

**PART IV**

**THE BILLS INTRODUCED**

# BILLS INTRODUCED

5 - 13 October 1976

<i>Serial No.</i>	<i>Title</i>	<i>Sponsor</i>
115	Housing Bill 1976 . . . . .	Mr Tambling
135	Parole of Prisoners Bill 1976 . . . . .	Mr Pollock
136	Traffic Bill 1976 . . . . .	Mr Ryan
144	Environment Bill 1976 . . . . .	Mr Withnall
145	Mines Safety Control Bill 1976 . . . . .	Mr Tuxworth
146	Local Government Bill 1976 . . . . .	Mr Perron
147	Poisons Bill 1976 . . . . .	Mr Pollock
148	Dangerous Drugs Bill 1976 . . . . .	Mr Pollock
149	Prohibited Drugs Bill 1976 . . . . .	Mr Pollock
154	Construction Safety Bill 1976 . . . . .	Mr Ryan
156	Territory Parks and Wildlife Conservation Bill 1976 . . . . .	Dr Letts

THE NORTHERN TERRITORY OF  
AUSTRALIA  
A BILL  
for  
AN ORDINANCE

To amend the Housing Ordinance

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

- |                                                                                                                                                                                                                                                                      |                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1. This Ordinance may be cited as the <u>Housing Ordinance</u> 1976.                                                                                                                                                                                                 | Short title         |
| 2. The <u>Housing Ordinance</u> is in this Ordinance referred to as the Principal Ordinance.                                                                                                                                                                         | Principal Ordinance |
| 3. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> .                                                                                                                                             | Commencement        |
| 4. Section 4(1) of the Principal Ordinance is amended -                                                                                                                                                                                                              | Interpretation      |
| (a) by omitting the definition of "market value" and substituting the following definition:                                                                                                                                                                          |                     |
| " 'market value' in relation to a dwelling means the amount that, in the opinion of the Valuer-General, the dwelling, including the right to the lease of the land on which the dwelling is situated, could be sold for if offered for sale by private treaty;"; and |                     |
| (b) by adding at the end the following definition:                                                                                                                                                                                                                   |                     |
| " 'Valuer-General' means the Valuer-General for the Territory appointed under the <u>Valuation of Land Ordinance</u> and includes a delegate of the Valuer-General."                                                                                                 |                     |

Function  
of  
Commission

5. Section 12(2) of the Principal Ordinance is amended by omitting paragraph (ea) and substituting the following paragraph:

"(ea) selling dwellings that are detached single residential units; and".

6. Section 13A of the Principal Ordinance is repealed and the following sections substituted:

Sale of  
dwelling  
to tenant

"13A(1) The Administrator in Council may by notice published in the Gazette -

(a) set out details of a scheme, not inconsistent with this Ordinance, to apply to the sale of dwellings by the Commission in pursuance of this section; and

(b) specify a class or classes of tenants to be approved tenants for the purposes of this section,

and in this section 'approved tenant' means a member of a class so specified.

"(2) An approved tenant may make application in writing in his own name, or jointly with his spouse (including a bona fide de facto spouse), to purchase a dwelling that is a detached single residential unit.

"(3) The Commission may, in its discretion, sell to a person making application under sub-section (2), or jointly to that person and his spouse where the application is made in their joint names, a dwelling of which he is the tenant, or a dwelling chosen by him from alternative dwellings offered for sale to him by the Commission.

"(4) Subject to sub-section (5), the price at which a dwelling may be sold under sub-section (3) is not less than one half of the sum of -

(a) the capital cost of the dwelling; and

(b) the market value of the dwelling, not including improvements made by the approved tenant with the approval of the Commission.

"(5) The price at which a dwelling may be sold shall be reduced by an amount determined by the

Commission being an amount not less than that part of the annual amortization allowance referred to in section 31(1) that represents the repayment of the capital cost, paid by the approved tenant to the Commission in rent, in respect of that or any other dwelling, over a period of 5 years immediately before the date of the sale.

"(6) A contract for the sale of a dwelling under sub-section (3) shall contain terms and conditions providing for -

(a) payment of the price -

(i) as to an amount of 500 dollars or as to such larger amount as the purchaser may require - by way of deposit upon entering into the contract; and

(ii) as to the balance of the price - upon completion of the sale or by such instalments and over such period, not exceeding 45 years, as agreed upon between the parties;

(b) the insuring of the dwelling by the purchaser, in the name of himself and the Commission, against damage or destruction by fire, storm or tempest, while any of the price is unpaid;

(c) the maintenance, by the purchaser, of the dwelling in good repair while any of the price is unpaid; and

(d) the payment by the purchaser, while any of the price is unpaid, of such land rent, rates and other charges as are imposed on or in relation to the dwelling, or the land on which the dwelling is erected, by or under any law in force in the Territory, in respect of any period after the date on which the purchaser becomes entitled to possession pursuant to the contract.

"(7) Where a contract for the sale of a dwelling under sub-section (3) provides for the payment of the balance of the price by instalments over a period specified in the contract, the contract shall provide that the rate of interest payable on the balance of the purchase price for the time being unpaid shall be the rate declared from time to time by the Administrator in Council to be the rate applicable to the class of

purchaser to which the purchaser belongs.

Administra-  
tor in  
Council to  
declare  
rates in  
respect of  
classes of  
purchasers

"13AAA (1) The Administrator in Council shall, by notice in the Gazette -

- (a) specify classes of purchasers of dwellings; and
- (b) declare the rates of interest payable by the members of the various classes of purchasers on the balance of purchase price for the time being unpaid under a contract of sale of a dwelling.

"(2) The Commission shall, at least once in every calendar year, review the rates of interest payable by each class of purchaser and recommend to the Administrator in Council any variation of those rates it considers necessary."

7. Section 13B of the Principal Ordinance is repealed and the following section substituted:

Restriction  
on transfer  
of dwelling

"13B.(1) A dwelling that has been sold under section 13A is not, during the period of 5 years immediately after the date of the agreement of sale, capable of being sub-leased, transferred or assigned either at law or in equity.

"(2) Sub-section (1) does not apply -

- (a) where the owner has at any time made an offer in writing to the Commission to resell the dwelling to the Commission and the offer has not been accepted within 6 weeks immediately after the date on which it was made;
- (b) so as to prevent a transfer or assignment of a dwelling or an interest therein -
  - (i) by operation of law;
  - (ii) by will;
  - (iii) by way of mortgage entered into with the consent of the Commission;
  - (iv) by a mortgagee in pursuance of a power of sale as mortgagee;
  - (v) between spouses (including bona fide defacto spouses); or

(vi) between the parties to a dissolved marriage; or

(c) in the case of a sub-lease, where the consent of the Commission to the sub-lease was first obtained.

"(3) Where the owner of a dwelling wishes to sell, transfer or assign the dwelling and the dwelling is the subject of a restriction by virtue of sub-section (1), he may request the Commission in writing to make known to him in writing the amount of purchase money the Commission will pay for the dwelling if the dwelling is offered to the Commission and the offer is accepted by it.

"(4) If an owner is dissatisfied with the amount of purchase money that the Commission has made known to him in answer to a request made under sub-section (3), he may request the Commission to seek the opinion of the Valuer-General as to the market value of the dwelling, and the Commission shall forthwith seek that opinion and advise the owner the amount when that opinion has been given.

"(5) Where the opinion of the Valuer-General given in pursuance of sub-section (4) differs from the amount made known by the Commission in pursuance of sub-section (3), the purchaser may, at his election, offer the dwelling to the Commission at the amount made known by the Commission or at the amount of the Valuer-General's opinion.

"(6) A certificate issued by the Commission and certifying that the owner specified in the certificate has duly made an offer in accordance with sub-section (2)(a) but that the offer has not been accepted within 6 weeks after the date on which it was made, is conclusive evidence that the sale, transfer or assignment of the dwelling is no longer prevented or restricted by this section.

"(7) An agreement entered into during the 5 years period referred to in sub-section (1) in respect of a dwelling, purporting to give a person the option of purchasing the dwelling from the owner at or after the completion of that period, is void, and no money paid

under or in consideration of such an agreement is recoverable.

"(8) Where the owner of a dwelling has made a request to the Commission in accordance with sub-section (3), and the Commission has not, within 6 weeks after receiving that request, made known to the owner the amount of the purchase money it will pay, the dwelling is deemed to have been offered for resale to the Commission in accordance with sub-section (2) and not accepted by the Commission within the 6 weeks specified in that sub-section."

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THE NORTHERN TERRITORY OF  
AUSTRALIA  
A BILL  
for  
AN ORDINANCE

To amend the Parole of Prisoners Ordinance

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

- |                                                                                                                                                                                                                                                                                                                                                                                                                     |                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 1. This Ordinance may be cited as the <u>Parole of Prisoners Ordinance 1976</u> .                                                                                                                                                                                                                                                                                                                                   | Short title             |
| 2. The <u>Parole of Prisoners Ordinance</u> is in this Ordinance referred to as the Principal Ordinance.                                                                                                                                                                                                                                                                                                            | Principal Ordinance     |
| 3. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> .                                                                                                                                                                                                                                                                                            | Commencement            |
| 4. The <u>Parole of Prisoners Ordinance 1973</u> , being Ordinance No. 2 of 1974, is repealed.                                                                                                                                                                                                                                                                                                                      | Repeal                  |
| 5.(1) Notwithstanding the amendments effected by this Ordinance, the provisions of section 4(7) and (8) of the Principal Ordinance as in force immediately before the commencement of this Ordinance continue to apply in relation to several terms of imprisonment (being terms of imprisonment to which that section as so in force applies) all of which were imposed before the commencement of this Ordinance. | Transitional and saving |
| (2) The provisions of the Principal Ordinance as amended by this Ordinance apply to and in relation to orders made by the Governor-General under section 5 of the Principal Ordinance and in force immediately before the commencement of this Ordinance as if those orders were made under that section as amended by this Ordinance.                                                                              |                         |
| (3) The Parole Board of the Northern Territory                                                                                                                                                                                                                                                                                                                                                                      |                         |

and the Chairman (including an Acting Chairman) of the Board, as the case may be, shall have the same powers and functions in relation to offenders whose terms of imprisonment were imposed before the commencement of this Ordinance as it or he has in respect of terms of imprisonment imposed after the commencement of this Ordinance.

Interpre-  
tation

6. Section 3 of the Principal Ordinance is amended-

(a) by inserting after the definition of "offender" in sub-section (1) the following definition:

" 'parole officer' means a parole officer appointed under section 3P;";

(b) by inserting after the definition of "prison" in that sub-section the following definitions:

" 'the Board' means the Parole Board of the Northern Territory established under this Ordinance;

'the Chairman' means the Chairman of the Board, and includes an Acting Chairman;";

(c) by adding at the end of that sub-section the following definition:

" 'the senior Judge' has the same meaning as in the Northern Territory Supreme Court Act 1961."; and

(d) by omitting sub-section (2).

7. After section 3 of the Principal Ordinance the following sections are inserted:

Parole  
Board

"3A. For the purposes of this Ordinance, there shall be a board to be known as the Parole Board of the Northern Territory.

Members of  
the Board

"3B.(1) The Board shall consist of -

(a) the senior Judge; and

- (b) 4 other members appointed by the Administrator in Council.

"(2) Where a member of the Board is or is about to be, not available to perform his functions as a member of the Board, or there is a vacancy in the office of a member of the Board, the Administrator in Council may appoint a person to act as a member of the Board while the member is so not available or during that vacancy.

"(3) A person so appointed shall, while so acting, be deemed to be a member of the Board.

"(4) A member of the Board who is appointed to the Board holds office, subject to this Ordinance, for a period of 3 years from the date of his appointment, but is eligible for reappointment.

"3C.(1) The senior Judge shall be Chairman of the Board.

Chairman  
of the  
Board

"(2) Every Judge of the Supreme Court of the Northern Territory of Australia is an Acting Chairman of the Board.

"(3) Where the Chairman is unable or does not wish to attend a meeting of the Board, he may appoint an Acting Chairman to attend the meeting in his stead.

"(4) Where the Chairman is, or is about to be, not available to perform the functions of his office as Chairman, he may appoint an Acting Chairman to perform the functions of that office in his stead while he is so not available.

"3D. A member of the Board who is not a Judge of the Supreme Court of the Northern Territory of Australia and is not an officer or employee under the Public Service Act 1922 or the Public Service Ordinance shall be paid such fees and allowances and at such rates as the Administrator in Council determines.

Remuneration  
of members

"3E. A member of the Board who is appointed to the Board may resign his office by writing under his hand addressed to the Administrator.

Resignation  
of member

Meetings of  
the Board

"3F.(1) The Board shall meet as often as the Chairman thinks necessary.

"(2) A meeting of the Board shall be convened by the Chairman, or by the Secretary to the Board on the direction of the Chairman, by notice in writing to the other members of the Board, and shall be held at the time and place specified in the notice.

"(3) The Chairman shall preside at all meetings of the Board at which he is present.

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

"(5) A question arising at a meeting of the Board shall be determined by a majority of votes.

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

"(7) The Secretary to the Board shall keep a record of its proceedings.

"(8) Subject to this Ordinance, the procedure at meetings of the Board shall be as the Board determines.

Chairman may  
require  
attendance  
of prisoner

"3G. Where, at a meeting of the Board, a matter relating to a prisoner is to be discussed, the Chairman may, if he considers it necessary or desirable, require the prisoner to be brought before the Board.

Board to  
prepare  
annual  
report

"3H.(1) The Board shall, as soon as practicable after each 31 December, prepare and furnish to the Administrator a report of its activities during the year ended on that date.

"(2) A copy of each report shall be laid before the Legislative Assembly within 10 sitting days of the Legislative Assembly after it has been so furnished.

Actions not  
to lie  
against  
members or  
parole  
officers

"3J.(1) An action or proceeding, whether civil or criminal, does not lie against a member of the Board or parole officer for or in respect of an act or thing done in good faith by the member or parole officer in his capacity as member or parole officer, as the case may be.

"(2) An act or thing shall be deemed to have been done in good faith if the member of the Board or parole officer by whom the act or thing was done was not actuated by ill-will to the person affected or by any other improper motive.

"3K.(1) The Administrator in Council may appoint a person to be Secretary to the Board.

Secretary  
to the  
Board

"(2) It is the duty of the Secretary to the Board-

- (a) to act generally as secretary to the Board;
- (b) to record minutes of meetings of the Board;
- (c) to prepare the agenda of parole cases for each meeting of the Board;
- (d) to prepare parole orders and other documents as directed by the Board; and
- (e) to carry out such other duties as directed by the Board or the Chairman.

"3L. The Secretary to the Board shall be paid such remuneration and allowances and at such rates as the Administrator determines.

Remuneration  
of Secretary

"3M. The Secretary to the Board may resign his office by writing under his hand addressed to the Administrator in Council.

Resignation  
of Secretary

"3N.(1) Where the Secretary to the Board is, or is about to be, not available to perform the functions of his office, or his office becomes vacant, the Administrator in Council may appoint a person to act as Secretary to the Board while the Secretary is so not available or during the vacancy.

Acting  
Secretary

"(2) A person appointed under this section shall, while so acting, be deemed to be the Secretary to the Board.

"(3) A person appointed under this section shall be paid, in respect of the period when he is so acting, the remuneration and allowances that would have been payable to him if he had been the Secretary to the Board.

Parole  
Officers

"3P.(1) The Administrator in Council may appoint persons to be parole officers for the purposes of this Ordinance.

"(2) The Board may appoint a person to be an honorary parole officer for such period as it thinks fit.

Resignation  
of parole  
officers  
Remuneration  
of parole  
officers

"3Q. A parole officer may resign his office by writing under his hand addressed to the Chairman.

"3R. A parole officer, other than an honorary parole officer, shall be paid such remuneration and allowances and at such rates as the Administrator in Council determines.

Functions  
of parole  
officers

"3S. It is the duty of a parole officer -

- (a) to supervise persons released on parole as assigned by the Board;
- (b) to prepare reports as required by the Board;
- (c) to maintain case records and statistics as required by the Board;
- (d) to carry out the directions of the Board in relation to a parole order;
- (e) to investigate and make reports to the Board on the employment and place of living available to each person applying for release on parole; and
- (f) to perform such other duties as directed by the Board or the Chairman."

8. Section 4 of the Principal Ordinance is repealed and the following sections are substituted:

Court to  
fix non-  
parole  
period.

"4.(1) Where a court sentences an offender to a term of imprisonment of 12 months or longer, or to terms of imprisonment that aggregate 12 months or longer, it shall specify a lesser term of imprisonment during which the offender so sentenced is not eligible to be released on parole in pursuance of this Ordinance.

"(2) Where a court sentences an offender to a

term of imprisonment that is less than 12 months, or to terms of imprisonment that aggregate less than 12 months, and it is satisfied that there are facts existing that warrant it so doing, it may, at its discretion, specify a lesser term of imprisonment during which the offender so sentenced is not eligible to be released on parole in pursuance of this Ordinance.

"(3) Sub-section (1) does not apply-

- (a) if the court considers that the nature of the offence or offences and the antecedents of the offender do not warrant the specifying of the lesser term of imprisonment; or
- (b) if the offender is sentenced to imprisonment for life.

"(4) Subject to sub-section (3), where a court sentences an offender to imprisonment but fails to fix, or fails properly to fix, a minimum term of imprisonment in relation to the offender in accordance with sub-section (1), the court may, upon application by the Crown Law Officer, the informant, the complainant or the offender, fix a minimum term of imprisonment in relation to the offender.

"(5) For the purposes of this section, a reference to a term of imprisonment to which an offender is sentenced shall be read as including a period that an offender is ordered to undergo imprisonment under section 12(2) and a term of imprisonment that an offender has been committed to undergo under section 6 of the Criminal Law (Conditional Release of Offenders) Ordinance, but shall not be read as including a term of imprisonment in respect of which an order has been made under section 5(1)(b) of that Ordinance.

