shall include—

- (a) a general description of any existing or proposed buildings, structures, facilities or other development; and
- (b) a detailed 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.

(6) 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.

(7) 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;
- (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;
- (d) the protection, conservation and management of wildlife within the park or reserve; and
- (e) the protection of the park or reserve against damage.

(8) The plan of management may provide for the division of the park or reserve into ones and set out the conditions under which each zone shall be kept and maintained.

(9) When the Commission has prepared the plan of management, it shall, by public notice—

- (a) state that the plan has been prepared;

- (b) invite interested persons to make representations in connexion with the plan by such date, not being less than one month after the date of publication of the notice in the *Gazette*, as is specified in the notice;
- (c) specify an address or addresses at which copies of the plan may be inspected or purchased; and
- (d) specify an address to which representations in connexion with the plan may be forwarded.

(10) A person may, not later than the date specified in the notice, make representations to the Commission in connexion with the plan of management, and the Commission shall give due consideration to any representations so made and, if it thinks fit, alter the plan accordingly.

(11) The Commission shall thereupon submit to the Administrator in Council—

- (a) the plan of management; and
- (b) if representations have been made under subsection (10)—those representations, together with the comments of the Commission on those representations.

(12) The Administrator in Council may—

- (a) accept the plan of management as so submitted or after making such alterations as the Administrator in Council thinks fit; or
- (b) refer it to the Commission, together with suggestions for further consideration.

(13) Where the plan of management has been so referred to the Commission, it shall, as soon as practicable after receipt of the plan, give further consideration to the plan, having regard to the suggestions of the Administrator in Council, and again submit the plan, with or without alterations, to the Administrator in Council, together with its comments on the suggestions of the Administrator in Council.

(14) When the plan of management is again submitted to the Administrator in Council, the Administrator in Council shall, as soon as practicable after receipt of the plan, accept the plan as so submitted or after making such alterations as the Administrator in Council thinks fit.

(15) Where the Administrator in Council makes alterations to a plan of management under subsection (12) or (14), the Administrator in Council shall prepare a report specifying the alterations and setting out any views expressed by the Commission in respect of the matters to which the alterations relate, and the report shall accompany the plan when it is laid before the Legislative Assembly under section 15.

15.(1) The Administrator shall, as soon as practicable after a plan of management has been accepted under section 14, cause it to be laid before the Legislative Assembly.

Plan of
management to
be laid before
Assembly

(2) The Legislative Assembly may in pursuance of a motion, notice of which is given within 15 sitting days after the plan of management has been laid before it, pass a resolution disallowing the plan of management.

(3) If the Legislative Assembly does not pass 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.

(4) If, before the expiration of 15 sitting days after the plan of management has been laid before the Legislative Assembly—

- (a) the Assembly expires or is prorogued; and
- (b) notice of motion for the disallowance of the plan of management has not been given,

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

(5) If the Legislative Assembly passes a resolution in accordance with subsection (2) disallowing the plan of management, the Administrator in Council shall direct the Commission to prepare a fresh plan of management and the Commission shall thereupon reconsider the matter and prepare a fresh plan of management, and for that purpose section 14 applies accordingly.

(6) As soon as practicable after a plan of management has come into operation, the Administrator shall publish a notice in the *Gazette* and in such newspapers as he thinks fit, stating that the plan of management has come into operation and specifying an address or addresses where copies of the plan of management may be inspected or purchased.

Amendment or
revocation of
plan of
management .

16.(1) The Commission may at any time amend a plan of management, and sections 14(2) to (15) and section 15 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 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.

Commission to
comply with plan
of management

17. While a plan of management is in force, the Commission shall perform its functions and exercise its powers in relation to the park or reserve to which the plan relates in accordance with that plan and not otherwise.

PART III—ANIMALS

Declaration of
protected
animals, game,
pests, etc.

18.(1) The Regulations may declare that an animal is—

- (a) a protected animal;
- (b) a partly protected animal;
- (c) game;
- (d) a pest; or
- (e) a prohibited entrant.

(2) The Administrator may declare that an animal is a prohibited entrant.

(3) A declaration made under or in pursuance of sub-section (1) or (2) may be limited in its application—

- (a) in respect of part only of the Territory;
- (b) in respect of part only of the year; or
- (c) in respect of part only of the Territory and part only of the year.

(4) Where a declaration is made under or in pursuance of sub-section (1) or (2), that declaration has effect according to its tenor to make the ani-

mal the subject of the declaration a protected animal, a partly protected animal, game, a pest or a prohibited entrant, as the case may be, throughout the Territory or while it is in part only of the Territory, as the case may be, and for the whole of the year or for part only of the year, as the case may be.

(5) A declaration made under sub-section (2) ceases to have effect upon the expiration of the period of 7 days immediately following the date of the meeting of the Administrator's Council next following the date on which the declaration was made.

19. All vertebrate animals other than—

Protected
animals

- (a) fish;
- (b) domestic animals; and
- (c) domesticated animals,

are protected animals except while they are in those parts, if any, of the Territory in which they are, and during those parts, if any, of the year during which they are, partly protected animals, game, pests or prohibited entrants.

20. A person shall not—

Killing &c., of a
protected animal

- (a) kill, wound, destroy, catch or take;
- (b) have in his possession or control;
- (c) sell, offer for sale, barter or offer to barter; or
- (d) export from the Territory,

a protected animal or, unless the act is done or the animal has been taken or killed under the authority or and in accordance with a permit issued under this Ordinance, a partly protected animal.