"4A.(1) Where an offender who is serving a term of imprisonment (in this section called 'the previous term') is sentenced to a further term of imprisonment for an offence (in this section called 'the further term'), section 4 applies as if the court by which the further term is imposed had sentenced the offender to a term of imprisonment equal to the aggregate of the remaining period to be served of the previous term and the further term.

Fixing of  
non-parole  
period  
where  
person  
serving a  
previous  
sentence

"(2) Sub-section (1) applies whether the previous term was imposed before or after the commencement of this section.

"(3) The imposition of the further term revokes any minimum term of imprisonment fixed in respect of the previous term.

"(4) A minimum term of imprisonment fixed at the time of the imposition of the further term shall not be such as to render the offender eligible to be released on parole earlier than would have been the case if the further term had not been imposed."

Release of  
offenders  
on parole

9. Section 5 of the Principal Ordinance is amended -

- (a) by omitting sub-section (1);
- (b) by omitting from sub-section (2) "the Governor-General may, in his discretion" and substituting "the Board may, in its discretion";
- (c) by omitting sub-section (4);
- (d) by omitting from sub-section (6) "The Governor-General" and substituting "The Chairman";
- (e) by inserting after sub-section (6) the following sub-section:

"(6A) The Board may give directions to the Chairman for his guidance for the purposes of sub-section (6)."; and

- (f) by omitting sub-section (8) and substituting the following sub-sections:

"(8) Subject to sub-sections (8A) and (8B), where a person to whom a parole order relates is sentenced to a term of imprisonment in respect of an offence committed during the parole period (including an offence against an Act, regulations under an Act, or a law of a State or another Territory), the parole order shall thereupon be deemed to have been revoked

or, if the parole period has already expired, to have been revoked as from the time immediately before the expiration of the parole period.

"(8A) Subject to sub-section (8B), a parole order shall not be deemed to be revoked where a person to whom it relates is sentenced to a term of imprisonment but is released forthwith in pursuance of a direction given under section 5(1)(b) of the Criminal Law (Conditional Release of Offenders) Ordinance.

"(8B) Where a person is subsequently committed to prison under section 6 of the Criminal Law (Conditional Release of Offenders) Ordinance, the parole order shall be deemed to be revoked when the person is so committed."

10. Section 12 of the Principal Ordinance is amended -

- (a) by omitting sub-section (2) and substituting the following sub-section:

"(2) Where -

- (a) a person has been sentenced or committed in the Territory to a term of imprisonment for an offence committed while a parole order is in force in relation to him; and

- (b) that parole order is, by reason of that sentence or committal, deemed to have been revoked by virtue of section 5(8),

the court by which the person has been sentenced or committed may, at the time at which the person is sentenced or committed or on any application made subsequently by the Crown Law Officer, order the person to undergo imprisonment for a term not exceeding the part of the term of imprisonment that he had not served at the time when he was released from prison in pursuance of the parole order."; and

Serving of  
balance  
of term of  
imprisonment  
when  
sentenced  
to further  
imprisonment

(b) by omitting sub-sections (3) and (4).

11. Section 13 of the Principal Ordinance is repealed and the following section substituted:

Release of  
person on  
parole after  
revocation  
or cancel-  
lation of  
previous  
parole  
order

"13. A parole order may be made in relation to a person notwithstanding that a previous parole order in relation to the person has been revoked or is to be deemed to have been revoked, or has been cancelled."

Repeal of  
section 15

12. Section 15 (second occurring) of the Principal Ordinance is repealed.

\_\_\_\_\_  
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THE NORTHERN TERRITORY OF  
AUSTRALIA  
A BILL  
for  
AN ORDINANCE

To amend the Traffic Ordinance

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the Traffic Ordinance 1976.

Short  
title

2. The Traffic Ordinance is in this Ordinance referred to as the Principal Ordinance.

Principal  
Ordinance

3. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.

Commence-  
ment

4. The Principal Ordinance is amended by inserting after section 36G the following sections:

"36H(1) In this section -

Traffic  
Infringe-  
ment  
Notices

'alleged offender' means a person who a member of the Police Force reasonably believes has committed a traffic infringement;

'traffic infringement' means an offence against a law of the Territory of a kind specified in the first column of the Schedule;

'traffic infringement notice' means a traffic infringement notice issued in pursuance of this section.

"(2) A member of the Police Force may serve on an alleged offender a traffic infringement notice in accordance with this section.

"(3) A traffic infringement notice may be served -

- (a) by personally handing the notice to the alleged offender; or
- (b) by sending the notice by post addressed to the alleged offender at his last known place of residence or business.

"(4) A traffic infringement notice shall, in addition to the information required by sub-section (8), contain-

- (a) a list of the traffic infringements specified in the first column of the Schedule, showing opposite each infringement the penalty set out in the second column of the Schedule which appears opposite the reference to that infringement in the first column;
- (b) a statement to the effect that, if the appropriate amount specified in the notice as the penalty for the infringement alleged by the notice to have been committed is tendered at the place referred to in the notice, the matter will not be brought before the court unless -
  - (i) before the tender is made, a notice is given by a member of the Police Force that the traffic infringement notice has been withdrawn; or
  - (ii) the tender is made after the period specified in the notice as the time for payment of the penalty has expired; and
- (c) such other particulars and instructions as are prescribed.

"(5) A traffic infringement notice may be withdrawn, unless the appropriate penalty has been paid, at any time within 28 days of the service of the notice, by sending by post a notice signed by a member of the Police Force stating that the traffic infringement notice has been withdrawn.

"(6) A notice given under sub-section (5) shall be addressed to the alleged offender at his last known place of residence or business.

"(7) The penalty payable for the purposes of this section in respect of a traffic infringement of a kind described in the first column of the Schedule shall be the amount set out in the second column of the Schedule opposite the description of the relevant infringement in the first column of the Schedule.

"(8) A traffic infringement notice shall have clearly shown on it -

- (a) the day, time and place of the alleged traffic infringement;
- (b) the nature of the alleged traffic infringement and the penalty payable for that infringement;
- (c) the place or places at which the penalty may, in accordance with this Ordinance, be paid;
- (d) the date of the notice and a statement that the penalty may be paid within a period of 28 days after that date; and
- (e) a summary of the provisions of this Ordinance relating to the withdrawal of traffic infringement notices.

"(9) It shall be sufficient compliance with sub-section (9)(b) if the member of the Police Force giving the notice makes a mark on the notice against the particular traffic infringement alleged to have been committed and against the penalty applicable to that traffic infringement to clearly indicate the infringement alleged and the corresponding penalty.

"(10) Subject to sub-section (12), if, before the expiration of the period specified in the traffic infringement notice for the payment of the penalty, the amount of the penalty shown on a traffic infringement notice is paid at the place specified in that notice -

- (a) the alleged offender shall be deemed to have expiated the infringement by payment of the penalty;
- (b) no further proceedings shall be taken in respect of the traffic infringement; and
- (c) no record shall be kept of a conviction for the infringement.

"(11) Where a person tenders a cheque in payment of a penalty under this section at, or sends it by post to, the place specified, payment shall be deemed not to be made unless and until the cheque is honoured upon presentation.

"(12) Where -

- (a) a traffic infringement notice has been served in accordance with this section and the amount of the penalty is not paid before the expiration of the period specified in that notice as the time for payment; or
  - (b) the notice has been withdrawn in accordance with sub-section (5),
- nothing in this section shall prevent the institution or prosecution of proceedings for the traffic infringement in question.

"(13) In the prosecution of proceedings against an alleged offender, where the court is satisfied that an infringement notice was served in respect of an infringement, and has not been withdrawn, the conviction imposed by the court shall be deemed not to be a conviction for any purpose (including, without limiting the generality of the foregoing, the purposes of any law imposing, authorizing or requiring the imposition of any disqualification, disability or higher penalty on convicted persons or persons convicted on more than one occasion) except in relation to -

- (a) the making of the conviction itself; and
- (b) any subsequent proceedings which may be taken in respect of the conviction itself, including proceedings by way of appeal.

"(14) For the purposes of this section, where a traffic infringement arises out of the driving of a motor vehicle and -

- (a) the alleged offender produces a licence at the time of the alleged offence, the address appearing on the licence produced by him; or
  - (b) the alleged offender fails to produce a licence at the time of the alleged offence, the address given by him pursuant to a request made under section 36J,
- shall, be deemed to be his last known place of residence or business (as the case may be).

"(15) For the purposes of this section, where a traffic infringement does not arise out of the driving of a motor vehicle, the owner of the motor vehicle concerned in the traffic infringement shall be deemed to be the alleged offender.

"(16) In a case where sub-section(15) applies, the last known place of residence or business (as the case may be) of an alleged offender shall be deemed to be the latest address of the alleged offender in the record of registration of the alleged offender's motor vehicle.

"(17) For the purposes of this section, a document purporting to be signed by the Registrar or by an officer having duties in connexion with the registration of motor vehicles under the Motor Vehicles Ordinance stating -

- (a) that, on the date a traffic infringement is alleged to have occurred, a motor vehicle was registered under that Ordinance in the name of a person; and
  - (b) the address shown, on that date, in the record of registration of that motor vehicle,
- is evidence that on that date that person was the owner of the motor vehicle and that the address shown was that person's last known place of residence or business (as the case may be).

"36J(1) Where a member of the Police Force has Member of

Police  
Force may  
require  
informa-  
tion

reason to believe that a person has committed a traffic infringement within the meaning of section 36H, he may, if that person fails to produce his licence when requested so to do, require that person to state -

- (a) that person's address;
- (b) whether that person is the holder of a licence to drive a motor vehicle; and
- (c) if that person is the holder of such a licence, whether the licence is provisional.

"(2) When a member of the Police Force has required a person to make a statement in accordance with sub-section (1), that person shall not -

- (a) refuse or fail to make the statement requested; or
- (b) make a false statement in answer to that request."

Special  
licenses  
to drive

5. Section 55B of the Principal Ordinance is amended -

- (a) by inserting in sub-section (1) after "section 55" the words "or sections 10A(5) or 117(1) of the Motor Vehicles Ordinance"; and
- (b) by omitting from sub-section (6) "sections 11" and substituting "sections 10A, 11".

Schedule

6. The Principal Ordinance is amended by inserting at the end the following Schedule:

## "SCHEDULE

## SECTION 36H

## PRESCRIBED PENALTIES FOR CERTAIN TRAFFIC INFRINGEMENTS

First Column TRAFFIC INFRINGEMENT	Second Column PENALTY
	\$
Carry more than 2 persons (including driver) on motor cycle	30
Drive wrong way in one way street	30
Overtake incorrectly	30
Fail to give way to right or to emergency vehicle	30
Fail to obey 'Give Way' or 'Stop' sign	30
Fail to obey traffic lights	30
Drive without headlights or tail lights	30
Exceed speed limit by more than 15 and up to 30 kilometres per hour	30
Fail to give way to pedestrian at Pedestrian or Children's Crossing	30
Drive motor vehicle on footpath	20
Fail to wear seat belt properly adjusted	20
Drive motor vehicle with load -	
(a) unsafe;	
(b) insecure; or	
(c) projecting without flag	20

Not wear or fasten securely helmet	20
Fail to keep to left	20
Drive on prescribed beach	20
Not drive in traffic lane	20
Cross unbroken line or double lines	20
Make incorrect turn	20
Fail to give signal or warning	20
Part of body protruding from vehicle	20
Exceed speed limit by up to 15 kilometres per hour	20
Fail to obey directions of Police Officer	20
Drive with faulty headlights or tail lights	20
Drive motor vehicle of excess width	10
Obstruct traffic	10
Leave ignition keys in unattended vehicle	10
Cause emission of undue amount of smoke	10
Number plates not fitted to motor vehicle or trailer	10
Registration label not properly fixed to motor vehicle or trailer	10
Drive noisy motor vehicle	10
Fail to dip headlights	10
Number plate not clearly visible	10
Number plate light not operating	10
Drive with 'L' or 'P' plate displayed when not required to	10".

THE NORTHERN TERRITORY OF AUSTRALIA

Environment Bill 1976

TABLE OF PROVISIONS

Section

PART I - PRELIMINARY

1. Short title
2. Commencement
3. Definitions
4. Saving of other Ordinances
5. Ordinance binds the Crown

PART II - ADMINISTRATION

6. Appointment of Director
7. Delegation
8. Duties and functions of Director
9. Environment officers
10. Environment Protection Board
11. Terms and conditions of office
12. Functions of the Board
13. Person may apply for cancellation of environmental protection order

PART III - STATUTORY NUISANCES

14. Meaning of statutory nuisance
15. Common law remedies for nuisance saved
16. Action to be brought in Supreme or Local Court
17. Court may order abatement of nuisance
18. Court may order payment of damages
19. Defence to action for statutory nuisance
20. Director may give notice to abate a statutory nuisance
21. Court may make order as to costs

PART IV - CONTROL OF INDUSTRY

22. Use of dangerous substances
23. Use of certain machinery or processes may be prohibited
24. Establishment of dumps and dangerous waste disposal areas
25. Penalty

PART V - POLLUTION OF AIR, WATER AND SOIL

Division 1 - Definitions

26. Definitions

Division 2 - Clean Water

27. Person not to pollute water
28. Director may require person to avoid pollution of water
29. Director may direct repair of damage

Division 3 - Clean Air

- 30. Person shall not pollute atmosphere
- 31. Director may require equipment to be attached to machinery to prevent pollution

Division 4 - Soil and Underground Water  
Pollution

- 32. Person not to pollute soil
- 33. Person not to allow mineralised water to escape into usable water

Division 5 - Control of Noise

- 34. Person not to emit noise from land
- 35. Use of noisy machinery may be prohibited at certain times
- 36. Director may order suppression of noise

PART VI - GENERAL

- 37. Defence to prosecution for pollution
- 38. Penalty for continuing offences
- 39. Regulations

# THE NORTHERN TERRITORY OF AUSTRALIA

## A BILL

for

## AN ORDINANCE

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

**B**E it ordained by the Legislative Assembly for the Northern Territory  
of Australia as follows:

- |                                                                                                                                |              |
|--------------------------------------------------------------------------------------------------------------------------------|--------------|
| 1. This Ordinance may be cited as the <u>Environment Ordinance</u>                                                             | Short title  |
| 1976.                                                                                                                          |              |
| 2. This Ordinance shall commence on a date to be notified by<br>the Administrator in Council by notice in the <u>Gazette</u> . | Commencement |

### PART I - PRELIMINARY

- |                                                                    |             |
|--------------------------------------------------------------------|-------------|
| 3.(1) In this Ordinance unless the contrary intention<br>appears - | Definitions |
|--------------------------------------------------------------------|-------------|

"aggrieved person" means a person aggrieved by a statu-  
tory nuisance;

"beneficial use" means a use of the environment or any  
part thereof that is conducive to human safety, wel-  
fare, benefit or health, or the conservation or con-  
trol of plant or animal species but does not include  
a use that is conducive to the welfare or benefit of  
a particular person or group of persons where that  
use is likely to affect adversely the welfare, bene-  
fit, safety or health of human beings generally or  
subject to sub-section (2) tends to destroy or  
adversely affect any species of animals or plants;

"dangerous substance" means any liquid, gas, powder or  
other substance which is likely to poison or advers-  
ely 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 or were emitted 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 sections 22, 23, 28, 31, 35 or 36 of this Ordinance by the Administrator in Council or by the Director;

"land" includes all waters and streams within the environment and 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;

"statutory nuisance" means a nuisance defined in section 14;

"the Board" means the Environment Protection Board appointed under section 10;

"the environment" means the biosphere insofar as it is part of the Northern Territory of Australia;

"waste" means a substance produced in the course of a trade, manufacture, mining or of farming or of the use of land or a deleterious substance left after any such operation not being a substance which is a commodity produced or suitable and in a form available for sale or use.

(2) Nothing in this Ordinance shall be read as directly prohibiting or restricting the control or destruction of animals or plants (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.

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

Saving of other Ordinances

5. This Ordinance binds the Crown.

Ordinance binds the Crown

## PART II - ADMINISTRATION

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.

Appointment of Director

(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.

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.

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 statutory 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 statutory 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 in respect of the discharge, use or emission of a deleterious substance or of fumes, smoke, dust or noise and on 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.

(3) Where the person having control of any premises refuses to permit the entry onto those premises of an environment officer, the environment officer may not enter those premises except in pursuance of a search warrant granted under this Ordinance or another law in force in the Northern Territory.

#### Environment officers

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

(2) In the course of his duties an environment officer may take such photographs in or on any premises as are reasonably necessary for the carrying out of his duties.

(3) An environment officer may -

- (a) by notice in writing, require the occupier or person in charge of any premises 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 those premises; or

(fi) any manufacturing, industrial or trade process carried on on that land or in those premises;

(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 sub-section.

(4) An environment officer may, with respect to matters arising under this Ordinance -

(a) question a person whom he finds on any premises 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 premises.

(5) Except in the course of his duty under this Ordinance, a person shall not disclose any information acquired by him in the course of any action taken under this Ordinance and shall not make available to any person any photograph or any recorded information or document (including a reproduction or copy of a photograph, recorded information or document) which, or the original of which, came into his possession in pursuance of a notice requiring information of the kind specified in sub-section (3)(a).

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

(6) 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 those premises.

(7) Upon application by an environment officer, a Justice of the Peace may grant a search warrant in respect of any premises in respect of which he is satisfied upon evidence that there are grounds for believing that there may be found, detected or observed on those premises, evidence of an offence against this Ordinance.

(8) A search warrant granted under this section authorises the environment officer to whom it is directed, to enter the premises using such force as is necessary and with such assistants as he considers necessary and, on those premises to search for and to seize anything which is, in the opinion of the environment officer, likely to afford evidence of the commission of an offence against this Ordinance.

(9) In this section "premises" includes any land, place, vehicle or vessel.

Environment  
Protection  
Board

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

(2) The Board shall consist of 3 members, appointed by the Administrator in Council, one of whom shall be a Judge of the Supreme Court of the Northern Territory or 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.

(4) The Administrator in Council shall not appoint to the Environment Protection Board a person who is employed in the Public Service of the Territory or of the Commonwealth.