Penalty: 400 dollars or imprisonment for 6 months.

21. A person shall not—

Restrictions on
the taking and
sale of game

- (a) sell or offer for sale an animal which is game; or
- (b) take, kill or have in his possession on any one day a number of a type of game in excess of the number prescribed by by-laws to be the maximum number of that type of game which may be taken or killed on any one day.

Penalty: 400 dollars or imprisonment for 6 months.

22. A person who is an aboriginal shall not—

Aborigines not to
sell or barter
protected
animals

- (a) sell or offer for sale;
- (b) barter or offer to barter; or
- (c) otherwise dispose of to a person (not being an aboriginal),

a protected animal or, except in accordance with a permit issued under this Ordinance, a partly protected animal.

Penalty: 400 dollars or imprisonment for 6 months.

23. A person shall not—

Eggs of bird,
reptile or
monotreme

- (a) take out of or destroy in a nest;
- (b) have in his possession or control; or
- (c) sell or offer for sale,

an egg of a bird, reptile, or monotreme which is a protected animal, a partly protected animal or game.

Penalty: 400 dollars.

Permits to kill or
take partly
protected
animals

24.(1) The Director may issue a permit to a person to take or kill or have in his possession a partly protected animal.

(2) A permit issued under this section may be limited, in relation to the partly protected animals that may be taken or killed under it, in all or any of the following respects:

- (a) as to their number;
- (b) as to their age;
- (c) as to their sex;
- (d) as to their size;
- (e) as to the area in which they may be taken or killed; and
- (f) as to the period during which they may be taken or killed.

(3) The Director may endorse on a permit issued under this section such conditions as he thinks fit, including a condition prohibiting the sale or export of an animal taken or killed under the permit.

(4) A person to whom a permit is issued under this section shall comply with and shall not contravene the limitations and conditions of the permit.

Penalty: 400 dollars or imprisonment for 6 months.

(5) According to its tenor, a permit issued under this section authorizes—

- (a) the person to whom it is issued; and
- (b) each person who is a servant or agent of that person for the purpose of doing an act which the permit authorizes that person to do, to take, or kill, a partly protected animal of a type specified in the permit, but does not authorize any person to take or kill a partly protected animal in a sanctuary or wilderness area.

Property in
protected
animals &c.

25.(1) Subject to sub-section (2), protected animals, partly protected animals and game are the property of Australia.

(2) When a person lawfully kills or takes into his possession or control any animal that is protected or partly protected or is game, the animal becomes the property of that person unless the killing or taking was done by him as the servant or agent of another person, in which case the animal becomes the property of that other person.

(3) When an animal that has become the property of a person by reason of sub-section (2) escapes from his possession or control it becomes the property of Australia.

Domestication of
certain animals

26. Nothing in this Ordinance makes it unlawful for a person to keep in a domesticated state a protected animal, a partly protected animal or an animal that is game if the animal has been lawfully taken or has been bred in captivity.

Prohibited
entrants are pests

27. All prohibited entrants are pests while they are in those places in which they are prohibited entrants.

Introduction etc.,
of prohibited
entrants

28.(1) A person shall not, except under the authority of and in accordance with a permit issued under this Ordinance—

- (a) bring into or have in his possession in the Territory an animal that is a prohibited entrant in every part of the Territory; or

(b) bring into or have in his possession in a part of the Territory an animal that is a prohibited entrant in that part of the Territory.

(2) A person shall not liberate, or permit to escape, a prohibited entrant while it is in a place in which it is a prohibited entrant.

Penalty: 400 dollars or imprisonment for 6 months.

29.(1) The Director may issue a permit to a person to bring into or have in his possession in the Territory or a part of the Territory a prohibited entrant. Permit to keep prohibited entrant

(2) A permit issued under this section may be limited in any way that the Director thinks fit.

(3) The Director may endorse on a permit issued under this section such conditions as he thinks fit.

(4) A person to whom a permit is issued under this section shall comply with and shall not contravene the limitations and conditions of the permit.

Penalty: 400 dollars or imprisonment for 6 months.

30.(1) The Administrator in Council by notice in the *Gazette* may declare an area to be a pest control area. Pest control areas

(2) The Administrator may declare an area to be a pest control area.

(3) A declaration made under sub-section (2) ceases to have effect upon the expiration of the period of 7 days immediately following the date of the meeting of the Administrator's Council next following the date on which the declaration was made.

31.(1) A warden or a person under the control or instruction of a warden may enter a pest control area at any time and do there all things necessary or expedient for the investigation or control of any pest which may be on the land. Warden may enter and do work

(2) Where a warden or a person enters a pest control area in pursuance of sub-section (1) and causes damage to the land, crops, buildings, fences or other improvements on the land, the owner or occupier of the land is entitled to be compensated for that damage unless—

- (a) the damage was caused without negligence on the part of person causing it; and
- (b) the owner or occupier has been required in writing under section 32 to undertake measures for the control or eradication of pests and has failed to do so.

32.(1) The Director may by notice in writing given to an owner or occupier of land in a pest control area require the owner or occupier to undertake such measures for the control or eradication of pests in the area as are specified in the notice. Notice to owner to eradicate pests

(2) A person to whom a notice is given under sub-section (1) shall take all reasonable steps to comply with the terms of the notice.

Penalty: 400 dollars and in addition 10 dollars for every day during which the default continues after the first day.

(3) In a prosecution for an offence against sub-section (2) the complaint may allege the continuance of the default on a number of days or during a period of time.