Terms and con-  
ditions of  
office

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

- (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 in Council may appoint a person to act in the place of that member during that inability or until the filling of the vacancy.

Functions of  
the Board

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

- (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 makes and 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 3 days, apply to the Board for a cancellation of the order.

Person 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 made by the Director and delivered to him under this Ordinance at any time within 3 days after the delivery to him of the order.

(3) Where the Board is satisfied that a person who has applied for the cancellation of an environmental protection order is not taking all reasonable steps to expedite the hearing of an application for cancellation of an environmental protection order, the Board may order that that person shall comply forthwith or upon a date determined by the Board with the order as delivered to him and that person shall, unless and until the environmental protection order is cancelled or amended, comply with the terms of the order as delivered to him and notwithstanding that an application for cancellation is pending, shall be subject to the penalty provided by the section of this Ordinance under which the environmental protection order was made.

(4) The Director or some person authorised by him shall appear and be heard upon an application for the cancellation of an environmental protection order.

(5) The Board, the Director and the person to whom an environmental protection order has been delivered shall proceed with the hearing of an application under this section with all expedition.

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

(7) 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 complying with an order as amended shall be liable to the same proceedings and penalty as he would have been liable to had the order as amended been the order originally delivered to him.

### PART III - STATUTORY NUISANCES

14.(1) A statutory 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.

Meaning of statutory nuisance

(2) The provisions of sub-section (1) do not affect or limit the operation of sub-section (3).

(3) In addition to the statutory nuisances described in sub-section (1) the following acts and omissions and conditions existing on land (whether public or private) are statutory 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 so that a person's enjoyment of land is prejudicially affected;
- (h) the pollution of air, by any matter or waste, whether solid, liquid, gaseous or in a molecular form so that the enjoyment of life by persons is unreasonably and injuriously affected;
- (i) the pollution of soil by any matter or waste, whether solid, liquid or gaseous so that the enjoyment of life by persons is unreasonably and injuriously affected;
- (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; and

- (k) the emission of noise of a volume, intensity or quality that is harmful or unduly offensive to neighbouring persons.

(4) In order that an act or state of affairs should constitute a statutory nuisance under sub-section (3), it is not necessary (except where otherwise stated in that sub-section) to prove that the act or state of affairs has affected or interfered with, or is likely to affect or interfere with, the reasonable enjoyment or use by the 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 the 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 statutory nuisance may institute proceedings for an order or orders under section 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.

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

Court may order abatement of nuisance

- (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 statutory nuisance exists, to abate the statutory 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 statutory nuisance, and directing a defendant to carry out any works necessary to prevent the recurrence or continuance of the statutory nuisance; or

- (c) both requiring abatement and prohibiting the recurrence or continuance of the statutory 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 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 statutory 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 statutory nuisance.

(3) A person may not be required by an order made under section 17 or 18 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.

Defence to  
action for  
statutory nuisance

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

- (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 proceedings 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 statutory 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.

Director may  
give notice to  
abate a statu-

20.(1) If the Director is satisfied of the existence of a statutory nuisance, he may, upon complaint by at least 6 aggrieved persons, give notice to the person by whose act, default or

sufferance the statutory nuisance, in the opinion of the Director, arises or continues, to abate or remedy the statutory nuisance within a time specified in the notice.

(2) If a statutory 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 sub-section (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 sub-section (2) unless it is satisfied that the proceedings have been instituted as a result of bona fide complaints to the Director by at least 6 aggrieved persons.

(4) Where the Director is satisfied of the existence of a statutory nuisance as a result of the complaints of at least 6 aggrieved persons but the person by whose act, default or sufferance the statutory 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 statutory nuisance arises and abate or remedy the statutory nuisance, creating as little disturbance as possible.

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

(6) Where the Director has taken action under sub-section (4) he may, at any time, serve on the person by whose act, default or sufferance the statutory nuisance arose a notice requiring that person to pay the cost and expenses incurred by the Director in the abatement of the statutory nuisance.

(7) Where a person served with a notice under sub-section (6) 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 the costs and expenses reasonably incurred by the Director in the abatement of the statutory nuisance.

21.(1) Where an order has been made against a person under section 17 or 18 in relation to a statutory nuisance or proceedings instituted against a person for such an order have been dismissed -

Court may make order as to costs

- (a) any other proceedings against the same person for the same statutory nuisance shall, upon the making of the order under section 17 or 18 or upon the dismissal of the first-mentioned proceedings, be dismissed; and
- (b) no further proceedings under this Part may be instituted against the same person in respect of the statutory nuisance the subject of the proceedings in which the order was made and is in force.

(2) A party to any proceedings which are deemed to have been dismissed by force of this section may apply to the Court in which the proceedings were pending for an order for the payment of costs of the proceedings and the Court may, in its discretion, make such order as to costs as to the Court seems fit.

#### PART IV - CONTROL OF INDUSTRY

Use of dangerous substances

22.(1) The Administrator in Council may, for the purpose of preventing or limiting pollution of the environment, 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 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 Northern Territory.

(2) The Director may, for the purpose of preventing or limiting pollution of the environment, 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 sub-section (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 sub-section (1).

Use of certain machinery or processes may be prohibited

23.(1) The Administrator in Council, for the purpose of preventing or limiting 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) Where the Director believes on reasonable grounds that a person is using a machine or a manufacturing, industrial or mining process or method which is or is likely to be a source of pollution of the environment, he may apply to the Supreme Court for an order in the nature of an injunction restraining the person from continuing the use of the machine or manufacturing, industrial or mining process or method.

(3) If the Supreme Court is satisfied that -

- (a) the defendant is using a machine or a manufacturing, industrial or mining process; and
- (b) that use is or is likely to be a source of pollution of the environment

the Court may grant an injunction restraining the defendant from using the machine or the manufacturing, industrial or mining process unless and until the defendant complies with such conditions specified in the order as might have been specified by the Administrator in Council in an order made under sub-section (1).

24.(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 the reception or destruction of dangerous 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 sub-section (1).

Penalty : 500 dollars.

(3) The Administrator in Council, by notice published in the Gazette, may require dangerous or deleterious substances 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 dangerous or deleterious substances of a specified kind to a specified dump or waste disposal area.

(5) An environmental protection order under sub-section (3) or (4) may require dangerous or deleterious substances to be treated in a specified manner before they are 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 dangerous or deleterious substances 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 the reception of domestic or industrial waste that is not ordinarily dangerous to human health or well-being.

Penalty

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

Penalty : 2,000 dollars.

Daily Penalty : 200 dollars.

PART V - POLLUTION OF AIR, WATER AND SOIL

Division 1 - Definitions

Definitions

26. In this Part -

"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

Person not to pollute water

27. A person shall not wilfully or negligently -

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

28.(1) The Director may for the purpose of preventing or limiting pollution of the environment by an environmental protection order in writing under his hand delivered to a person, require that person -

Director may require person to avoid pollution of water

- (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.

29.(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.

Director may direct repair of damage

(2) Upon a prosecution for an offence against section 28, 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 sub-section (1) of this section.

(3) The amount of any claim made by the Director in a court under sub-section (1) shall be reduced by such amount as the defendant establishes to the satisfaction of the Court was excessive or unreasonable having regard to the damage occasioned and to the usual cost of carrying out the works necessary to repair that damage in the place in which it was occasioned.

#### Division 3 - Clean Air

30. A person shall not -

Person shall not pollute atmosphere

- (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; or
- (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 : 200 dollars.

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

31.(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.

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

Penalty : 2,000 dollars.

Daily Penalty : 200 dollars.

#### Division 4 - Soil and Underground Water Pollution

Person not to pollute soil

32. 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; or
- (c) leave a well or borehole in such a condition that it is likely that the quality of underground water will be adversely affected.

Penalty : 2,000 dollars.

Daily Penalty : 200 dollars.

Person not to allow mineralised water to escape into usable water

33. 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 unusable 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 usable water.

Penalty : 2,000 dollars.

Division 5 - Control of Noise

34.(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, having regard to the place and time of the day at which the noise was emitted and the period of time during which it was emitted.

Person not to  
emit noise  
from land

Penalty : 2,000 dollars.

Daily Penalty : 200 dollars.

35.(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 specified 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.

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

Director may  
order suppres-  
sion of noise

- (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 - GENERAL

Defence to  
prosecution  
for pollution

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

- (a) a standard relating to the emission of the noise or to 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;
- (b) where no standard relating to the emission of the noise or to the discharge or use of the substance has been prescribed, that the defendant has used the best known practicable means to prevent or limit the noise or the pollution; or
- (c) in the case of a prosecution for an offence against sections 27 or 32 of this Ordinance that the deleterious substance was placed in a waste disposal area proclaimed or established under section 24.

Penalty for  
continuing  
offences

38.(1) Where in or at the foot of any section or sub-section 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 sub-section as the amount of the daily penalty.

(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.

Regulations

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 -

- (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) prescribing standards to be complied with in the use of any substances that contain pollutants or dangerous or deleterious substances;
- (c) prescribing methods of analysis and testing and sampling;
- (d) relating to the making or emission of noise;

- (e) prohibiting or regulating the burning of specified kinds of fuel;
  - (f) requiring the fitting to engines and other machinery of devices to prevent or reduce pollution or noise; and
  - (g) providing for penalties not exceeding 200 dollars for a contravention or failure to comply with a provision of a regulation.
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THE NORTHERN TERRITORY OF AUSTRALIA

Mines Safety Control Bill 1976

TABLE OF PROVISIONS

Serial 145  
Mines Safety  
Control  
Mr Tuxworth

Section

PART I - PRELIMINARY

1. Short title
2. Commencement
3. Repeal and saving
4. Interpretation
5. Application

PART II - ADMINISTRATION

6. Appointment of Officers
7. Offences by Inspectors or other persons under Ordinance
8. Disqualification

PART III - MINING BOARD OF THE NORTHERN TERRITORY

9. Constitution
10. Functions
11. General provisions with respect to certificates

PART IV - INSPECTION

12. General powers of Inspectors
13. Power of Inspectors in relation to dangerous conditions of a mine
14. Requirement of Government Mining Engineer with regard to dangerous matters
15. Official inspections of mines
16. Power of warden or mining registrar to authorize examination
17. Record Book
18. Miners' powers to appoint miners or other persons to inspect mine
19. Inquiry by Inspector into complaint
20. Compliance with directions of an Inspector
21. Obstructing an Inspector

## PART V - MANAGEMENT

22. Appointment of manager
23. Mine to be under control of manager
24. Appointment of deputy manager
25. Requirement of mine manager's certificate
26. Mine being worked otherwise than under proper management
27. Duties of manager
28. Daily supervision of mine
29. Weekly inspection of mine
30. Qualifications with respect to operations in a mine

## PART VI - ACCIDENTS AND INJURIES

31. Definitions
32. Giving of notice of accident
33. Reporting of accidents
34. Examination of accidents
35. Offences in relation to accidents
36. Duty of employee with respect to inspecting and reporting accidents
37. Inquiries into accidents
38. Action against holder of certificate etc.
39. Protection of abandoned shafts
40. Responsibility as to fencing and filling in abandoned shafts &c.

## PART VII - EMPLOYMENT

41. Employment of persons under 18 years
42. Register of employment of persons under 18 years
43. Employment of foreigners

## PART VIII - WINDING AND WINDING ENGINE DRIVERS

44. Definitions
45. Winding licence
46. Winding Authority
47. Winding permit
48. Trainee winding engine driver
49. Unlicensed person operating a winding engine
50. Exempted winding engine
51. Medical Certificate
52. Maximum period for operation of winding engine

53. Report of negligence

PART IX - PLANS OF MINES

54. Survey of workings  
55. Concealing workings and plans

PART X - REGULATIONS AND RULES

56. Regulations  
57. Order setting standards  
58. Special rules  
59. Revocation of special rules  
60. Exhibition of regulations and special rules

PART XI - MISCELLANEOUS

61. Obstruction to compliance with Ordinance void  
62. Service of documents  
63. Review of decisions  
64. Certain offences  
65. Offence of falsely pretending to be an  
inspector  
66. Penalties  
67. Proceedings for offences  
68. Time limit for proceedings  
69. Liability of persons  
70. Degree of impracticability

# THE NORTHERN TERRITORY OF AUSTRALIA

## A BILL

for

## AN ORDINANCE

Relating to the Inspection and Control of Mines and  
other Places

**B**E 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 <u>Mines Safety Control Ordinance 1976.</u>                                                                                                                                                                                                                     | Short<br>title       |
| 2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette.</u>                                                                                                                                                                               | Commencement         |
| 3.(1) The Ordinances specified in the Schedule are repealed.                                                                                                                                                                                                                                          | Repeal and<br>saving |
| (2) Notwithstanding the repeal made by sub-section (1) -                                                                                                                                                                                                                                              |                      |
| (a) the appointment of a person as an inspector made under the repealed Ordinances and in force immediately before the date of commencement of this Ordinance continues in force, subject to this Ordinance, as if made under this Ordinance;                                                         |                      |
| (b) the appointment of a person as a manager or deputy manager of a mine made under the repealed Ordinances and in force immediately before the commencement of this Ordinance continues in force, subject to this Ordinance, unless inconsistent with any appointment made under this Ordinance; and |                      |

- (c) a winding engine driver's certificate of competency granted, or purporting to have been granted, under the repealed Ordinances and in force immediately before the commencement of this Ordinance remains in force, according to its tenor under the repealed Ordinances, as if it had been granted under this Ordinance.

Interpre-  
tation

4. In this Ordinance, unless the contrary intention appears -

"agent" means a person having, as the representative of the owner or occupier of a mine or part of a mine, control of the mine or part, and of the manager of the mine;

"approved" means approved by an Inspector or by the Board;

"Board" means the Mining Board of the Northern Territory constituted under Part III;

"Chairman" means the Chairman of the Board and includes a person acting as chairman;

"Chief Government Mining Engineer" means the person appointed as Chief Government Mining Engineer under section 6 and includes an Acting Chief Government Mining Engineer appointed under that section;

"Director of Mines" means the Director of Mines within the meaning of the Mining Ordinance and includes a person appointed under that Ordinance as Acting Director of Mines;

"district" means an area of the Territory defined by the Chief Government Mining Engineer;

"excavation" means a cavity in the ground, and includes a quarry, trench, pit, shaft, winze, rise, open-cut, tunnel, adit, drive and all underground passages and workings;

"explosives" means explosives within the meaning of the Explosives Ordinance;

"Government Mining Engineer" means a person appointed as a Government Mining Engineer under section 6(1)(b);

"Inspector" means a District Inspector or a Special Inspector appointed under section 6 and includes the Chief Government Mining Engineer and a Government Mining Engineer;

"machinery" means every kind of mechanical appliance, whether mobile or stationary, employed in, on or about a mine and includes -

- (a) boilers, pressure vessels and pressure piping;
- (b) electric wires and electric apparatus;
- (c) chains, cables, belts, ropes and the attachments to them; and
- (d) the structures and foundations belonging or attached to, or associated with, those appliances;

"manager" means the person appointed under section 22 with respect to a mine and, except for the purposes of section 24(2), includes -

- (a) a deputy manager appointed under section 24; and
- (b) the owner or agent of the mine;

"medical practitioner" means a medical practitioner registered under the Medical Practitioners Registration Ordinance;

"mine" means a place where any operation for the purpose of obtaining minerals has been or is being carried on, and a place where the products of that place are to be, have been or are being treated or dealt with, and includes-

- (a) a quarry;
- (b) a place where at least 2 persons are employed in connexion with prospecting operations for the purpose of the discovery of or

exploration for minerals whether by drilling or any other method;

(c) so much of -

(i) the surface of a place as is occupied or used;

(ii) the buildings, workshops, power plant, change houses, laboratories, structures and other improvements of that place as are occupied or used; and

(iii) the machinery and works as are used,  
by the owner of a mine -

(iv) in connexion with the working of that mine;

(v) for the treatment of or dealing with the products of that mine;  
or

(vi) for the removal from that mine of refuse, or the storage of waste material resulting from the treatment of products of that mine; and

(d) a place or part of a place in relation to which a declaration has been made pursuant to section 5(4);

"mine manager's certificate" means a certificate issued under section 10(2)(d)(i);

"minerals" include -

(a) all metals;

(b) all gems and all precious stones;

(c) stone, gravel, sand, clay and other similar natural deposits;

(d) coal, petroleum, natural gas and all other similar substances;

(e) ores and all other substances which contain minerals whether in suspension or not; and

(f) such other substances or aggregate of substances as the Administrator, by notice published in the Gazette, declares to be minerals for the purpose of this definition,

but does not include water;

"mining" or "to mine" means the disturbance or removal by any means of a mineral in any state on or under the earth's surface for the purpose of obtaining or extracting that mineral and includes -

(a) the treatment of a mineral; and

(b) the removal, transport and storage of waste material from a mine;

"mining registrar" means a mining registrar within the meaning of the Mining Ordinance;

"mining tenement" means a mining tenement within the meaning of the Mining Ordinance;

"Officer" means an officer of the Public Service of the Commonwealth or of the Territory;

"open-cut" means an excavation in the ground (other than an underground excavation or a shaft leading to such an excavation) for the purpose of obtaining minerals and includes an excavation declared by the Administrator to be an open-cut but not an excavation declared by the Administrator not to be an open-cut;

"owner", when used in relation to a mine, means a person who is the proprietor, lessee or occupier of the mine or a part of a mine and includes a contractor or tributor working there;

"pressure vessel" means a vessel which is subject to internal or external pressure and includes its interconnecting parts and components;

"quarry" includes -

- (a) a place, open-cut or other excavation in or by which an operation is carried on in connexion with the obtaining of a mineral; and
- (b) an adjoining place on which the product of a quarry is treated or placed;

"Record Book" means the book kept in accordance with section 17;

"rock" means any portion of the earth's crust whether consolidated or not;

"shaft" means an opening into a mine having an inclination to the horizontal of 15 degrees or over, through which men or materials are raised and lowered or which is used as a main intake or outlet for ventilation, but does not include a winze, constructed either from the surface or underground, which may temporarily be used for the raising or lowering of men or materials unless, in the opinion of an inspector, that winze is used as a shaft;

"Special Inspector" means an Officer appointed under section 6(1)(d);

"special rules" means the special rules made under section 58;

"standards" means standards set by the Board in accordance with section 57;

"treatment", in relation to the product of a mine, means the crushing, grinding, classifying, dissolving, reducing, smelting, concentrating, precipitating, or separating of, or otherwise dealing with, that product, or any process or part of a process for obtaining a mineral from that product, and the disposal of waste materials derived from any of these activities;

"tributor" means tributor within the meaning of the Mining Ordinance;

"underground" means having an overlying cover of rock;

"warden" means warden within the meaning of the Mining Ordinance;

"winding engine" means a mechanical appliance powered by steam, air, electricity, hydraulic fluid, internal combustion or water power, or operated by the force of gravity by which persons or materials are raised or lowered by means of a cable attached to a skip, cage, bucket or other type of conveyance to or from a place in a mine, but does not include a dragline, loader, scraper, shovel or other similar mechanical appliance;

"winze" means a tunnel having an inclination below the horizontal of 15 degrees or over which is not used as a shaft;

"workings" means -

- (a) the portions of a mine that are being excavated; or
- (b) the portions of a mine, whether or not abandoned, that have been excavated.