Materials may be provided

33. Where the Director has given notice to a person in accordance with section 32 he may—

- (a) provide without expense to that person any materials or equipment which may be necessary to carry out the measures for eradication or control specified in the notice; and
- (b) provide such other assistance, by way of labour or otherwise, as he considers necessary or desirable.

Poisoning of land

34.(1) A person shall not lay a prescribed poisonous bait or substance on land that is within the boundaries of a town unless—

- (a) the land is securely fenced and the gates are fitted with locks or adequate fastenings;
- (b) the poisonous bait or substance is laid at least one metre within the fences on the land;
- (c) a notice is prominently displayed on the land stating that the poisonous bait or substance has been laid and stating the name of the poison used; and
- (d) notice has been published in a newspaper circulating in the locality not less than 24 hours nor more than 7 days before the poisonous baits or substances are laid stating the period during which the poisonous baits or substances will be laid and the name of the poison which will be used.

(2) A person laying a prescribed poisonous bait or substance on land that is outside the boundaries of a town shall display on all public roads on the land which are within 400 metres of a place where a poisonous bait or substance will be laid a notice specifying the name of the poison used and the date when it will be laid.

Penalty: 400 dollars or imprisonment for 6 months.

Notice may be given with respect to poisons

35.(1) The Director may, by notice in writing, given to an owner of land—

- (a) prohibit either generally or during specified times the laying of specified poisonous baits or substances on any land of the owner specified in the notice;
- (b) require the owner to remove any specified poisonous baits or substances on his land whether those baits have been laid with the authority of the owner or not; and
- (c) prohibit the use, on land specified in the notice, of particular poisons or poisonous substances or poisonous baits of a material or nature specified in the notice.

(2) A person shall comply with the provisions of a notice given under this section.

Penalty: 400 dollars or imprisonment for 6 months.

PART IV—THE DIRECTOR OF TERRITORY PARKS AND WILDLIFE

Appointment of Director

36.(1) The Administrator in Council may appoint a person to be the Director of Territory Parks and Wildlife.

(2) Notice of the appointment of the Director shall be published in the *Gazette*.

(3) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Ordinance as are determined by the Administrator in Council.

37. A person shall not be appointed to be the Director unless he 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 Administrator in Council, render him suitable for the appointment. Qualifications

38.(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. Term of office

(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 will attain the age of 65 years.

39.(1) The Director shall be paid such remuneration as is prescribed by regulations. Remuneration and allowances

(2) The Director shall be paid such allowances as are prescribed by regulations.

40. The Administrator may grant leave of absence to the Director upon such terms and conditions as to remuneration or otherwise as the Administrator determines. Leave of absence

41. The Director may resign his office by writing signed by him and delivered to the Administrator. Resignation

42.(1) The Administrator in Council may terminate the appointment of the Director by reason of misbehaviour or physical or mental incapacity. Termination of office

(2) If the Director—

- (a) engages in paid employment outside the duties of his office without the approval of the Administrator in Council;
- (b) is absent from duty, except on leave of absence granted by the Administrator, 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 creditors or makes an assignment of his remuneration for their benefit, the Administrator in Council shall terminate his appointment.

43.(1) The Administrator may appoint a person to act as the Director— Acting 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 office.

(2) A person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(3) The Administrator 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 sub-section (1)(b), and the office becomes vacant while he is so acting, he may continue so to act until the Administrator 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 resigns the appointment by writing signed by him and delivered to the Administrator.

(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 appointment had not arisen or that his appointment had ceased to have effect.

Powers &c., of
Acting Director

44. At any time when a person is acting in the office of Director he has, and may exercise, all the powers, and shall perform all the functions of the Director.

PART V—THE TERRITORY PARKS AND WILDLIFE COMMISSION

Territory Parks
and Wildlife
Commission

45.(1) There is established by this Ordinance a Commission by the name of the Territory Parks and Wildlife Commission.

(2) The Commission—

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal; and
- (c) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

Composition of
Commission

46.(1) The Commission shall consist of—

- (a) the Director;
- (b) a member appointed by the Minister of State for the Environment;
- (c) a member appointed by the Minister of State for Northern Australia; and
- (d) 2 members appointed by the Administrator in Council.

(2) Notice of an appointment made for the purposes of sub-section (1) shall be published in the *Gazette*.

(3) The Director is the Chairman of the Commission.

(4) The exercise of the functions or powers of the Commission is not affected by reason only of there being a vacancy or vacancies in the membership of the Commission.

47.(1) A member appointed by a Minister holds office during the pleasure of that Minister. Period of appointment

(2) A member, other than the Director, appointed by the Administrator in Council holds office until the expiration of such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(3) Where a period of appointment is not specified in the instrument of appointment of a member appointed by the Administrator in Council, the member holds office for 5 years.

48. The members shall be paid, in respect of meetings of the Commission or while engaged on the business of the Commission, such fees and allowances as are prescribed. Remuneration and allowances

49. A member may resign his office by writing signed by him and delivered to the Administrator. Resignation of members

50.(1) The Minister appointing a member, or the Administrator in Council, as the case may be, may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity. Dismissal of members

(2) If a member is absent, except on leave granted by the Commission, from 3 consecutive meetings of the Commission, the Minister appointing the member or the Administrator in Council, as the case may be, shall terminate the appointment of the member.