5.(1) This Ordinance applies to every mine.

Application

(2) This Ordinance is binding on the Crown.

(3) The Administrator may, after seeking the advice of the Board, exempt -

- (a) a mine;
- (b) a part of a mine; or

(c) a class of mines, from this Ordinance, or specified provisions of this Ordinance, for such period and on such conditions as he thinks fit.

(4) The Administrator may, after seeking the advice of the Board and by order published in the Gazette, declare that -

- (a) this Ordinance applies; or

(b) specified provisions of this Ordinance apply, for such a period of time as is specified in the order, to a place or a part of a place where an operation is, or is to be, carried on for a purpose other than that of mining.

(5) The Administrator may in an order published under sub-section (4) declare that order to apply to a particular shaft, tunnel, reservoir or work.

(6) The Administrator may, by order published in the Gazette, declare a shaft or excavation, specified in the order, to be underground, or a shaft or excavation, specified in the order, not to be underground.

## PART II - ADMINISTRATION

### Appointment of Officers

6.(1) The Administrator may, subject to sub-sections (3) and (4) by notice in the Gazette appoint-

(a) an Officer, who shall have qualifications and experience not less than those of a Government Mining Engineer, to be Chief Government Mining Engineer;

(b) Officers, who possess an approved degree in Mining or an approved Mining Diploma and have not less than 5 years approved experience in the mining industry, to be Government Mining Engineers;

(c) Officers to be District Inspectors -

(i) to exercise in a district specified in the notice the powers conferred; and

(ii) to perform in that district the duties imposed, by this Ordinance on an Inspector; and

(d) Officers who are -

(i) inspectors of machinery under the Inspection of Machinery Ordinance; or

(ii) persons suitably qualified, to be Special Inspectors charged with such

duties as the Administrator may define in the notice of appointment.

(2) Where -

(a) there is a vacancy in the office of Chief Government Mining Engineer, a Government Mining Engineer or an Inspector; or

(b) owing to illness or other cause, the Chief Government Mining Engineer, or a Government Mining Engineer or an Inspector is unable to exercise the powers conferred, or perform the duties imposed, on him by this Ordinance,

the Administrator may appoint an Officer to act as Chief Government Mining Engineer, Government Mining Engineer or Inspector (as the case may be) until the vacancy is filled or the Chief Government Mining Engineer, Government Mining Engineer or Inspector (as the case may be) is able to resume exercise of his powers or perform his duties.

(3) The Administrator shall not make an appointment under sub-section (1) or (2) unless he is satisfied that the Officer appointed has been approved of by the Board pursuant to section 10 (2)(a).

(4) The duration of the appointment of an Officer appointed under sub-section (1) (c) and the nature and extent of the duties to be performed by an Officer appointed under sub-section (1)(d), shall be such as the Director of Mines may advise the Administrator that he requires for the effective administration of this Ordinance.

(5) Upon notification in the Gazette -

(a) of an appointment under this section; and

(b) the terms of the appointment (where applicable),

all courts, judges and persons acting judicially shall take judicial notice of the notification, the appointment and the terms of the appointment.

Offences by  
Inspectors  
or other  
persons  
under  
Ordinance

7. Except as provided by this Ordinance or another law in force in the Territory, an Inspector or a person charged with duties under this Ordinance shall not -

- (a) communicate to another person information obtained by him in the performance of his duties under this Ordinance; or
- (b) otherwise make a report outside the performance of those duties.

Disquali-  
fication

8.(1) A person who, without the authority of the Administrator, holds, directly or indirectly, an interest in a mine within the Territory is not qualified to be an Inspector.

(2) A person who acts as an Inspector when disqualified under sub-section (1), is guilty of an offence.

### PART III - MINING BOARD OF THE NORTHERN TERRITORY

Constitution

9.(1) There is established by this Ordinance a Mining Board of the Northern Territory.

(2) The Board shall consist of the following members:

- (a) the Director of Mines;
- (b) the Chief Government Mining Engineer;
- (c) an Officer appointed by the Administrator in Council; and
- (d) 2 other persons (not being Officers) appointed by the Administrator in Council on the ground of their qualifications, knowledge and skill in the mining industry.

(3) The Director of Mines shall be the Chairman of the Board.

(4) The Chairman of the Board may, without derogating from his own executive powers, delegate as chairman any of his powers (except this power of delegation) to such person as he may think fit.

(5) The quorum for a meeting of the Board shall be the Chairman and 3 other members.

(6) Subject to this Ordinance, the Board shall determine the procedure for calling its meetings and for the conduct of its own proceedings.

(7) Where a member of the Board is, or is expected to be, unable to attend a meeting of the Board, or there is a casual vacancy in the office of a member, the Administrator may appoint a person who, in his opinion, has the qualifications required by this Ordinance to act in place of that member and to assume that member's capacity on the Board during that inability or until the filling of the vacancy.

(8) The validity of an act of the Board shall not, in any proceeding, be questioned on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under sub-section (7) had not arisen, or that an appointment under that sub-section had ceased to have effect.

10. (1) In addition to its other functions under this Ordinance, the Board shall advise the Administrator, after making such enquiries as the Administrator may direct -

Functions

(a) on the operation of this Ordinance;  
or

(b) on matters arising out of or in connexion with this Ordinance.

(2) Subject to this Ordinance, the Board -

(a) shall approve the qualifications and experience to qualify officers or other persons -

(i) to perform duties under this Ordinance;

(ii) for appointment under this Ordinance as Government Mining Engineers, District Inspectors, Inspectors, mine surveyors or other officers;

- (iii) to act as mine managers; or
  - (iv) to be holders of such certificates, licences or authorizations as are provided for under this Ordinance;
- (b) may, before approving the qualifications and experience of an Officer or other person referred to in paragraph (a), arrange for that Officer or other person to be examined by a member of the Board, an Inspector or a person appointed by the Board for that purpose in that Officer's or other person's knowledge of the provisions of this Ordinance relevant to his appointment;
- (c) may arrange such other examinations and tests as it may deem necessary to qualify the Officers or other persons referred to in sub-paragraph (a) for appointment; or
- (d) may issue, in accordance with this Ordinance -
- (i) a mine manager's certificate; or
  - (ii) such other certificate, licence or other authorization as are provided for under this Ordinance or the regulations.
- (3) Where the Board issues a certificate, licence or authorization, under this section, it may-
- (a) limit the period of the certificate, licence or authorization and impose such conditions with respect to the issue as the Board considers proper; and
  - (b) suspend or cancel, and remove the suspension of, a certificate, licence or authorization.
- (4) The power to impose conditions under this

section includes the power to remove, vary or modify those conditions.

11.(1) A certificate shall be in respect of a class of mine specified in the certificate.

General  
provisions  
with respect  
to certifi-  
cates

(2) A person shall not become, or attempt to become, the holder of a certificate by making to the Board a statement false in a material particular.

(3) Where a person is convicted of an offence under sub-section (2), and there is not an appeal with respect to the conviction or the appeal has been dismissed, the Board may -

(a) by notice in writing, where the person is the holder of a certificate, require that person to return the certificate to the Board; and

(b) cancel the returned certificate.

(4) A person shall not -

(a) fail to return forthwith a certificate required to be returned to the Board; or

(b) make use of a certificate required to be returned to the Board.

(5) It is a defence to a charge for an offence against sub-section (4)(a) if the accused person proves that either -

(a) the certificate was returned as soon as practicable after he received a notice pursuant to sub-section (3)(a); or

(b) the certificate was not returned because it was lost or for other good reason.

(6) In this section "certificate" means a certificate, licence or other authorization issued under section 10(2)(d).

## PART IV - INSPECTION

General  
powers of  
Inspectors

12.(1) Subject to this Ordinance, an Inspector  
may -

- (a) conduct an inquiry and examination for the purpose of ascertaining whether the provisions of this Ordinance affecting a mine are being complied with;
- (b) enter and inspect a mine at any time of the day or night, with such assistants as he considers necessary, but not so as to unnecessarily impede or obstruct the working of the mine;
- (c) inquire into -
  - (i) the state and condition of a mine;
  - (ii) the ventilation of a mine;
  - (iii) the sufficiency of the regulations under this Ordinance and of the special rules, or the standards, for the time being applicable to a mine; and
  - (iv) a matter relating to the safety or well-being of persons visiting, or employed in, on or about, a mine;
- (d) initiate and conduct inquiries into accidents which have occurred in, on or about a mine;
- (e) require, for the purpose of an inquiry or examination affecting a mine, the attendance of the owner, agent, manager or other officer of the mine or an employee of the mine;
- (f) exercise in respect of a mine any or all of his powers which may, in his opinion, be reasonably required to enable him to properly perform and

discharge his duties with respect to an adjacent mine;

- (g) give directions to persons to whom the provisions of this Ordinance apply calculated to ensure that this Ordinance is complied with and do other things reasonably necessary for that purpose; and
- (h) do such other things as may be reasonably necessary for the purpose of carrying this Ordinance into effect or for obtaining compliance with its provisions by persons to whom those provisions apply.

(2) A prosecution or proceedings for an offence against this Ordinance or the regulations shall be commenced by, and prosecuted in, the name of the Chief Government Mining Engineer or an Inspector authorized by him.

(3) The production of a document purporting to be signed by the Chief Government Mining Engineer, and purporting to authorize an Inspector to institute a prosecution or proceedings, is evidence of the authority of that Inspector to institute that prosecution or those proceedings.

13.(1) Where a Government Mining Engineer considers that a mine, or part of a mine, is unsafe or dangerous to persons or to property on or in the vicinity of the mine, he may give such directions as he considers necessary to such persons as he deems fit for the purpose of ensuring -

Power of  
Inspectors  
in relation  
to danger-  
ous condi-  
tions of a  
mine

- (a) the cessation of work in the mine or part of the mine;
- (b) the removal of persons from the mine or part;
- (c) the prevention of the entry of persons into the mine or part; or
- (d) that such precautions as he thinks necessary are taken while persons are working in the mine or part.

(2) Where a Government Mining Engineer considers that machinery at a mine is unsafe or defective, he may give such directions as he thinks necessary to the persons having the care or control of the machinery for the purpose of preventing the machinery being used.

Requirement  
of Govern-  
ment Mining  
Engineer  
with regard  
to danger-  
ous  
matters

14. Where a Government Mining Engineer is of the opinion that -

(a) a thing in, or a practice connected with, a mine is wholly or partly dangerous or defective, or the absence of such a thing or practice threatens, or is likely to threaten, the health or safety of a person; and

(b) the matter is not otherwise sufficiently provided for by this Ordinance or the regulations,

he may, by notice in writing served on the owner, agent or manager of the mine, direct that the matter be remedied forthwith and may specify the manner in which the matter is to be remedied.

Official  
inspections  
of mines

15.(1) A warden, mining registrar or an Officer who is also a geologist may, at all reasonable times and with such assistants as he considers necessary -

(a) enter and inspect a mine;

(b) take measurements and samples there; and

(c) gather such information as may be required, in connexion with his duties.

(2) The Director of Mines may, by writing under his hand, authorize -

(a) a person to enter and inspect a mine; or

(b) a surveyor to enter, inspect and survey a mine,

but only for a purpose relating to this Ordinance or the regulations.

(3) A surveyor or person authorized in accordance with sub-section (2) shall have such of the

powers of an Inspector under this Ordinance as are specified in the authorization except the power specified in section 12(1)(d).

16.(1) Where -

(a) a warden or mining registrar has reason to believe that a working place in, on or about a mine within his jurisdiction is unsafe; and

(b) there is no Inspector available in the district in which the mine is located,

Power of  
warden or  
mining  
registrar  
to author-  
ize exam-  
ination

the warden or mining registrar may authorize 2 competent persons to make an examination of the working place and report to him the result of the examination.

(2) For the purpose of the examination, the competent persons have jointly the powers of an Inspector, except the power specified in section 12(1)(d).

(3) Upon receiving a report under this section, the warden or mining registrar (as the case may be) may, by notice in writing, order the manager of the mine, within a specified period in the notice, to do such things as he may stipulate to render the working place safe.

(4) An order under sub-section (3) may, if the warden or mining registrar so states in the order, prohibit work in the working place until -

(a) the working place is made safe to the satisfaction of the warden or mining registrar; or

(b) a Government Mining Engineer has inspected the place and certified in writing to the Chief Government Mining Engineer that he has inspected the place and found it to be safe.

(5) The warden or mining registrar shall forthwith notify the Chief Government Mining Engineer in writing of any order made and any action taken by the warden or mining registrar pursuant to this section.

(6) A manager shall not fail to comply with an order of a warden or mining registrar made under this section.

(7) For the purpose of this section "competent persons" means persons who have such qualifications or skills as the warden or mining registrar considers necessary to enable them to make the required examination.

#### Record Book

17.(1) A manager shall cause an approved person to keep at the mine, in accordance with this section, a book of an approved type and in an approved form, to be known as the Record Book.

(2) Where an Inspector inspects a mine, he shall, as soon as practicable, enter in the Record Book in respect of that mine the following particulars:

- (a) the parts of the mine inspected by him;
- (b) the nature of the inspection;
- (c) the extent (if any) to which the conditions of the mine are not in accordance with this Ordinance or the regulations, or with anything ordered or required to be done under or pursuant to this Ordinance or the regulations; and
- (d) the modifications of, or additions to, the mine that the Inspector considers to be necessary so as to bring the condition of the mine into accord with the requirements of this Ordinance or the regulations.

(3) After making such an entry, the Inspector shall cause -

- (a) a copy of the entry to be made; and
- (b) the copy to be displayed in a conspicuous place at the mine for such period of time as the Inspector may direct.

(4) An entry made in a Record Book shall be -

- (a) of a permanent nature and not liable to be easily obscured or obliterated; and
- (b) signed by the person making the entry.

(5) A person who is not an Inspector, or other person empowered or required by this Ordinance to make an entry in a Record Book, shall not, without the specific approval of an Inspector, alter or erase an entry in a Record Book.

(6) An approval under sub-section (5) shall be given only for the purpose of correcting an error in the Record Book.

(7) The person keeping the Record Book shall make it available at all reasonable times for examination by-

- (a) an Inspector;
- (b) a person employed in the mine; or
- (c) any other person authorized in writing by the Administrator to examine the Record Book.

(8) Subject to sub-section (9), the Record Book shall be kept at the mine for a period of 7 years after the date of making of the last entry in it.

(9) Where a mine is closed, or ceases to be worked, during the period referred to in sub-section (8), the manager shall deliver the Record Book, or cause it to be delivered, to the Chief Government Mining Engineer who shall retain it for the balance of the period of 7 years then outstanding.

(10) An entry made in a Record Book pursuant to this Ordinance, or the absence of an entry from a Record Book, shall not in any way limit the duties or obligations of a person under this Ordinance, the regulations or any other law for the time being in force in the Territory.

(11) When an entry is made in a Record Book pursuant to this section, the owner, agent, and manager of a mine shall each be deemed to know what is contained in that entry.

Miners'  
powers  
to appoint  
miners or  
other per-  
sons to  
inspect  
mine

18.(1) The persons employed in a mine may, at a meeting and by a vote of the majority of the persons present at the meeting, authorize -

(a) 2 of those persons;

(b) 2 other persons who are practical miners; or

(c) one of the persons present and another person who is a practical miner,

to inspect, at the cost of the persons employed in the mine, the whole or any part of the mine.

(2) Before commencing an inspection under this section, the persons so authorized shall give notice to the manager of their intention to inspect.

(3) The manager may himself, or may depute a person to, accompany the persons making the inspection.

(4) The owner, agent or manager of a mine shall afford every facility for an inspection under this section to be carried out.

(5) On completion of the inspection, the persons who made the inspection (other than the manager or the person deputed by him) shall make and sign a report of the inspection in the Record Book of the mine inspected.

(6) Where the report states the existence, or apprehended existence, of danger, the persons who made the report shall forthwith cause a copy of the report to be sent to the manager and to a Government Mining Engineer.

(7) Where a person makes an inspection under this section -

(a) he shall be deemed to be a workman employed by the owner of the mine; and

- (b) if an accident occurs to him while making the inspection, the accident shall be deemed to be an accident arising out of or in the course of his employment for the purpose of the Workmen's Compensation Ordinance.

(8) Subject to sub-section (9), the Chief Government Mining Engineer may terminate an authorization made under this section by giving notice to that effect in writing to one of the persons authorized.

(9) An authorization made under this section shall not be terminated -

- (a) while an inspection is in progress; or
- (b) after an inspection, until after a report has been made.

(10) In this section, "practical miner" means a person who has had, for a reasonable period of time, experience as a miner in a mine of a like class to that to be inspected.

19.(1) A person working in a mine may make a complaint to an Inspector relating to anything in connexion with the mine.

Inquiry by  
Inspector  
into com-  
plaint

(2) The Inspector may inquire into a complaint made under this section and take such steps as he thinks necessary to investigate the complaint.

(3) The Inspector to whom a complaint is made under this section shall not disclose the name of the person making the complaint.

20. Subject to section 63, a person shall comply with a direction or requirement of an Inspector given to him under this Part.

Compliance  
with direc-  
tions of an  
Inspector  
Obstructing  
an  
Inspector

21.(1) A person shall not -

- (a) wilfully obstruct an Inspector in the exercise of his powers, or the performance of his duties, under this Ordinance; or

- (b) use insulting words to an Inspector whilst he is in the course of an exercise of his powers or a performance of his duties under this Ordinance.

(2) An owner, agent or manager, having the means to do so, shall not fail to afford an Inspector the means necessary for making an entry, inspection, examination or inquiry under this Ordinance.

(3) In this section -

"Inspector" includes a person having the powers, or any of the powers, of an Inspector;

"this Ordinance" includes the regulations.

#### PART V - MANAGEMENT

#### Appointment of manager

22.(1) Subject to this section, the owner or agent of a mine shall appoint a manager of that mine who -

- (a) is able and willing to be the manager; and
- (b) if section 25 applies to the mine, is qualified under that section.

(2) Except with the prior consent in writing of the Director of Mines, a person shall not be appointed to be, or to act as, the manager of more than one mine.

(3) The owner or agent of a mine may, or, if required by the Chief Government Mining Engineer, shall, appoint one or more assistant managers who, subject to the control and supervision of the manager of the mine, shall be responsible to the manager for the part of the mine in respect of which he is, or they are, appointed.

(4) Not later than 7 days after an appointment is made under this section, the person who made the appointment shall give notice in writing of the appointment to the Chief Government Mining Engineer and the warden or mining registrar whose office is

nearest to the place where the mine is situated.

(5) The notice of appointment referred to in sub-section (4) shall specify -

- (a) the name and address of the person appointed;
- (b) the date of the appointment; and
- (c) the mine, or part, in respect of which the person is appointed.

(6) The notice of appointment referred to in sub-section (4) shall have accompanying it an acceptance in writing to act as a manager or assistant manager (as the case may be) signed by the person so appointed.

(7) Notice of a change of manager or assistant manager shall be given in like manner to the notice required under sub-section (4) and the provisions of sub-sections (5) and (6) shall apply to such a notice.

23.(1) A mine, or part of a mine, while being worked, shall be under the control and direction of a manager appointed under section 22 who shall be responsible -

Mine to be under control of manager

- (a) for the mine and the work carried out there;
- (b) for ensuring a safe working environment at the mine; and
- (c) unless the context otherwise indicates, for compliance with the requirements of this Ordinance and the regulations.

(2) Where a mine, or part of a mine, is being worked without a manager being appointed, the owner and agent are each liable to perform the duties of the manager under this Ordinance, and each is responsible for any default in the performance of such duties as though he were a manager appointed in accordance with this Ordinance.

(3) Where there is a manager, the owner or

agent, or any other person having authority over the manager, shall not wilfully obstruct the manager in the exercise of his powers, or the performance of his duties, under this Ordinance.

(4) Where, in pursuance of an agreement, a contractor or tributor is working the whole or part of a mine, the manager of the mine shall be deemed to have the control and supervision of the work that the contractor or tributor carries out there.

Appointment  
of deputy  
manager

24.(1) Subject to this section, where a manager-

(a) is incapacitated from performing his duties; or

(b) is likely to be absent from the mine for a continuous period of more than 3 days,

he, or, if he is unable to, the agent or, in his absence, the owner, shall appoint, as deputy manager of the mine during the incapacity or absence, a person who is -

(c) able and willing to be deputy manager; and

(d) if section 25 applies to the mine, is qualified under that section.

(2) Except with the prior consent in writing of the Chief Government Mining Engineer, no mine shall be without a manager for a period exceeding 60 days.

(3) Not later than 7 days after an appointment is made under this section, the person who made the appointment shall give to the Chief Government Mining Engineer and the warden or mining registrar whose office is nearest to the place where the mine is situated, notice in writing specifying -

(a) the name and address of the person appointed; and

(b) the date of the appointment.

(4) The notice of appointment referred to in sub - section (3) shall have accompanying it an acceptance in writing to act as deputy manager signed

by the person so appointed.

(5) Notice of a change of deputy manager shall be given in like manner to the notice required under sub-section (3) and the provision of sub-section (4) shall apply to such notice.

(6) A deputy manager may exercise the powers of, and shall have the same duties, responsibilities and liabilities as, a manager under this Ordinance.

25.(1) Subject to sub-section (2), this section applies to -

Requirement  
of mine  
manager's  
certificate

- (a) an open-cut where at least 20 persons are ordinarily employed; or
- (b) any other mine where at least 10 persons are ordinarily employed underground.

(2) The Director of Mines may, by order published in the Gazette, direct that this section shall apply to a mine, specified in the order, being a mine or class of mine where a smaller number of persons to those specified in sub-section (1) are ordinarily employed.

(3) A person is not qualified to be appointed manager of a mine to which this section applies, unless he holds a mine manager's certificate.

(4) Unless he is exempted in writing by an Inspector, a person who does not hold a mine manager's certificate is not qualified to be appointed a deputy manager of a mine to which this section applies.

26.(1) If a mine to which section 25 applies is worked for more than 14 days without a manager who possesses the qualification required by that section, then the owner and agent are each guilty of an offence.

Mine being  
worked  
otherwise  
than under  
proper  
management

(2) If, in circumstances to which section 24(1) applies, a mine to which section 25 applies is worked for more than 7 days without a deputy manager who possesses the qualification required by that section, then the owner and agent are each guilty of an offence.

Duties of  
manager

27. A manager shall -

- (a) to the best of his ability, ensure that every person subordinate to him and in a position of authority over persons employed in the mine under his charge is conversant with such of the provisions of this Ordinance, the regulations, the standards (if any) and the Special rules (if any) applicable to that mine as are relevant to that person's employment and responsibility;
- (b) enforce the observance of those provisions in the mine under his charge; and
- (c) ensure that every person subordinate to him and in a position of authority over persons employed in the mine under his charge is competent in the performance of his duties.

Daily  
supervision  
of mine

28. (1) The manager, or a competent person appointed in accordance with this section, shall exercise daily personal supervision of all working parts of a mine.

(2) The owner, agent or manager of a mine -

- (a) may, at anytime, appoint a competent person to assist the manager in the carrying out of the daily personal supervision of all working parts of a mine; or
- (b) shall, if required so to do by the Director of Mines, appoint a competent person to assist the manager in the carrying out of the daily personal supervision of all working parts of the mine.

(3) The owner, agent or manager shall enter in the Record Book particulars of every appointment made under this section.

(4) Every person appointed under this section

shall, in the absence of the manager and until some other person is appointed deputy manager, be subject to the same duties, obligations and liabilities under this Ordinance as the manager.

(5) An appointment under this section shall not affect the obligations and liabilities under this Ordinance of the manager of the mine concerned.

(6) In this section -

"competent person" means a person who has such qualification or skill as the owner, agent or manager of a mine may consider necessary to carry out the duties required of him by this Ordinance;

"this Ordinance" includes the regulations.

29.(1) The manager or the competent person appointed under section 28, shall make a weekly inspection of all parts of a mine.

Weekly  
inspection  
of mine

(2) As soon as possible after an inspection is made under this section, the manager or competent person shall enter in the Record Book -

(a) a statement by him that the inspection required by this section has been duly carried out;

(b) his findings on inspection; and

(c) particulars of the precautions, repairs or alterations that, in the opinion of the person making the inspection, are required to ensure greater safety to the persons working in the mine.

(3) When the inspection of the mine and the entry in the Record Book have been made by a person other than the manager, the manager shall peruse and initial the entry.

30. Within one month after -

(a) mining operations in a mine are commenced, discontinued, recommenced or abandoned; and

Qualifica-  
tions with  
respect to  
operations  
in a mine

(b) the mine is not otherwise being worked,  
the manager shall give notice in writing of the commencement, discontinuance, recommencement or abandonment to-

(c) an Inspector; and

(d) the warden or mining registrar whose office is nearest to the place where the mine is situated.

#### PART VI - ACCIDENTS AND INJURIES

##### Definitions

31.(1) In this Part -

"lost-time injury" means a work injury which results in death, permanent disability or inability to work for at least one full day or shift any time after the day or shift on which the injury occurred;

"permanent disability" means a work injury which results in the loss, or the permanent loss of the use, of a part of the body or a bodily faculty;

"work injury" means an injury, occupational disease or occupational disability which arises out of or in the course of employment and which requires first aid or medical treatment;

"work place" means a place in on or about a mine where persons employed at the mine are required, or may have occasion, to go during the course of their employment.

(2) A disease or disability is occupational if it is attributed to, or aggravated by, factors related to a particular process or occupation in, on or about a mine to which a person employed at the mine is not normally exposed away from his employment.

##### Giving of notice of accident

32.(1) This section applies -

(a) to an accident that occurs in a work place in, on or about a mine; and

- (b) to an accident that causes death, a permanent disability or what appears to be a permanent disability.

(2) Subject to sub-section (3), where an accident to which this section applies occurs, the manager shall cause work in the workplace where the accident occurred to cease, and shall ensure that the workplace is not interfered with except -

- (a) to render assistance to, or treat, an injured person, or to remove the body of a dead person;
- (b) to prevent injury to any other person or damage to property; or
- (c) to ameliorate or remedy a dangerous situation.

(3) The obligation, under sub-section (2), of a manager to cause work in a workplace to cease after an accident does not apply to an accident in a workplace in a continuous process plant where continuation of that work will not involve an alteration to that workplace which would affect investigation of the cause of that accident.

(4) The manager of the mine shall forthwith, by the quickest practical means, give to a Government Mining Engineer, or a warden or mining registrar whose office is nearest to the mine, notice of the accident to which this section applies.

(5) Where an accident to which this section applies is of such a kind that it falls within the scope of the duties of a Special Inspector, other than an Inspector notified under sub-section (4), the Inspector, warden or mining registrar to whom the notice is given shall forthwith advise the appropriate Special Inspector of the accident.

(6) In this section "continuous process plant" means a plant-

- (a) where treatment is carried out; and
- (b) which of necessity operates continuously.

Reporting  
of  
accidents

33.(1) The manager of a mine, in addition to complying with section 32 (4), shall -

- (a) not later than one week after an accident causing permanent disability or death occurs in, on or about the mine, report in writing to an Inspector giving the details of the accident as known to the manager;
- (b) not later than the fourteenth day of the month next following the month in which a lost-time injury occurred, report in writing to an Inspector giving the details of the accident; and
- (c) not later than 24 hours after -
  - (i) an accident being a breakage of an essential part of winding machinery at a mine, an overwind or an accident in connexion with the winding arrangements at the mine;
  - (ii) an accident being an extensive unforeseen subsidence, settlement or fall of ground, whether as a result of blasting or otherwise, or a collapse of a part of the workings of a mine;
  - (iii) an accident being a dangerous fire above ground or any fire underground at a mine;
  - (iv) an accident being a breakage of a cable, chain or other gear by which men are lowered or raised at the mine;
  - (v) an accidental inrush of water in a mine;
  - (vi) an accidental inrush of dust or gas underground or the discovery of the presence of gas or an outburst of gas in a part of the mine;

(vii) an accidental ignition or detonation of explosives at a mine; or

(viii) an accident being the occurrence in, on or about a mine of an abnormal radiation hazard,

even though bodily injury or damage to property does not result from the accident,

report in writing to an Inspector giving the details of the accident and enter those details in the Record Book at the mine.

(2) The provisions of sub-section (1)(c) with regard to the reporting and recording of an accident apply to an incident in, on or about a mine in which an electrical shock or an electrical burn has affected a person.

(3) Where an accident occurs in, on or about a mine and no personal injury or property damage results or only minor property damage results, but the circumstances surrounding the accident show that death or permanent disability to a person could have been caused, the manager shall, within 24 hours of the occurrence of the accident-

(a) report in writing to an Inspector giving details of that accident; and

(b) enter those details in the Record Book at the mine.

(4) Where an accident to which this section applies is of a kind which is within the scope of the duties of a Special Inspector, other than an Inspector to whom a report is made under sub-section (3), the Inspector to whom the report is made shall forthwith advise the appropriate Special Inspector of the accident.

34.(1) Where notice is given under section 32 then, subject to sub-section (5) -

Examination  
of accidents

(a) the Inspector notified shall examine the place of the accident; or

(b) the warden or mining registrar notified shall appoint a person to

examine the place of the accident.

(2) Where a person appointed by a warden or mining registrar examines the place of the accident, that person shall report to the warden or mining registrar, who shall in turn report to an Inspector, the findings of that person with regard to the accident.

(3) Upon completion of an examination under this section, an Inspector or person appointed to carry out the examination shall make an entry in the Record Book to the effect that (if it is the case) the manager may resume work at the scene of the accident.

(4) A person appointed under sub-section (1) (b) has, for the purpose of an examination under this section, all the powers and duties of an Inspector.

(5) A Government Mining Engineer notified of an accident under section 32(4) -

- (a) may dispense with an examination; and
- (b) shall notify the manager accordingly.

(6) Where a Government Mining Engineer has in accordance with sub-section (5), dispensed with an examination, the manager shall be deemed to be thereby authorized to resume work at the scene of the accident.

Offences  
in relation  
to accidents

35. A person shall not knowingly -

- (a) conceal a particular; or
  - (b) give or tender false or misleading particulars,
- regarding an accident in, on or about a mine, or regarding the nature of an injury caused by an accident.

Duty of  
employee  
with respect  
to inspect-  
ing and  
reporting  
accidents

36. A person employed in, on or about a mine -

- (a) shall, immediately before commencing work, take reasonable care to ascertain that -

- (i) the machinery and equipment to be used, or used, by him; and
- (ii) the place in which he has to work, or is working, is safe;
- (b) shall not knowingly -
  - (i) use machinery or equipment; or
  - (ii) work in a place, that is unsafe;
- (c) who notices -
  - (i) a serious breakdown of, or damage to, electrical apparatus, electric arcs or the outside casings enclosing electrical apparatus of a mine;
  - (ii) that a portion of the electrical equipment of a mine, not being part of the electric circuit, is alive; or
  - (iii) anything likely to produce danger of any kind to a person, shall forthwith report the fact to the person in immediate authority over him, and that last-mentioned person shall forthwith report the fact to the manager; or
- (d) who knows of an accident in, on or about a mine, shall, as soon as possible after that person becomes aware of the accident, report it to the person in immediate authority over him, and that last-mentioned person shall forthwith report the fact to the manager.

37.(1) Without limiting the other requirements of this Part and subject to sub-section (5), the warden whose office is nearest to a mine in, on or about which an accident occurs -

Inquiries  
into  
accidents

- (a) may, in the case of an accident causing death or permanent disability; and
- (b) shall, if required by the Director of Mines in the case of any accident, hold an inquiry into the nature and cause of the accident.

(2) A warden holding an inquiry under this section -

- (a) shall keep a record of the evidence taken at the inquiry; and
- (b) has the powers of a warden's court under the Mining Ordinance.

(3) At an inquiry held under this section any of the following persons are entitled to appear in person or by their counsel, solicitor or agent and may call and examine witnesses:

- (a) a person injured in the accident;
- (b) the spouse or a child or other close relative of a person killed in the accident;
- (c) the secretary of an association representative of mine employees;
- (d) the owner, agent or manager of the mine; and
- (e) an Inspector.

(4) A warden holding an inquiry under this section shall forward to the Director of Mines -

- (a) a copy of the record of the evidence taken at the inquiry; and
- (b) the report of the warden as a result of the inquiry.

(5) Where an accident is of such a nature that a Coroner has jurisdiction to hold an inquest or inquiry under the Coroners Ordinance, a warden shall not hold

an inquiry under sub-section (1) unless the Coroner dispenses with the inquest or inquiry or holds no inquest or inquiry within a reasonable time from the date of the accident.

(6) Where a Coroner holds an inquest or inquiry under the Coroners Ordinance, the Coroner shall, on the written request of the Chief Government Mining Engineer, furnish him with a true copy of the Coroner's findings pursuant to that inquest or inquiry and a copy of the transcript of evidence adduced at the inquest or inquiry.

38.(1) Where, as a result of an inquiry held by him under section 37, a warden finds that an accident was caused directly or indirectly -

Action  
against  
holder of  
certificate  
etc.

(a) by the non-observance of a provision of this Ordinance or the regulations by the holder of a certificate, licence or other form of authorization under this Ordinance or the regulations; or

(b) through that person's negligence, the warden may suspend the certificate, licence or other form of authorization until the Board determines the matter under this section.

(2) Where, as a result of an inquiry held by him under section 37, a warden finds that an accident was caused directly or indirectly -

(a) by the non-observance of a provision of the Inspection of Machinery Ordinance by the holder of a certificate, licence or other form of authorization under that Ordinance; or

(b) through that person's negligence, the warden may suspend the certificate, licence or other form of authorization until the Chief Inspector (in this section called the "Chief Inspector of Machinery") appointed under that Ordinance determines the matter under this section.

(3) Where a warden suspends a certificate, licence or other form of authorization in accordance

with sub-section (1) he shall forthwith notify the Chairman or Chief Government Mining Engineer, and with the notification shall include a copy of -

- (a) the record of the evidence taken at the inquiry; and
- (b) the report of the warden of the result of the inquiry.

(4) Where a warden has suspended a certificate, licence or other form of authorization in accordance with sub-section (2) he shall notify the Chief Inspector of Machinery and with the notification shall include a copy of -

- (a) the record of the evidence taken at the inquiry; and
- (b) the report of the warden of the result of the inquiry.