51.(1) Where a member other than the Director is, or is expected to be, unable to attend a meeting or meetings of the Commission or there is a vacancy in an office of a member, the Minister who appointed the member or the Administrator in Council, as the case may be, may appoint a person to act in the place of that member during that inability or until the filling of the vacancy. Acting appointment

(2) The Minister who appointed a member or the Administrator in Council, as the case may be, may at any time terminate an appointment under this section.

(3) The validity of an act done by the Commission shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

52.(1) The Commission shall hold such meetings as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 3 months. Meetings of the Commission

(2) The Director may at any time convene a meeting of the Commission.

(3) At a meeting of the Commission, 3 members constitute a quorum.

(4) The Director shall preside at all meetings of the Commission.

(5) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting.

(6) The Director has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Proceedings at
meetings

53. Subject to this Ordinance, the Commission may regulate the proceedings at its meetings as it thinks fit.

Functions

54.(1) The functions of the Commission are—

- (a) to administer, manage and control parks and reserves;
- (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 the Australian Government and with the various State Governments in matters relating to the protection and conservation of animals and plants in places outside the Northern Territory and the establishment and management of national and other parks and nature reserves in those places;
- (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 Territory parks and nature reserves;
- (f) to carry out by itself 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 parks and nature reserves and the protection, conservation and management of wildlife;
- (g) to make recommendations to the Administrator in Council in relation to—
 - (i) the establishment and naming of parks and reserves; and
 - (ii) the protection and conservation of wildlife throughout the Territory;
- (h) to administer the Fund; and
- (i) to do anything incidental or conducive to the performance of any of the foregoing functions.

(2) Except as otherwise provided by this Ordinance, the Commission shall perform its functions and exercise its powers in accordance with any directions given by the Administrator in Council.

(3) The Commission shall include in each report prepared under section 91 particulars of any directions given by the Administrator in Council under subsection (2) during the period to which the report relates.

Powers

55.(1) The Commission has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions and, in particular, has power—

- (a) to enter into contracts;
- (b) to erect buildings and structures and carry on works;
- (c) to occupy, use and control any land or building owned or held under lease by Australia and made available for the purposes of the Commission;
- (d) to acquire, hold and dispose of real or personal property;
- (e) to accept gifts, devises and bequests made to the Commission whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Commission upon trust; and
- (f) to do anything incidental to any of its powers.

(2) Notwithstanding anything contained in this Ordinance, any moneys or property vested in the Commission upon trust shall be dealt with in accordance with the powers and duties of the Commission as trustee.

(3) The Commission has power to perform any of its functions in co-operation with Australia, with a State, with an authority of the Territory, of Australia or of a State or of the Australian Capital Territory, or with a local governing body.

56.(1) The Commission may make bylaws, not inconsistent with this Ordinance or the regulations, prescribing all matters required or permitted by this Ordinance to be prescribed by bylaws or necessary or convenient to be so prescribed for carrying out or giving effect to the functions and powers of the Commission. Bylaws

(2) Without limiting the generality of subsection (1), bylaws may be made—

- (a) providing for functions and powers to be conferred, and duties to be imposed, upon wardens and rangers;
- (b) providing for the protection and conservation of wildlife;
- (c) regulating trade and commerce in connexion with wildlife in the Territory;
- (d) regulating or prohibiting the pollution of water in parks, reserves, sanctuaries or wilderness areas;
- (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;
- (m) providing for fees and charges to be imposed by the Commission upon persons entering or using a park or reserve or part of a park or reserve or using services or facilities provided by the Commission in or in connexion with 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;
- (o) providing for the imposition and collection of charges for—
 - (i) the parking or stopping of vehicles;
 - (ii) the mooring of vessels;
 - (iii) the landing of aircraft; and
 - (iv) the use of vehicles and vessels, in parks and reserves;
- (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 bylaws or have been abandoned and for the impounding of such vehicles, aircraft or vessels;
- (q) making provisions to the effect that, where a contravention of a provision of the bylaws 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 bylaws (who may, in accordance with the by-laws, be or include a person in whose name the motor vehicle is registered under the law of the Territory) is to be, except as provided otherwise, deemed to have committed an offence against the provision so contravened, whether or not he in fact contravened that provision;

- (r) enabling a person who is alleged to have contravened a provision of the bylaws 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 Commission, as an alternative to prosecution, a specified 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 or 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 Commission 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 bylaws 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 Australia, but such a provision shall not bylaws taken for the purposes of this sub-section to be inconsistent with such a law if it can be complied with, without contravention of that law.

(4) The power to make bylaws conferred by this Ordinance 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.
- (5) The power to make bylaws conferred by this Ordinance 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 Ordinance in relation to that matter or another matter; or
 - (b) power is expressly conferred by this Ordinance to make provision by bylaws for or in relation to another matter.
- (6) The bylaws may provide, in respect of an offence against the bylaws, for the imposition of—
 - (a) a fine not exceeding 5,000 dollars; or
 - (b) a fine not exceeding 1,000 dollars for each day during which the offence continues.
- (7) The limitation imposed by bylaws (6) on the penalties that may be prescribed by the bylaws does not prevent the bylaws from requiring a person to make a statutory declaration.

57.(1) A bylaw under this Ordinance—

Bylaws must be confirmed

- (a) has no effect as a law of the Territory unless it is confirmed by the Administrator in Council; and
- (b) comes into operation on the day on which notice of the confirmation of the bylaw by the Administrator in Council is published in the *Gazette* or, if a later day is specified in that notice as the day on which it comes into operation, on that later day.