(5) When the Chief Government Mining Engineer has, pursuant to section 37(6), received the results of an inquest or inquiry from the Coroner and is satisfied therefrom that an accident was caused directly or indirectly through the non-observance of this Ordinance, the regulations or the Inspection of Machinery Ordinance by the holder of a certificate, licence or other form of authorization issued under this Ordinance, the regulations or the Inspection of Machinery Ordinance, or was caused through that person's negligence, he may suspend the certificate, licence or other form of authorization whereupon he shall forthwith notify -

- (a) the Board, if the matter relates to this Ordinance or the regulations; or
- (b) the Chief Inspector of Machinery, if the matter relates to the Inspection of Machinery Ordinance,

and he shall forward to the Board or the Chief Inspector of Machinery (as the case may be) a copy of the record of evidence taken by the Coroner.

(6) Upon being notified in accordance with this section, the Chairman, Chief Government Mining

Engineer or Chief Inspector of Machinery (as the case may be) shall forthwith give notice in writing to the person whose certificate, licence or other form of authorization was suspended to show cause, within such reasonable time as is specified in the notice, to the Board, if sub-section (1) applies, or to the Chief Inspector of Machinery, if sub-section (2) applies, why the certificate, licence or other form of authorization should not be cancelled or, at the discretion of the Board or Chief Inspector of Machinery (as the case may be), otherwise dealt with.

(7) During a period of suspension, under this section, of a certificate, licence or other form of authorization, the holder of the certificate, licence or other form of authorization shall be deemed not to be the holder of the certificate, licence or other form of authorization.

39.(1) This section does not apply to an owner of freehold land on which a shaft, level, drive or excavation is situated.

Protection  
of abandoned  
shafts

(2) Where a shaft, level, drive or excavation becomes disused for mining purposes, a person shall not, without the consent of an Inspector -

(a) wilfully damage or render dangerous or useless the shaft, level, drive or excavation by the removal of any timber, fencing, casing, lining, ladder, platform or other appliances provided; or

(b) remove a part of the mound or dump at the mouth of the shaft so as to impair or remove its usefulness in preventing persons or animals from falling into the shaft.

(3) Where a person is convicted of an offence under this section, the court may order that -

(a) the person repair or replace the timber, fencing, casing, lining, ladder, platform or other appliance damaged or rendered dangerous or

useless, or replace the mound or dump removed; and

- (b) in default of so doing, the person pay to the Director of Mines the cost of the repair or replacement effected by, or on behalf of the Director of Mines.

Responsibility as to fencing and filling in abandoned shafts &c.

40. Unless exempted from doing so by an Inspector, the owner, agent or manager of a mine shall-

- (a) securely fence or cover in or fill with rock an abandoned or disused shaft or dangerous excavation; and
- (b) indicate its position on the surface of the land by a post with a notice affixed to it.

#### PART VII - EMPLOYMENT

Employment of persons under 18 years

41. (1) A person who has not attained the age of 18 years shall not -

- (a) charge anything with, or fire, explosives in, on or about a mine; or
- (b) operate an internal combustion engine underground.

(2) A person who has not attained the age of 18 years shall not be employed by another person -

- (a) in a hazardous place in a mine or in the capacity of lander, platman, or bracman in a mine; or
- (b) underground at a mine, except with the approval in writing of the Chief Government Mining Engineer.

(3) A person who has not attained the age of 15 years shall not be employed in, on or about a mine.

Register of employment of persons under

42. The manager of a mine shall keep a register in the office of the mine in which he shall cause to be entered -

- (a) the name; 18 years
- (b) the address;
- (c) the date of birth; and

(d) the nature and periods of employment, of persons who are employed underground at a mine and have not attained the age of 18 years.

43.(1) A person shall not be employed as manager, deputy manager, assistant manager, platman, shift-boss or winding engine driver, or be in charge of or operate a winding engine, in, on or about a mine unless he is able to speak, read and write the English language readily and intelligibly.

Employment  
of  
foreigners

(2) A person who is unable readily and intelligibly to speak the English language shall not be employed underground in a mine.

#### PART VIII - WINDING AND WINDING ENGINE DRIVERS

44. In this Part -

Definitions

"mine" means a place where an operation for the purpose of obtaining a mineral has been or is being carried on, but does not include a place on the surface where the products of such a place have been or are being treated or dealt with;

"licensed person" means a person -

(a) who is the holder of a winding engine driver's certificate issued under the Inspection of Machinery Ordinance; or

(b) who is the holder of -

(i) a winding licence;

(ii) a winding authority; or

(iii) a winding permit, under which, subject to the conditions applicable under this Ordinance, he may operate a winding engine;

"medical certificate" means a medical certificate issued pursuant to section 51.

Winding  
licence

45.(1) Subject to the powers of the Board under section 10, the Chief Government Mining Engineer may grant a winding licence, in an approved form and subject to such conditions as may be laid down by the Board or as may be prescribed, to a person who -

(a) has had such training experience-

(i) as may be prescribed;

(ii) as may be stipulated by the Board; or

(iii) as, failing anything being stipulated by the Board or prescribed, the Chief Government Mining Engineer may deem necessary;

(b) is in possession of a current medical certificate; and

(c) in the opinion of the Chief Government Mining Engineer, is otherwise a fit and a proper person to hold a winding licence.

(2) The holder of a winding engine licence may operate, or be in charge of, a winding engine in, on or about a mine only if -

(a) the winding engine is of a type specified in that licence; and

(b) he complies with all the other conditions applicable to that licence.

(3) The Chief Government Mining Engineer may by notice in writing to the holder vary the conditions of a winding licence.

Winding  
Authority

46.(1) Subject to the powers of the Board under section 10, an Inspector may grant a winding authority, in an approved form to a person who -

- (a) is in possession of a current medical certificate; and
- (b) in the opinion of the Inspector, is a competent person to hold a winding authority.

(2) A winding authority granted under sub-section (1) shall be subject to such conditions -

- (a) as may be prescribed;
- (b) as the Board may stipulate; or
- (c) as, failing anything being stipulated by the Board or prescribed, the Inspector granting the authority may deem fit.

(3) An Inspector may, where sub-section (2)(c) has been invoked, by notice in writing to the holder, vary the conditions applicable to a winding authority.

(4) The holder of a winding authority may operate, or be in charge of, a winding engine in, on or about a mine specified in the winding authority only if-

- (a) the winding engine -
  - (i) is of a type specified in the winding authority; and
  - (ii) is of a power not exceeding 40 kilowatts; and
- (b) the holder complies with all the other conditions applicable to the winding authority.

(5) An Inspector may, at any time, revoke a winding authority by notification in writing to the holder whereupon the holder ceases to be the holder of a winding authority.

(6) A person notified of a revocation of a winding authority shall forthwith surrender the revoked authority to the Inspector revoking it.

Winding  
permit

47.(1) Subject to the powers of the Board under section 10, an Inspector or manager may grant a winding permit, in an approved form, to a person who -

- (a) is in possession of a current medical certificate;
- (b) is not the holder of a winding engine driver's certificate granted under the Inspection of Machinery Ordinance or of a winding licence or a winding authority granted under this Ordinance; and
- (c) is, in the opinion of the Inspector or manager, a competent person to hold a winding permit.

(2) The holder of a winding permit may operate, or be in charge of, a winding engine in, on or about a mine only if the winding engine-

- (a) is of a size not exceeding 15 kilowatts;
- (b) is installed in a manner and operated under conditions approved by an Inspector or manager; and
- (c) is not used to raise or lower a man.

(3) An Inspector may, at any time, revoke a permit by notification in writing to the holder whereupon the holder ceases to be the holder of a permit.

(4) A person notified of a revocation of a winding permit shall forthwith surrender the revoked permit to the Inspector revoking it.

(5) A winding permit relates only to the mine specified in the permit.

Trainee  
winding  
engine  
driver

48. A trainee winding engine driver may operate, or be in charge of, a winding engine only if-

- (a) the name, age and address of the trainee have been notified to an Inspector;

- (b) the driving or operation is under the personal supervision of a person holding the appropriate licence, authority or permit for that winding engine; and
- (c) the trainee is in possession of a current medical certificate.

49.(1) A person shall not operate, or be in charge of, a winding engine in, on or about a mine unless -

Unlicensed  
person  
operating  
a winding  
engine

- (a) he is a licensed person;
- (b) he is a trainee winding engine driver operating or in charge of a winding engine as permitted by section 48; or
- (c) the winding engine is an exempted winding engine under section 50.

(2) The manager of a mine who allows a person to operate or be in charge of a winding engine in contravention of sub-section (1) is guilty of an offence.

50.(1) The owner, agent or manager of a mine may make application in writing, in an approved form, to an Inspector for a winding engine that is operated by electricity to be declared an exempted winding engine under this section.

Exempted  
winding  
engine

(2) An application under this section shall adequately describe -

- (a) the type of conveyance to be used in connexion with the winding engine;
- (b) the number and position of the control stations for the operation of the conveyance; and
- (c) the arrangements for the proper supervision and functioning of the winding engine.

(3) An Inspector who receives an application under this section shall inspect the winding engine in

question and make a report and recommendations on it to the Chief Government Mining Engineer.

(4) If the Chief Government Mining Engineer is satisfied, after considering the report and recommendations of the Inspector, that -

(a) the winding engine can be safely operated and controlled by a person who is not a licensed person, or it is fully automatic and does not need a person to operate and control it; and

(b) there are adequate arrangements for the proper supervision and efficient functioning of the winding engine,

the Chief Government Mining Engineer may declare the winding engine to be an exempted winding engine.

(5) The Chief Government Mining Engineer may at any time revoke a declaration made under this section, whereupon the winding engine shall cease to be an exempted winding engine.

#### Medical Certificate

51.(1) A medical certificate required for the purposes of this Part shall be given by a registered medical practitioner.

(2) To be effective for the purposes of this Part, the medical certificate shall state that the person to whom it refers, is free from -

(a) deafness, epilepsy or disease of the heart;

(b) defective vision not capable of correction by eye glasses or other corrective measures; or

(c) any other infirmity which might cause him to lose control of a winding engine operated by him.

(3) A medical certificate ceases to be current for the purposes of this Part on the expiry of 2 years from the date of issue, but may be renewed at 2 yearly

intervals or sooner if the owner, agent or manager of a mine requires it.

(4) A person who -

(a) is, in the opinion of a medical practitioner, not in a fit state of health to operate or be in charge of a winding engine in, on or about a mine; or

(b) has not obtained a medical certificate complying with this section,

and operates or is in charge of a winding engine, in, on or about a mine whether an exempted winding engine or not, is guilty of an offence.

(5) A person who employs a person who contravenes sub-section (4) is guilty of an offence.

52.(1) Except with the prior written permission of an Inspector or during an emergency -

Maximum  
period for  
operation  
of winding  
engine

(a) a person shall not operate, or be in charge of, a winding engine; or

(b) a person shall not employ another person to operate, or be in charge of a winding engine,

in, on or about a mine for a period exceeding 8 consecutive hours in each period of 24 hours.

(2) For the purpose of calculating the period referred to in sub-section (1) -

(a) meal times; and

(b) a period during which the person is not operating or in charge of the winding engine owing to -

(i) a breakdown of the engine or of equipment used in connexion with the engine; or

(ii) any other emergency in, on or about the mine,

shall be disregarded.

Report of  
negligence

53.(1) Where a licensed person who is operating or in charge of a winding engine in, on or about a mine -

(a) exhibits negligence; or

(b) misconducts himself,  
in the performance of his duties, whereby the health or safety of another person is, or might be, endangered, the manager of that mine shall forthwith report the facts to an Inspector who shall in turn report those facts to the Chief Government Mining Engineer.

(2) Upon receipt of a report under sub-section (1), the Chief Government Mining Engineer may -

(a) call upon the licensed person, by notice in writing served on him, to show cause, within the time stipulated in the notice, why his licence, authority or permit should not be suspended or cancelled; or

(b) take such other action as to the Chief Government Mining Engineer may seem proper in the circumstances.

(3) Subject to sub-section (2)(a), the Chief Government Mining Engineer may suspend or cancel the licence, authority or permit of a person who he considers is guilty of negligence or misconduct.

(4) For the purpose of this section the Chief Government Mining Engineer may make such enquiries as he shall consider reasonable.

PART IX - PLANS OF MINES

Survey of  
workings

54.(1) Upon being served with the written instruction of an Inspector so to do, the owner, agent or manager of a mine shall forthwith cause -

(a) the underground and open-cut workings of the mine to be surveyed by a mine surveyor whose qualifications and experience comply with the standards laid down by the Board pursuant to section 10; and

- (b) accurate plans of those workings to be compiled, being plans meeting the requirements of this section.

(2) The manager shall keep those plans at a safe place at the mine.

(3) When an owner, agent or manager has complied with the requirements of sub-section (1), he shall, at least once in every subsequent period of 6 months, cause -

- (a) any extensions or modifications to the underground and open-cut workings of the mine which have taken place since the previous survey to be surveyed by a surveyor having the qualifications and experience referred to in sub-section (1)(a); and

- (b) the plans kept under this section to be altered accordingly.

(4) The plans to be kept under this section shall include -

- (a) a plan showing the position of all shafts, open-cuts and openings from the surface to the underground workings of the mine and their relation to the mining tenements in which the mine is situated;

- (b) a plan of all underground workings to a scale of 1 : 500 or such other scale as may be approved by an Inspector, or as the Inspector may direct, showing the levels superimposed one upon another but, if in the opinion of an Inspector the lower levels cannot in this way be shown clearly, the Inspector may require that, instead of a superimposition, there shall be included such plans of each level or group of levels as he considers necessary to clearly show the workings in each level;

(c) if required by an Inspector -

(i) longitudinal sections, to the same scale as that of the underground workings, showing the stoping; and

(ii) cross-sections to the same scale as that of the underground workings, sufficient to show clearly the reefs, ore bodies and workings; and

(d) a plan of the open-cut workings to a scale of -

(i) 1 : 5,000; or

(ii) such other scale as an Inspector approves or as the Inspector may direct.

(5) If requested personally so to do by an Inspector, the manager shall forthwith -

(a) produce to an Inspector the plans kept under this section; and

(b) cause to be clearly marked on the plans, the progress of the underground and open-cut workings to the time of the request.

(6) An Inspector may take the original to make a copy of it and shall return that original to the manager.

(7) Unless otherwise directed in writing by the Chief Government Mining Engineer, the manager of the mine shall, once a year, send to an Inspector a copy of each plan kept under this section, being a plan certified as correct at the date of the copy by a mine surveyor having the qualifications and experience referred to in sub-section (1)(a).

(8) Except with the permission in writing of the Director of Mines, a person other than an Inspector shall not inspect a copy of a plan of a mine sent under this section to an Inspector, being a plan relating to an existing mining tenement.

(9) "Plan", for the purpose of this section, includes an original plan or section, and a true copy or tracing of the plan or section.

55. An owner, agent or manager shall not -

Concealing  
workings  
and plans

- (a) knowingly conceal a part of the workings of a mine from a person making a survey under section 54; or
- (b) with intent to deceive, make or conceal a plan of a mine or part of a mine,

#### PART X - REGULATIONS AND RULES

56.(1) The Administrator in Council may make regulations, not inconsistent with this Ordinance, applicable to -

Regulations

- (a) mines generally;
- (b) mines within a particular district; or
- (c) a specified mine or class of mine, prescribing all matters that are required or permitted to be prescribed by this Ordinance or that are necessary or convenient for carrying out or giving effect to this Ordinance.

(2) Without limiting the generality of the power to make regulations granted by sub-section (1), the regulations may, in particular, provide for, or be in relation to, the following matters:

- (a) the powers and duties of Inspectors, including the power of the Chief Government Engineer to exempt specified mines, under special circumstances, from the provisions of specified regulations;
- (b) the safety or health of employees and other persons in, on or about mines;

- (c) the ventilation of mines and the prevention, suppression and control of dust and noise in mines;
- (d) the elimination or reduction of health hazards arising from radioactive substances in mines;
- (e) the conditions under which tailings from cyanide or other chemical process may be used for the filling of stopes;
- (f) the prevention of the escape of poisonous or deleterious gases and fumes from any chemical or metallurgical process in, on or about mines;
- (g) the control of the disposal of waste products (whether solid, liquid or gas) of mines;
- (h) specifying safety procedures to apply in the drilling for petroleum or natural gas;
- (i) ladders and ways of travel in, on or about mines;
- (j) the specifications for, and the construction, use and control of machinery, winding and other engines and explosives in, on or about mines;
- (k) the control of persons who are in charge of machinery, winding and other engines or explosives in, on or about mines;
- (l) the principles and practices of sanitation and hygiene to be observed in, on or about mines;
- (m) the medical examination of persons employed in, on or about mines with a view to the prevention, detection and treatment of injury to, or disease suffered by, those persons;

- (n) regulating or prohibiting the employment in, on or about mines of persons whose health -
  - (i) is affected;
  - (ii) is suspected of being affected; or
  - (iii) is likely to be affected, by employment in, on or about mines;
- (o) dredges in, on or about mines and the persons who are to be in charge of dredges;
- (p) the generation, use and control of electricity in, on or about mines;
- (q) the mode of application for the issue of certificates, licenses, permits and other forms of authorization granted under the Ordinance or regulations by the Board or the Chief Government Mining Engineer;
- (r) the suspension, revocation, cancellation or restriction of certificates, licenses, permits or other forms of authorization;
- (s) the issue and cancellation of such permits as may be granted by managers which enable persons in specific mines to be employed in specific duties in, on or about the mines;
- (t) the fixing of fees to be paid pursuant to or in connexion with this Ordinance;
- (u) the fixing of fees, allowances and expenses payable -
  - (i) to members of the Board appointed under section 9(2) (d) in respect of their services as members; and
  - (ii) to persons other than Officers who are required to perform duties under this Ordinance;
- (v) the preservation and protection of

mines that are disused or abandoned;

- (w) penalties for offences against the regulations not exceeding 500 dollars;
- (x) the procedures to apply in a warden's court for the conduct of proceedings for offences against this Ordinance and the regulations;
- (y) the procedures to apply on a review of decisions under section 63; and
- (z) the furnishing of returns, statistics, plans and other particulars relating to the safety and health of employees and other persons in, on or about a mine.