(2) Subject to this section, by-laws under this Ordinance confirmation of which as provided by sub-section (1) is notified in the *Gazette* shall be deemed to be regulations for the purposes of the *Interpretation Ordinance* and the *Regulations Publication Ordinance* as if they were made by the Administrator in Council.

58.(1) Subject to sub-section (2), the Commission may assist and co-operate with Aborigines 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 natural features of that land.

Aboriginal land

(2) The Commission shall not take any action under sub-section (1) in relation to any land to which this section applies except—

- (a) after consultation with such Aborigines, if any, as in the opinion of the Administrator in Council have traditional rights in relation to the land; and
- (b) in accordance with an agreement between the Commission and—
 - (i) in the case of land vested in Australia—the Administrator in Council and the Minister of State for Aboriginal Affairs; or
 - (ii) 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 Commission in relation to any land, the Administrator in Council may, by notice in the *Gazette*, after receiving a report from the Place Names Committee, 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.

Wildlife
conservation
programs

59.(1) The Commission may—

- (a) formulate and implement; and
- (b) co-operate with Australia, with a State or with an authority of Australia or of a State or of the Australian Capital Territory in formulating and implementing,

programs for the purposes of the protection, conservation, management and control of wildlife.

(2) A program formulated under sub-section (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) 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) A program shall not be implemented by the Commission under this section until it has been approved by the Administrator in Council.

Delegation

60.(1) Subject to any directions of the Administrator in Council, the Commission may by writing under its seal delegate to a member or employee of the Commission all or any of its powers and functions under this Ordinance (except the power to make by-laws and 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 Commission.

Contracts and
leases

61. The Commission shall not, without the approval of the Administrator in Council—

- (a) enter into a contract involving the payment or receipt of an amount exceeding 50,000 dollars; or
- (b) take any land on lease for a period exceeding 10 years.

PART VI—THE TERRITORY PARKS AND WILDLIFE ADVISORY COUNCIL

62 In this Part, unless the contrary intention appears, “member” means a member of the Council. Definition

63. There is established by this Ordinance an advisory council by the name of the Territory Parks and Wildlife Advisory Council. Territory Parks and Wildlife Advisory Council

64.(1) The Council shall consist of the Director and 8 other members. Composition of Council

(2) The members of the Council, other than the Director, shall be appointed by the Administrator in Council and notice of their appointment shall be published in the *Gazette*.

(3) The members shall be chosen for their expertise in scientific or technical fields that are relevant to the operation of this Ordinance, for their expert local knowledge or because they have special knowledge or skills relevant to the functions of the Council.

(4) The Director is the Chairman of the Council.

(5) The exercise of the functions of the Council is not affected by reason only of there being a vacancy or vacancies in the membership of the Council.

65.(1) A member holds office until the expiration of such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment. Period of appointment

(2) Where a period of appointment is not specified in the instrument of appointment of a member, the member holds office for 5 years.

66. The members shall be paid, in respect of meetings of the Council or while engaged on the business of the Council, such fees and allowances as are prescribed by regulations. Remuneration and allowances

67. A member may resign his office by writing signed by him and delivered to the Administrator. Resignation of members

68.(1) The Administrator in Council may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity. Dismissal of members

(2) If a member is absent, except on leave granted by the Council, from 3 consecutive meetings of the Council, the Administrator in Council shall terminate the appointment of the member.

69.(1) Where a member other than the Director is, or is expected to be, unable to attend a meeting or meetings of the Council or there is a vacancy in an office of a member, the Administrator in Council may appoint a person to act in the place of that member during that inability or until the filling of the vacancy. Acting appointments

(2) The Administrator in Council may at any time terminate an appointment under this section.

(3) The validity of an act done by the Council shall not be questioned in any proceedings on a ground arising from the fact that the occasion for

the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

Meetings of the
Council

70.(1) The Council shall hold such meetings as are necessary for the performance of its functions, but so that the interval between one meeting and the next does not exceed 3 months.

(2) The Director may at any time convene a meeting of the Council.

(3) At a meeting of the Council, 4 members constitute a quorum.

(4) The Director shall preside at all meetings of the Council.

(5) Questions arising at a meeting of the Council shall be determined by a majority of the votes of the members present and voting.

(6) The Director has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Proceedings at
meetings

71. Subject to this Ordinance, the Council may regulate the proceedings at its meetings as it thinks fit.

Functions

72.(1) The function of the Council is to advise the Commission on all matters relating to the operation of this Ordinance.

(2) For the purpose of exercising its functions, the Council may give to individuals, groups, bodies and persons claiming to represent interests the opportunity to make written or oral submissions.

(3) The Director may refer any matter relating to the operation of this Ordinance to the Council for advice.

PART VII—ADMINISTRATION

Staff

73.(1) Subject to this section, the Commission, with the approval of the Administrator in Council, may employ such persons as it thinks necessary to assist it in exercising its powers and performing its functions and duties under this Ordinance.

(2) The terms and conditions of employment (including remuneration) of persons employed under sub-section (1) shall be such as are determined by the Commission with the approval of the Administrator in Council.

Performances of
services by other
persons

74. Notwithstanding section 73, the Commission may with the consent of the Administrator in Council, engage persons, not being persons referred to in that section, to provide services for the Commission.

Officers and
employees of
Australia and
Government
authorities

75.(1) The Administrator in Council may make arrangements with the Government of Australia for the performance of functions and the exercise of powers under this Ordinance by officers or employees of Australia or of an authority of Australia.

(2) The Commission may make arrangements with the Officer in Charge of a Department of the Public Service of the Territory or with an authority of the Territory, for the performance of functions and the exercise of powers under this Ordinance by officers or employees of the Department or of the authority, as the case may be.

76. The Commission may, by writing under its seal, appoint—

- (a) an employee of the Commission; or
- (b) an officer or employee referred to in section 75,

as a warden or as a ranger.

Appointment of
wardens and
rangers

77. By force of this section, the Director and any member of the Police Force of the Territory is a warden.

Wardens
ex-officio

78.(1) The Commission shall cause to be issued to each warden, other than a member of the Police Force, and to each ranger, an identity card containing a photograph and the signature of the holder.

Identity cards

(2) A person who ceases to be a warden or a ranger shall forthwith return his identity card to the Commission.

Penalty: 100 dollars.

79.(1) A warden may, without warrant, arrest any person, if the warden reasonably believes—

Arrest without
warrant

- (a) that the person has committed an offence against this Ordinance; and
- (b) that proceedings against the person by summons would not be effective.

(2) Where a warden (other than a member of the Police Force who is in uniform) arrests a person under sub-section (1), he shall—

- (a) in the case of a member of the Police Force—produce, for inspection by that person, written evidence of the fact that he is a member of the Police Force; or
- (b) in any other case—produce his identity card for inspection by that person.

(3) Where a person is arrested under sub-section (1), a warden shall forthwith bring the person, or cause him to be brought, before a Justice of the Peace or other proper authority to be dealt with in accordance with law.

(4) Nothing in this section prevents the arrest of a person in accordance with any other law.

80.(1) Where a court convicts a person of an offence against this Ordinance, the court may order the forfeiture to Australia of any vehicle, aircraft, vessel or article used or otherwise involved in the commission of the offence.

Confiscation and
forfeiture

(2) A warden may seize any vehicle, aircraft, vessel or article that he reasonably believes to have been used or otherwise involved in the commission of an offence against this Ordinance and may retain it until the expiration of a period of 60 days after the seizure or, if a prosecution for an offence against this Ordinance in the commission of which it may have been used or otherwise involved is instituted within that period, until the prosecution is terminated.

(3) The Director may authorize a vehicle, aircraft, vessel or article seized under sub-section (2) to be released to its owner, or to the person from whose possession it was seized, either unconditionally or on such conditions as he thinks fit, including conditions as to the giving of security for payment of its value if it is forfeited.

(4) A vehicle, aircraft, vessel or article forfeited under this section may be sold or otherwise disposed of as the Commission thinks fit.

(5) A warden may seize—

- (a) any animal or plant that he reasonably believes to have been killed or taken in contravention of this Ordinance;
- (b) any animal that he reasonably believes is being held unlawfully or is the property of Australia; or
- (c) any animal that he reasonably believes to have been used or otherwise involved in the commission of an offence against this Ordinance.

(6) Where an animal or plant has been seized under sub-section (5), the Director or a warden may cause it to be—

- (a) released;
- (b) retained; or
- (c) sold or otherwise disposed of.

(7) Where an animal or plant seized under subsection (5) was not killed or taken in contravention of this Ordinance or used or otherwise involved in the commission of an offence against this Ordinance, any person who has suffered loss or damage by reason of the seizure is entitled to reasonable compensation.

General powers
of wardens and
rangers

81.(1) A warden may, in a park or reserve, search a vehicle, aircraft or vessel for the purpose of ascertaining whether there is in or on that vehicle, aircraft or vessel—

- (a) any animal, plant or article in respect of which an offence against this Ordinance has been committed; or
- (b) anything that will afford evidence as to the commission of an offence against this Ordinance,

and for that purpose stop or detain a vehicle, aircraft or vessel.

(2) A warden may, anywhere in the Territory, search a vehicle, aircraft or vessel if he believes on reasonable grounds that there is in or on that vehicle, aircraft or vessel—

- (a) any animal, plant or article in respect of which an offence against this Ordinance has been committed; or
- (b) anything that will afford evidence as to the commission of an offence against this Ordinance,

and for that purpose stop or detain a vehicle, aircraft or vessel.

(3) A warden or ranger may—

- (a) require any person whom he finds committing, or whom he reasonably suspects of having committed, an offence against this Ordinance to state his full name and usual place or residence;
- (b) require any person in a park or reserve whom he finds committing, or whom he reasonably suspects of having committed, an offence against this Ordinance to leave that park or reserve; and
- (c) require any person whom he reasonably suspects of having done an act in respect of which the person is required to hold a licence, permit or other authority under this Ordinance to produce such a licence or permit or evidence of such an authority.

(4) Where a warden (other than a member of the Police Force who is in uniform) stops, or proposes to search or detain, a vehicle, aircraft or vessel, he shall—

- (a) in the case of a member of the Police Force—produce, for inspection by the person in charge of the vehicle, aircraft or vessel, written evidence of the fact that he is a member of the Police Force; or
- (b) in any other case—produce his identity card for inspection by that person,

and, if he fails to do so, he is not authorized to search or detain that vehicle, aircraft or vessel.

(5) Where a warden (other than a member of the Police Force who is in uniform) or a ranger makes a requirement of a person in pursuance of subsection (3), he shall—

- (a) in the case of a member of the Police Force—produce, for inspection by that person, written evidence of the fact that he is a member of the Police Force; or
- (b) in any other case—produce his identity card for inspection by that person,

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

(6) A person who, without reasonable excuse, fails to comply with a requirement made of him by a warden or ranger under subsection (1), (2), or (3) is guilty of an offence punishable, upon conviction, by a fine not exceeding 1,000 dollars.