(3) The regulations may -

- (a) authorize the Chief Government Mining Engineer to give to Inspectors, or other Officers charged with the duties of administering or assisting in the administration of this Ordinance, directions, not inconsistent with this Ordinance or any other Ordinance or regulations relating to matters in, on or about mines, for or in relation to matters arising under this Ordinance or the regulations;
- (b) authorize a prescribed Officer to give to Inspectors or other Officers performing duties, directions, not inconsistent with this Ordinance or any other Ordinance or regulations relating to matters in, on or about mines, for or in relation to matters arising under this Ordinance or the regulations; and
- (c) provide that a contravention of, or failure to comply with, a direction referred to in either paragraph (a) or (b) shall be a breach of the regulations.

Order  
setting  
standards

57.(1) The Board may make an order, not inconsistent with this Ordinance, setting standards to

apply to mines.

(2) The order may apply -

- (a) to all mines; or
- (b) to such particular mine or class of mines as the Board may deem fit.

(3) The order may set standards by incorporating or adopting specifically or by reference the whole, or any part of the codes, rules or specifications, with or without modification by the Board, of the Standards Association of Australia, the British Standards Institution or some other similar body.

(4) The making of an order under this section shall be notified in the Gazette and the notice shall-

- (a) state whether it applies to all mines or a particular specified mine or class of mine;
- (b) state where the order may be inspected; and
- (c) when the order incorporates standards by reference, state where a true copy of the incorporated standards referred to in the order may be inspected.

(5) The true copy shall be made available for inspection by any person, free of charge, at the office of the Director of Mines or at such place as the Director of Mines may think fit.

(6) A person inspecting a true copy may, without charge, make a copy of it, or take an extract from it.

(7) When standards have been set in accordance with this section, an owner, agent or manager of a mine, or such other person to whom the standards may, whether specifically or by implication, apply, shall, when requested by notice in writing by an Inspector so to do comply with the standards on and from the date specified by the Inspector in the notice.

(8) In this section "true copy" means a document containing -

- (a) in full, the standards to apply; or

- (b) when the standards are set by reference, a full copy of the existing codes, rules or specifications referred to in the order setting the standards as they are to apply.

(9) In proceedings for an offence against this Ordinance, a certificate purporting to be given under the hand of the Director of Mines and certifying -

- (a) that, on a date specified in the certificate, an order pursuant to this section was made; and
- (b) that a certain written document, properly identified in, and produced with, the certificate, contains in full the terms of the standards referred to in the order,

is prima facie evidence of the matters specified in the certificate.

#### Special rules

58.(1) An Inspector may, by notice in writing served on the manager of a mine, require the manager to draw up special rules, not inconsistent with this Ordinance or the regulations, which, subject to the approval of the Administrator, are to apply to persons employed in, on or about the mine, being rules that take into account local conditions affecting the mine and provide for -

- (a) order and discipline;
- (b) the protection of health; and
- (c) the prevention of accidents.

(2) A notice under sub-section (1) shall specify a time within which the rules shall -

- (a) be made by the manager; and
- (b) be submitted by him to the Chief Government Mining Engineer.

(3) On receiving proposed special rules made under this section, the Chief Government Mining Engineer shall submit them to the Board.

(4) If the Board considers that the special rules are reasonable, it shall -

- (a) certify that the special rules are reasonable; and
- (b) recommend to the Administrator that he approve the special rules.

(5) If the Board does not consider that the special rules are reasonable, it shall give written notice to the manager that the rules -

- (a) should be altered as specified in the notice; and
- (b) re-submitted to the Board.

(6) The provisions of sub-sections (4) and (5) shall, as far as possible, apply to special rules re-submitted in accordance with a written notice received under sub-section (5).

(7) Every special rule, when approved by the Administrator shall be published in the Gazette and thereupon shall be applicable to the mine for which it was drawn up.

(8) A manager shall not fail or neglect to comply with a notice served on him under this section.

(9) A person employed in, on or about a mine shall not contravene, or fail or neglect to comply with, a provision of a special rule applicable to that mine.

(10) All courts, judges and persons acting judicially shall take judicial notice of a special rule published in accordance with sub-section (7), and shall presume that it complies with this section.

59. The Administrator may, on the recommendation of the Board and by notice published in the Gazette, revoke a special rule whereupon that special rule shall cease to apply to the mine in relation to which it was drawn up.

Revocation  
of special  
rules

60. The owner, agent or manager of a mine shall cause to be exhibited in one, or, if required by an

Exhibition  
of regula-

tions  
and special  
rules

Inspector, more than one, conspicuous place at a mine-

- (a) a copy of the regulations; and
- (b) a copy of the special rules (if any) applicable to the mine.

#### PART XI - MISCELLANEOUS

Obstruction  
to compli-  
ance with  
Ordinance  
void

61. A term or, an agreement -

- (a) which purports to obstruct any person complying with this Ordinance, the regulations or the special rules applicable to a mine, or has the effect of so doing; or
- (b) which purports to penalise any person, or has the effect of so doing, in consequence of his complying or intending to comply, with this Ordinance, the regulations or special rules applicable to a mine,

is void.

Service of  
documents

62.(1) Where this Ordinance or the regulations requires a document to be given, sent or delivered to a person, the document may be -

- (a) handed personally to the person;
- (b) served by post; or
- (c) in the case of a company, left at its registered office.

(2) Without prejudice to other means of proving the issue and existence of a notice under this Ordinance, a duplicate original of the notice purporting to be under the hand of the person authorized by this Ordinance to issue, give, send or deliver it shall, upon its production in any proceeding, be prima facie evidence that the notice has been properly issued, given, sent or delivered under this Ordinance, and that it has not been revoked or varied as at the date of the production in that proceeding.

Review of  
decisions

63.(1) The owner, agent or manager of a mine who is aggrieved by a decision of an Inspector (not being a decision of the Chief Government Mining Engineer)

may, within 7 days of the receipt by him of notice of the decision, request the Chief Government Mining Engineer in writing to review that decision and the Chief Government Mining Engineer may confirm, vary or rescind the Inspector's decision.

(2) The owner, agent or manager of a mine who is aggrieved by a decision of the Chief Government Mining Engineer, including a decision under sub-section (1), may, within 7 days, request the Board in writing to review that decision.

(3) In reviewing a decision in accordance with sub-section (2), the Board may confirm, vary or rescind the decision, and the Board's determination is final.

(4) A request under sub-section (1) or (2) shall state-

(a) the objection of the owner, agent or manager to complying with the decision; and

(b) the grounds of that objection.

(5) Notwithstanding that a request for a review has been made under this section, the owner, agent or manager of a mine shall, subject to sub-section (6), comply with the decision in relation to which the review is sought.

(6) Pending the outcome of -

(a) a review under sub-section (1); or

(b) a review under sub-section (2), where the review is not of a decision made under sub-section (1),

the owner, agent or manager aggrieved may apply to the Director of Mines for an interim order suspending compliance with the decision, and the decision of the Director of Mines to grant or refuse an interim order is final.

(7) An application under sub-section (4) shall be in writing and shall state the reasons why an order should be made.

(8) Where a decision is so varied as to require

further compliance by the owner, agent or manager of a mine, then the owner, agent or manager shall comply with the decision as so varied.

(9) This section applies to the regulations

(10) The Chief Government Mining Engineer shall not sit at a meeting of the Board at a time when a decision of his is being reviewed.

(11) In this section, -

"decision" includes an instruction, direction or order given by or a requirement of -

(a) an Inspector;

(b) a warden; or

(c) a mining registrar,  
in the exercise, or purported exercise, of his powers or the carrying out, or purported carrying out, of his duties under this Ordinance;

"Inspector" includes a person having the powers, or some of the powers, of an Inspector.

Certain  
offences

64. (1) A person shall not by negligence do anything to endanger the safety of a person in, on or about a mine.

(2) A person who is in charge of machinery or other property in, on or about a mine shall not wilfully or by negligence cause damage to that machinery or property.

(3) A person shall not by negligence cause a risk of damage to property in, on or about a mine.

(4) Unless authorized by the manager, a person shall not alter, deface or remove a document posted, in pursuance of this Ordinance, in, on or about a mine.

(5) This section does not affect the liability of a person, under any other law for the time being in force in the Territory, for his negligent acts.

65. A person who falsely pretends to be an Inspector is guilty of an offence.

Offence of  
falsely pre-  
tending to  
be an ins-  
pector

66.(1) A person who contravenes, or fails or neglects to comply with, a provision of this Ordinance is guilty of an offence,

Penalties

(2) A person who is guilty of an offence shall, upon conviction, be punishable -

(a) if he is the owner, agent or manager of a mine or a person in charge of, or giving, or empowered to give, directions relating to the operations carried on at a mine, by a fine not exceeding 2,000 dollars; or

(b) if he is any other person, by a fine not exceeding 1,000 dollars.

(3) When a person is convicted of an offence against this Ordinance and the person continues, after the conviction, to contravene, fail or neglect to comply with, the provisions of this Ordinance in respect of which the offence was committed, the person is guilty of a further offence, punishable -

(a) in the case of a person specified in sub-section (2)(a) -

(i) by a fine not exceeding 2,000 dollars; and

(ii) for each day during which the contravention, failure or neglect to comply continues, by a fine not exceeding 1,000 dollars; and

(b) in the case of a person specified in sub-section (2)(b) -

(i) by a fine not exceeding 1,000 dollars; and

- (ii) for each day during which the contravention, failure or neglect to comply continues, by a fine not exceeding 500 dollars.

Proceedings  
for  
offences

67.(1) Notwithstanding section 12(2), proceedings for an offence involving a contravention of, or a failure or neglect to comply with, a special rule may be instituted by the owner, agent or manager of the mine concerned.

(2) All offences may be prosecuted and all penalties incurred under this Ordinance may be recovered in a summary way by complaint either -

(a) under the Justices Ordinance; or

(b) before a warden in a warden's court within the meaning of the Mining Ordinance.

(3) The regulations may prescribe the procedure to apply to proceedings for an offence against this Ordinance or the regulations.

Time limit  
for  
proceedings

68. An information or proceeding in respect of an offence shall be commenced within 6 months after the date on which the act or omission alleged to constitute the offence occurred.

Liability  
of  
persons

69.(1) When an offence has been committed or is deemed to have been committed in, on or about a mine by a person other than the owner, agent or manager of that mine or other person subject, under this Ordinance, to the duties, obligations and liabilities of a manager, then the owner, agent and manager or other person each commits an offence against this Ordinance of failing to enforce the provisions of this Ordinance or of the special rules applicable to that mine, as the case may be, and, whether or not the person other than the owner, agent or manager or other person has been prosecuted for or convicted of his offence, each may be charged with and convicted of an offence under this section.

(2) It is a defence available to a person charged with an offence under sub-section (1), if he

proves that he had taken all reasonable steps to enforce the provisions of this Ordinance, or to prevent the commission of the offence that such other person has committed.

(3) Where a body corporate is convicted of an offence against this Ordinance -

(a) the manager of the body corporate;  
and

(b) every person who is a member of the governing body of the body corporate, shall be deemed to have also committed the offence and may be convicted of it, unless the manager or other person proves that he did not know, and had no reasonable means of knowing, of the commission of the offence at the time of its commission.

(4) In a proceeding taken under this Ordinance for the recovery of a penalty, an averment in the complaint that the defendant was, at the relevant time, the owner, agent, or manager of, or a person in charge of, or giving directions relating to, the carrying on of a mining operation, or machinery, plant or works, in, on or about a mine, or the manager, or a member of the governing body of a body corporate, is prima facie evidence that the defendant was, at that time, as he is, in the averment, alleged to have been.

70. It is a defence to a charge of, or involving, contravention of, or non-compliance with -

Degree of  
imprac-  
ticability

(a) a regulation made under this Ordinance;

(b) a standard applicable to a mine; or

(c) a special rule applicable to a mine, that observance of, or compliance with, the regulations, standard or special rule, as the case may be, was not reasonably practicable in the circumstances.

#### SCHEDULE

#### Section 3 (1)

Mines Regulation Ordinance 1939

Mines Regulation Ordinance 1957

Mines Regulation Ordinance 1962

THE NORTHERN TERRITORY OF  
AUSTRALIA  
A BILL  
for  
AN ORDINANCE

To amend the Local Government Ordinance

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

- |                                                                                                                                                                                                                                                                                                                   |                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 1. This Ordinance may be cited as the <u>Local Government Ordinance 1976</u> .                                                                                                                                                                                                                                    | Short title                                               |
| 2. The <u>Local Government Ordinance</u> is in this Ordinance referred to as the Principal Ordinance.                                                                                                                                                                                                             | Principal Ordinance                                       |
| 3. Section 44B of the Principal Ordinance is amended by omitting sub-section (3) and substituting the following sub-section:<br><br>"(3) The total amount payable to a member of the council in a financial year shall not exceed the amount prescribed."                                                         | Fees                                                      |
| 4. Section 58(a) of the Principal Ordinance is amended by omitting "not less than".                                                                                                                                                                                                                               | Date for enrolment                                        |
| 5. Section 110 of the Principal Ordinance is amended -<br><br>(a) by omitting from paragraph (b)(i) "21" and substituting "35"; and<br><br>(b) by omitting from paragraph (b)(ii) "28" and substituting "21".                                                                                                     | Duty of Council where supplementary election is necessary |
| 6. The Principal Ordinance is amended by inserting after section 353 the following new section:<br><br>"353A. Where a council makes a by-law within the powers granted to it under this Ordinance and there is an inconsistency between that by-law and the provisions of a regulation made under an Ordinance of | Inconsistency between by-law and                          |

regulation the Northern Territory the provisions of that by-law shall, within the boundaries of the municipality of that council, prevail."

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THE NORTHERN TERRITORY OF  
AUSTRALIA  
A BILL  
for  
AN ORDINANCE

To amend the Poisons Ordinance

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the Poisons Ordinance 1976. Short title
2. The Poisons Ordinance is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance
3. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.
4. The First Schedule to the Principal Ordinance is amended - First Schedule
  - (a) by omitting from Part III items 5, 27, 88, 108, 111, 112 and 132; and
  - (b) by omitting from Part IV items 1, 2, 3 and 5.

THE NORTHERN TERRITORY OF  
AUSTRALIA  
A BILL  
for  
AN ORDINANCE

To amend the Dangerous Drugs Ordinance

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

- |                                                                                                                                                   |                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1. This Ordinance may be cited as the <u>Dangerous Drugs Ordinance</u> 1976.                                                                      | Short title         |
| 2. The <u>Dangerous Drugs Ordinance</u> is in this Ordinance referred to as the Principal Ordinance.                                              | Principal Ordinance |
| 3. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> .                          | Commencement        |
| 4. Section 3 of the Principal Ordinance is amended by inserting "First" before "Schedule".                                                        | Repeal              |
| 5. Section 4 of the Principal Ordinance is amended-                                                                                               | Definitions         |
| (a) by omitting the definition of "hallucinogenic drug";                                                                                          |                     |
| (b) by inserting after the definition of "Morphine" the following definition:                                                                     |                     |
| " 'Nominated Person' means a person nominated under and for the purposes of section 7B or a person substituted for him pursuant to that section;" |                     |
| (c) by inserting after the definition of "Prepared Opium" the following definition:                                                               |                     |

" 'Psychotropic Substance' means a substance of a kind specified in the Second Schedule and includes-

- (a) a preparation containing such a substance; and
- (b) such other substances as are structurally derived from such a substance and have psychotropic properties, but does not include a preparation exempted under the provisions of section 7Q;";
- (d) by omitting from the definition of "Registered dentist" the word "Territory." and substitute "Territory;"; and
- (e) by inserting at the end the following definition:

" 'Registered Premises' means premises registered under section 7B.".

Smoking or possession of opium an offence

6. Section 5 of the Principal Ordinance is amended by omitting all words after "Penalty:" and substituting "2,000 dollars or imprisonment for 2 years or both.".

Preparation, etc., of dangerous drugs an offence

7. Section 6 of the Principal Ordinance is amended by omitting all words after "Penalty:" and substituting "2,000 dollars or imprisonment for 2 years or both.".

Power of Police to enter premises

8. Section 7 of the Principal Ordinance is amended by omitting "pharmaceutical chemist" (wherever occurring) and substituting "registered pharmacist".

9. Sections 7B, 7C and 7D are repealed and the following sections substituted:

Restrictions on preparation, etc., of psychotropic substances

"7A.(1) Subject to this Ordinance, a person shall not -

- (a) except in or on registered premises, prepare or manufacture; or
- (b) except in, on or from registered premises,

sell, distribute, deal in or traffic in or supply to another person, a psychotropic substance.

Penalty: Imprisonment for 10 years.

"(2) Sub-section (1) shall not be construed as permitting a person who is not -

(a) a nominated person; or

(b) an -

(i) employee of a nominated person; or

(ii) employee of a person employing a nominated person,

acting with the authority of the nominated person,

to prepare, manufacture, use, keep, sell, distribute, deal in or traffic in or supply to another person in accordance with this Ordinance a psychotropic substance.

"7B.(1) A person may apply to the Chief Medical Officer to register premises under this section.

"(2) An application under sub-section (2) shall be in writing and shall -

(a) state the name, address and discription of the person making the application;

(b) state the nature of the operations intended to be carried out in or on the premises;

(c) nominate a person to be responsible for the carrying out of those operations and state his name, address and description;

(d) set out details of the arrangements intended to be made for security against the theft or unlawful removal of the psychotropic substances to be kept on those premises; and

(e) contain such other information as may be prescribed.

Registration  
of premises  
for  
manufacture,  
etc., of  
psychotropic  
substances

"(3) An application under sub-section (2) shall be accompanied by a plan of the premises showing clearly -

- (a) the nature of the operations or activities to be carried out in each section of those premises; and
- (b) the security arrangements against the theft or unlawful removal of the psychotropic substances to be kept on those premises.

"(4) If the Chief Medical Officer is satisfied-

- (a) that the nominated person is a fit and proper person to have the control of a psychotropic substance; and
- (b) that the proposed security arrangements are adequate,

he shall register the premises.

"(5) The Chief Medical Officer shall register premises under this section by entering, or causing to be entered, in a register book kept by him such details in relation to those premises as are supplied in and with the application for registration.