82. A person who assaults, resists, molests, obstructs or threatens a warden or ranger acting in the performance of his duties under this Ordinance is guilty of an offence and is punishable— Assaulting &c.,
warden or ranger

- (a) upon summary conviction—by a fine not exceeding 1,000 dollars, or imprisonment for a period not exceeding 6 months, or both; or
- (b) upon conviction on indictment—by a fine not exceeding 2,000 dollars or imprisonment for a period not exceeding 2 years, or both.

83. A person who, by words or conduct, falsely represents that he is a warden or a ranger is guilty of an offence and is punishable— Personation

- (a) upon summary conviction—by a fine not exceeding 1,000 dollars or imprisonment for a period not exceeding 6 months, or both; or
- (b) upon conviction on indictment—by a fine not exceeding 2,000 dollars or imprisonment for a period not exceeding 2 years, or both.

PART VIII—FINANCE

84.(1) There is established by this Ordinance a fund by the name of the Territory Parks and Wildlife Fund. Establishment of Fund

(2) The Fund is vested in the Commission.

85. There shall be paid into the Fund—

- (a) such moneys as are appropriated by the Parliament for the purposes of this Ordinance;
- (b) the proceeds of the sale of any property acquired out of moneys standing to the credit of the Fund;

Payments to
Fund

- (c) the proceeds of a sale made in pursuance of section 80;
- (d) any amount paid as a fine or other penalty imposed under this Ordinance or the regulations;
- (e) any moneys paid by a person to the Commission where payment of those moneys into the Fund would be consistent with the purposes for which the moneys are paid and the Administrator in Council considers it appropriate that the moneys should be paid into the Fund;
- (f) any moneys payable to the Commission in respect of leases, licences, permits and other authorities granted by the Commission;
- (g) any moneys received by the Commission in respect of services and facilities provided by the Commission; and
- (h) any other moneys received by the Commission in the performance of its functions.

Bank accounts

86.(1) For the purposes of this Ordinance, the Commission may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2) The Commission shall pay all moneys received by it in the performance of its functions, other than moneys referred to in section 85(2) into an account referred to in subsection (1).

(3) Payment of moneys into an account maintained under this section shall be deemed to be payment of those moneys into the Fund.

(4) In this section “approved bank” means a bank for the time being approved by the Administrator.

Application of moneys

87. The moneys of the Fund shall be applied only—

- (a) in payment or discharge of the costs, expenses and other obligations incurred by the Commission in the performance of its functions; and
- (b) in payment of any remuneration and allowances, and of any compensation, payable under this Ordinance.

No borrowing or investment

88. The Commission shall not—

- (a) borrow moneys from any person in the performance of its functions; or
- (b) invest any moneys of the Fund otherwise than directly in the performance of its functions.

Estimates

89.(1) The Commission shall prepare estimates, in such form as the Administrator directs, of its receipts and expenditure for each financial year and, if so directed by the Administrator, for any other period and shall submit those estimates to the Administrator in Council not later than such date as the Administrator directs.

(2) Moneys shall not be expended by the Commission in the performance of its functions except in accordance with estimates of expenditure approved by the Administrator in Council.

Proper accounts to be kept

90. The Commission shall cause to be kept proper accounts and records of the transactions and affairs of the Commission and of the Fund and shall do all things necessary to ensure that all payments out of the

Fund are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by the Commission.

91.(1) The Commission shall, as soon as practicable after the end of each financial year, prepare and furnish to the Administrator, a report of its operations during that year together with financial statements in respect of that year in such form as the Treasurer approves. Annual reports

(2) Before furnishing financial statements to the Administrator, the Commission shall submit them to the Auditor-General, who shall report to the Administrator—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt and expenditure or moneys, and the acquisition and disposal of assets, by the Commission during the year have been accordance with this Ordinance; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Administrator.

(3) The Administrator shall cause the report and financial statements of the Commission, together with the report of the Auditor-General, to be forwarded to the Legislative Assembly for tabling on the first sitting day of that Assembly after their receipt by the Administrator.

92.(1) The Auditor-General shall inspect and audit the accounts and financial records kept under section 90 and shall forthwith draw the Administrator's attention to any irregularity disclosed by the inspection and audit that in the opinion of the Auditor-General is of sufficient importance to justify his so doing. Audit

(2) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

(3) The Auditor-General shall, at least once in each financial year, report to the Administrator the results of the inspection and audit carried out under sub-section (1).

(4) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers, relating directly or indirectly to the payment of moneys into or out of the Fund or to the acquisition, receipt, custody or disposal of assets by the Commission.

(5) The Auditor-General or a person authorized by him may make copies of, or take extracts from, any accounts, records, documents or papers referred to in sub-section (4).

(6) The Auditor-General or a person authorized by him may require a person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Ordinance, and the person shall comply with the requirement.

(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction by a fine not exceeding 200 dollars.

Exemption from
taxation

93. The income of the Fund and the property and transactions of the Commission are not subject to taxation under a law of the Territory.

PART IX—MISCELLANEOUS

Saving

94. Although the doing of an act or the possession of a thing is prohibited by this Ordinance it is lawful for that act to be done or that thing to be possessed by a warden if the doing of the act or the possession of the thing is for the purposes of this Ordinance or for the purposes of scientific research.

Scientific
expeditions

95.(1) The Director may issue to any person, authority, university, institution, association or group of persons a licence to conduct in the Northern Territory scientific research or investigation into the fauna or flora of the Northern Territory.

(2) Subject to subsection (3) but notwithstanding anything contained elsewhere in this Ordinance a licence issued under this section authorizes the doing of such acts or the possession of such things as are specified in the licence.

(3) Where the doing of an act or the possession of a thing is said in the licence to be subject to any condition the issue or possession of the licence does not afford a defence to a prosecution for an offence against this Ordinance unless the defendant proves that he has complied with the condition.

Authorized
destruction of
feral animals in
sanctuary etc.

96.(1) Notwithstanding anything contained in this Ordinance, if the Director is satisfied that feral animals are present in a sanctuary or wilderness area in such numbers that the habitat is being affected or the survival of native animals in the sanctuary or wilderness area is imperilled, he may destroy or, by an authority in writing, he may authorize the destruction of, such a number of those feral animals as is, in his opinion, necessary to ensure the preservation of the habitat or of the native animals in the sanctuary or wilderness area.

(2) An authority given under subsection (1) authorizes the person named therein to enter the sanctuary or wilderness area, to take firearms and traps into the sanctuary or wilderness area and to take, capture, kill and have in his possession animals in the sanctuary or wilderness area.

(3) In this section "feral animal" means an animal of a domesticated species which is living in a wild state.

Exceptions

97. Notwithstanding anything contained in this Ordinance the owner or occupier of a garden or of any field in which there is standing or growing any crop may kill or destroy or attempt to kill or destroy in the garden or the field a protected animal, a partly protected animal or game which has caused, or is likely to cause, substantial damage in the garden or field.

Averment in
relation to parks
and reserves

98. In any proceedings for an offence against this Ordinance, an averment of the prosecutor, contained in the information or complaint, that, at a specified time—

(a) the defendant was in a specified park or reserve;

- (b) an animal was a protected animal, or partly protected animal, game, a pest or a prohibited entrant; or
- (c) an animal, plant, vehicle, aircraft, vessel or article referred to in the information or complaint was in a specified park or reserve,

in *prima facie* evidence of the matter averred.

99.(1) An Offence against this Ordinance may be prosecuted summarily or upon indictment or, where the law makes provision for an offender who pleads guilty to a charge to be dealt with by the court otherwise than on indictment, the court may deal with an offender in accordance with that law.

Prosecution of offences

(2) Nothing in sub-section (1) renders an offender liable to be punished more than once for an offence.

(3) Where proceedings for an offence against this Ordinance are brought in a court of summary jurisdiction, the court may commit the defendant for trial or to be otherwise dealt with in accordance with law or with the consent of the defendant and of the prosecutor may, if the court is satisfied that it is proper to do so, determine the proceedings summarily.

100.(1) Subject to subsection (2) and to the operation of this Ordinance in relation to parks and reserves, nothing in this Ordinance unless it expressly relates to Aboriginals prevents Aboriginals from continuing, in accordance with law, the traditional use of any area of land or water for may or food-gathering (otherwise than for purposes of sale) and for ceremonial and religious purposes.

Traditional use of land and water by Aboriginals

(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.

101. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters required or permitted by this Ordinance to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

Regulations

SCHEDULE

ORDINANCES REPEALED

Section 3

No. and Year	Name of Ordinance
No. 11 of 1959	<i>National Parks and Gardens Ordinance 1959</i>
No. 26 of 1961	<i>National Parks and Gardens Ordinance 1961</i>
No. 34 of 1962	<i>National Parks and Gardens Ordinance 1962</i>
No. 56 of 1963	<i>National Parks and Gardens Ordinance 1963</i>
No. 6 of 1966	<i>National Parks and Gardens Ordinance 1966</i>
No. 20 of 1967	<i>National Parks and Gardens Ordinance 1967</i>
No. 44 of 1968	<i>National Parks and Gardens Ordinance 1968</i>
No. 59 of 1974	<i>National Parks and Gardens Ordinance (No. 2) 1974</i>
No. 44 of 1963	<i>Wildlife Conservation and Control Ordinance 1962</i>
No. 60 of 1964	<i>Wildlife Conservation and Control Ordinance 1964</i>
No. 35 of 1965	<i>Wildlife Conservation and Control Ordinance 1965</i>
No. 17 of 1966	<i>Wildlife Conservation and Control Ordinance 1966</i>
No. 49 of 1967	<i>Wildlife Conservation and Control Ordinance 1967</i>
No. 9 of 1968	<i>Wildlife Conservation and Control Ordinance 1968</i>
No. 31 of 1968	<i>Wildlife Conservation and Control Ordinance (No. 2) 1968</i>
No. 50 of 1969	<i>Wildlife Conservation and Control Ordinance 1969</i>
No. 74 of 1970	<i>Wildlife Conservation and Control Ordinance 1970</i>
No. 12 of 1972	<i>Wildlife Conservation and Control Ordinance 1972</i>
No. 15 of 1973	<i>Wildlife Conservation and Control Ordinance 1973</i>
No. 28 of 1974	<i>Wildlife Conservation and Control Ordinance 1974</i>
No. 47 of 1974	<i>Wildlife Conservation and Control Ordinance (No. 3) 1974</i>
No. 83 of 1974	<i>Wildlife Conservation and Control Ordinance (No. 2) 1974</i>