"(6) Registration of premises under this Ordinance shall be effected in the name of the nominated person.

"(7) Upon registration, the Chief Medical Officer shall issue to the nominated person a certificate of registration.

"(8) A certificate issued under this section shall -

- (a) be chronologically numbered;
- (b) be in such form as the Chief Medical Officer approves;
- (c) be signed by him; and
- (d) shall -

- (i) show the name, address and description of

the nominated person; and

- (ii) show the address of the registered premises.

"(9) The nominated person may be changed from time to time -

- (a) upon written application, signed by the nominated person and the person to be substituted for him, being made to the Chief Medical Officer; and
- (b) upon the Chief Medical Officer being satisfied that the person to be substituted is a fit and proper person to have the control of a psychotropic substance.

"(10) A change effected under sub-section (9) shall be recorded in the register book.

"(11) Where a change is registered under sub-section (9) the certificate issued under this section shall be amended by the Chief Medical Officer or a new one issued in the name of the person substituted in relation to the registered premises as a nominated person.

"(12) An amendment under sub-section (11) shall bear the initials of the Chief Medical Officer.

"(13) A certificate of registration issued under this section shall be prominently displayed in the premises to which it relates by the nominated person.

Penalty: 200 dollars.

"(14) Where the Chief Medical Officer requests a person who has the possession of a certificate issued under this section to deliver that certificate to him that person shall not fail or refuse to do so.

Penalty: 500 dollars or imprisonment for 12 months or both.

"7C.(1) A nominated person shall keep in the registered premises a permanent record showing details of the nature and quantities of psychotropic substance

Records to be kept by nominated person

which he has received, prepared, manufactured, used or otherwise dealt with or supplied to another person.

Penalty: 500 dollars.

"(2) On the request of a member of the Police Force, an inspector appointed under the Poisons Ordinance or a person authorized in writing under the hand of the Chief Medical Officer, a nominated person -

- (a) shall produce the record required to be kept under sub-section (1); and
- (b) shall permit that member of the Police Force, inspector or authorized person to inspect the psychotropic substances kept by him in or on the registered premises.

Penalty: 500 dollars.

Offence for using psychotropic substance or possessing objects used for administration of psychotropic substance not -

"7D. Subject to this Ordinance, a person shall

- (a) consume, administer to himself, use or have in his possession a psychotropic substance; or
- (b) have in his possession a syringe, utensil, appliance or other article for use in connexion with the administration of a psychotropic substance.

Penalty: 2,000 dollars or imprisonment for 2 years or both.

Offence for administering to another or having possession for sale or supply shall not -

"7E.(1) Subject to this Ordinance, a person shall not -

- (a) administer a psychotropic substance to another person; or
- (b) have in his possession a psychotropic substance for the purpose of sale or supply to another person.

Penalty: 10 years imprisonment.

"(2) A person who has in his possession a psychotropic substance in a quantity in excess of the

prescribed quantity shall be deemed to have that psychotropic substance in his possession for the purpose of sale or supply to another person.

"7F.(1) The Chief Medical Officer may, in writing under his hand, authorize a person, subject to the conditions referred to in sub-section (2), to be in possession of and use a psychotropic substance.

Authorized  
use of  
psychotropic  
substance

"(2) An authority issued under sub-section (1) -

(a) shall specify the maximum quantity of the psychotropic substance which may be held at any one time for use; and

(b) shall specify the purposes for which such a substance may be used.

"(3) A person shall not fail, refuse or neglect to comply with a condition contained in an authority issued under this section.

Penalty: 1,000 dollars or imprisonment for one year or both.

"7G.(1) Subject to sub-sections (1) and (2), it is not an offence for a registered medical practitioner to be in possession of a psychotropic substance or to sell or supply to another person a psychotropic substance for use by that person for therapeutic purposes or, for such a purpose, to administer a psychotropic substance to another person.

Registered  
Medical  
Practitioner  
may sell,  
etc., psycho-  
tropic  
substance  
subject to  
conditions

"(2) A registered medical practitioner shall not-

(a) sell to another person;

(b) supply or administer to another person; or

(c) prescribe for another person,  
a psychotropic substance of a kind specified to in Part I of the Second Schedule except -

(d) for or in connexion with the treatment of -

(i) narcolepsy; or

(ii) a hyperkinetic brain damaged child; or

(e) in accordance with the written authority of the Chief Medical Officer.

Penalty: 10 years imprisonment.

"(3) A registered medical practitioner shall not-

(a) sell to another person;

(b) supply or administer to another person; or

(c) prescribed for another person,

a psychotropic substance of a kind specified in Parts II and III of the Second Schedule for the reason only that that person is an addict.

Penalty: 10 years imprisonment.

Registered  
Pharmacist  
may sell,  
etc., psy-  
chotropic  
substance  
subject to  
conditions

"7H.(1) It is not an offence for a registered pharmacist to be in possession of a psychotropic substance in the normal exercise of his profession.

"(2) Subject to section 7G (2), it is not an offence for a registered pharmacist to sell or supply a psychotropic substance to-

(a) a registered medical practitioner;

(b) a registered dentist;

(c) a registered veterinary surgeon;

(d) a person for whom a written prescription for such a substance has been issued by a registered medical practitioner; or

(e) a person authorized under section 7F to be in possession of and use such a substance.

"(3) Sub-section (2) does not authorize the sale or supply of a psychotropic substance of a kind specified in Part I of the Second Schedule to a registered dentist or a registered veterinary surgeon.

"(4) Where a registered pharmacist has sold or supplied a psychotropic substance in accordance with

sub-section (2)(d), he shall retain the written prescription for a period of 2 years from the date of sale or supply.

"7J. In the normal exercise of his profession, it is not an offence for a registered dentist -

(a) to be in possession of a psychotropic substance; or

(b) to administer to another person a psychotropic substance,  
of a kind specified in Parts II and III of the Second Schedule.

Registered dentist may administer certain psychotropic substance

"7K. It is not an offence for a registered veterinary surgeon to be in possession of a psychotropic substance of a kind specified in Parts II and III of the Second Schedule for use in the normal exercise of his profession.

Registered veterinary surgeon may use certain psychotropic substance

"7L. The provisions of section 7C apply to a person authorized or permitted under this Ordinance, to sell, supply or administer a psychotropic substance to another person or otherwise to use or be in possession of a psychotropic substance.

Obligations of persons authorized or permitted to be in possession of psychotropic substance

"7M.(1) Subject to sub-section (2), a person shall not publish an advertisement in any form-

(a) to the effect that he or any other person is willing or entitled to sell or supply a psychotropic substance; or

(b) promoting or encouraging the use of a psychotropic substance.

Penalty: 2,000 dollars or imprisonment for 2 years or both.

Restrictions on advertising of psychotropic substance

"(2) This section does not apply in respect of an advertisement in a magazine, journal, circular or paper-

(a) circulated only amongst medical practitioners, dentists, veterinary surgeons or pharmacists; or

(b) exempted by the Administrator from the provisions of this section.

Chief Medical Officer may require containers, packages or leaflets to include certain information

"7N.(1) The Chief Medical Officer may, by notice published in the Gazette, direct -

(a) that the label attached to a container containing a specified psychotropic substance; or

(b) an outer package containing a specified psychotropic substance or a leaflet included with such a package,

shall include directions for the use of that substance and a warning, as specified in the notice, regarding the effects which that substance may have on the health or safety of a person using that substance.

"(2) A person selling or supplying a psychotropic substance to another person shall not fail, refuse or neglect to comply with the requirements of a notice published in accordance with sub-section (1).

Penalty: 2,000 dollars or imprisonment for 2 years or both.

Psychotropic substance to be kept locked in safe etc.

"7P. Except when a psychotropic substance is being removed for use in accordance with this Ordinance, a person authorized or permitted under this Ordinance to be in possession of a psychotropic substance shall keep that substance locked in a safe, cupboard or container of a type approved by the Chief Medical Officer.

Penalty: 1,000 dollars or 12 months imprisonment or both.

Exemption of certain preparations containing psychotropic substance

"7Q.(1) Subject to sub-section (2), the Chief Medical Officer may, by notice published in the Gazette, exempt a preparation containing a psychotropic substance from the provisions of this Ordinance or from such of the provisions of this Ordinance as are specified in the notice.

"(2) Sub-section (1) applies only where the Chief Medical Officer is satisfied that the psychotropic substance cannot be separated from the preparation or that the preparation cannot be treated or used in such a manner as will allow abuse of the psychotropic substance contained in it.

10. Section 8 of the Principal Ordinance is repealed and the following sections substituted:

"8.(1) If it is made to appear to a Special Magistrate, by information on oath, that there is reason to suspect that an offence against this Ordinance has been, is being or is about to be committed on or in certain premises, or in relation to the use of those premises, the Magistrate may issue a warrant authorizing a member of the Police Force, with assistants, to break into, enter and search those premises.

Power of member of Police Force to enter and search after issue of warrant

"(2) A member of the Police Force shall not, pursuant to this Ordinance, enter and search premises except -

(a) after the issue of a warrant under sub-section (1); or

(b) as provided under section 8A.

"8A. Where a member of the Police Force has reason to suspect that an offence against this Ordinance has been, is being or is about to be committed on or in certain premises, or in relation to the use of those premises and the exigencies of the circumstances at the relevant time make it impractical to comply with section 8(1), he may, with assistants, break into, enter and search those premises.

Power of member of Police Force in emergency

"8B. A member of the Police Force may stop, search and detain -

(a) a vessel, aircraft, vehicle, caravan, trailer or other conveyance in which he has reason to suspect-

(i) that any dangerous drug;

(ii) that opium or articles used for smoking opium or preparing opium for smoking; or

(iii) that a psychotropic substance or articles used in connexion with the preparation, consumption, smoking or administration of a psychotropic substance, may be found; and

(b) a person who he has reason to suspect has in his possession, or is in any way conveying -

Member of Police Force to forward report in case of entering and searching premises without warrant

- (i) any dangerous drug;
- (ii) opium or articles used for smoking opium or preparing opium for smoking; or
- (iii) a psychotropic substance or articles used in connexion with the preparation, consumption, smoking or administration of a psychotropic substance, may be found.

Meaning of  
power to  
search

"8C. The power to search conferred by section 8A or 8B or under a warrant issued under section 8 authorizes a member of the Police Force -

- (a) to break into, enter and search the premises or conveyances to be searched;
- (b) to break open any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found there;
- (c) to search a person found there;
- (d) to apprehend a person -
  - (i) found there committing, or to have committed, an offence; or
  - (ii) who he has reason to suspect is there for an illegal purpose; and
- (e) to seize and take away -
  - (i) a dangerous drug, opium or a psychotropic substance;
  - (ii) a substance found there where he has reason to suspect is a dangerous drug, opium or psychotropic substance;
  - (iii) any money or valuable security found there which he has reason to suspect is the proceeds of the sale of a dangerous drug, opium or a psychotropic substance; or
  - (iv) an article found there which he has reason to suspect is being used for a purpose contrary to this Ordinance.

"8D. A search under this Ordinance of a female shall be conducted only by another female.

Search of female

"8E. Notwithstanding anything contained in this Ordinance, the possession of a dangerous drug, opium or a psychotropic substance by a member of the Police Force or any other person authorized by a member of the Police Force is not an offence if that dangerous drug, opium or psychotropic substance -

Members of the Police Force and certain other persons may in certain circumstances be in possession of a prohibited drug

(a) was seized or obtained in the execution of his duties and the exercise of his powers, under this Ordinance;

(b) is in his possession pending the institution and hearing of proceedings under this Ordinance; or

(c) is in his possession for a purpose associated with the administration of this Ordinance."

11. Section 9 of the Principal Ordinance is repealed and the following sections substituted:

"9. The following things may be seized by a member of the Police Force -

Seizure of drugs etc.

(a) a dangerous drug, opium or a psychotropic substance found in the possession of a person; and

(b) an article found in the possession of, or being used by, a person contrary to a provisions of this Ordinance.

"9A. A conviction for an offence against this Ordinance operates as a forfeiture of the dangerous drug, opium, psychotropic substance or article in respect of which the conviction is made.

Forfeiture

"9B.(1) When a thing is seized under this Ordinance and no proceedings are instituted, within 30 days after seizure, for an offence relating to the thing seized, the Commissioner of Police may, by notice in writing under his hand, require the person from whom the thing was seized or any person appearing to the Commissioner of Police to be the owner of the thing seized, to claim delivery to him of the thing seized.

Notice to claim things seized

"(2) If no claim is made within 21 days of the date of service of the notice in writing, the thing seized is forfeited to the Crown and shall be disposed of in the manner directed by the Administrator.

"(3) Where a person served with a notice under sub-section (1) makes a claim for the delivery to him of a thing seized, the Commissioner of Police shall refer the claim to a court of summary jurisdiction which may deal with the matter in all respects as if the claim were made by a claimant of property under section 130B of the Justices Ordinance.

"(4) Where it is proved to the satisfaction of the court, that a sum of money, seized in accordance with section 8C(e)(iii) has been obtained from the sale of a prohibited drug, then, at the discretion of the court, that money may be forfeited to the Crown."

Obstruction  
of Police

12. Section 10 of the Principal Ordinance is amended, by omitting all words after "Penalty:" and substituting "400 dollars or imprisonment for 6 months or both."

Repeal of  
section 11

13. Section 11 of the Principal Ordinance is repealed and the following section substituted:

Members of  
the Police  
Force pur-  
chasing  
dangerous  
drugs etc.,  
not subject  
to this  
Ordinance

"11. Where proceedings for an offence against this Ordinance have commenced, no member of the Police Force who has purchased a dangerous drug, opium or psychotropic substance and no person who has purchased a dangerous drug, opium or psychotropic substance at the request of a member of the Police Force shall, by reason of that circumstance, be deemed an accomplice in that offence or guilty of an offence against this Ordinance."

Repeal of  
sections 13  
and 14

14. Sections 13 and 14 of the Principal Ordinance are repealed.

Definition  
of posses-  
sion.

15. Section 15 of the Principal Ordinance is amended by omitting ", lysergic acid and hallucinogenic drugs" and substitute "and psychotropic substances".

16. The Schedule to the Principal Ordinance is Schedule amended -

(a) by omitting "THE SCHEDULE" and substituting "FIRST SCHEDULE"; and

(b) by adding at the end the following new schedules:

"SECOND SCHEDULE

International Non-Pro-prietary Names	Other non-pro-prietary or trivial names	Chemical name
1. AMPHETAMINE	.. ..	(+)-2-amino-1-phenylpropane
2. DEXAMPHETAMINE	.. ..	(+)-2-amino-1-phenylpropane
3. METHAMPHETAMINE	.. ..	(+)-2-methylamino-1-phenylpropane
4. METHYLPHENIDATE	.. ..	2-phenyl-2-(2-piperidyl) acetic acid, methyl ester
5. PHENCYCLIDINE	.. ..	1-(1-phenylcyclohexyl) piperidine
6. PHENMETRAZINE	.. ..	3-methyl-2-phenylmorpholine

"THIRD SCHEDULE

International Non-Pro-prietary Names	Other non-pro-prietary or trivial names	Chemical name
1. AMOBARBITAL	.. ..	5-ethyl-5-(3-methylbutyl) barbituric acid
2. CYCLOBARBITAL	.. ..	5-(1-cyclohexen-1-yl) -5-ethylbarbituric acid
3. GLUTETHIMIDE	.. ..	2-ethyl-2-phenylglutarimide
4. PENTOBARBITAL	.. ..	5-ethyl-5-(1-methylbutyl) barbituric acid
5. SECOBARBITAL	.. ..	5-allyl-5-(1-methylbutyl) barbituric acid

## "FOURTH SCHEDULE

International Non-Pro- prietary Names	Other non-pro- prietary or trivial names	Chemical name
1. AMFEPRAMONE	.. ..	2-(diethylamino) pro- piophenone
2. BARBITAL	.. ..	5,5-diethylbarbituric acid
3. .. ..	ethchlorvynol	ethyl-2-chlorovinylethynyl- carbinol
4. ETHINAMATE	.. ..	1-ethynylcyclohexanol- carbamate
5. MEPROBAMATE	.. ..	2-methyl-2-propyl-1,3- propanediol dicarbamate
6. METHAQUALONE	.. ..	2-methyl-3-o-tolyl-4 (3H)-quinazolinone
7. METHYLPHENO- BARBITAL	.. ..	5-ethyl-1-methyl-5- phenyl-barbituric acid
8. METHYPRYLON	.. ..	3,3-diethyl-5-methyl- 2,4-piperidine-dione
9. PHENOBARBITAL	.. ..	5-ethyl-5-phenylbarbituric acid
10. PIPRADROL	.. ..	1,1-diphenyl-1-(2- piperidyl) methanol
11. .. ..	SPA	(-)-1-dimethylamino-1,2- diphenylethane

THE NORTHERN TERRITORY OF  
AUSTRALIA  
A BILL  
for  
AN ORDINANCE

To amend the Prohibited Drugs Ordinance

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

- |                                                                                                                                                                                  |                                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1. This Ordinance may be cited as the <u>Prohibited Drugs Ordinance</u> 1976.                                                                                                    | Short title                                                       |
| 2. The <u>Prohibited Drugs Ordinance</u> is in this Ordinance referred to as the Principal Ordinance.                                                                            | Principal Ordinance                                               |
| 3. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> .                                                         | Commencement                                                      |
| 4. Section 5 of the Principal Ordinance is repealed and the following sections substituted:                                                                                      |                                                                   |
| "5. A person who -                                                                                                                                                               | Possession, consumption, administration, etc., of prohibited drug |
| (a) consumes, administers to himself, uses or has in his possession a prohibited drug;                                                                                           |                                                                   |
| (b) has in his possession a syringe, utensil, appliance or other article for use in connexion with the preparation, consumption, smoking or administration of a prohibited drug; |                                                                   |
| (c) produces, prepares or manufactures a prohibited drug;                                                                                                                        |                                                                   |
| (d) sells, supplies or administers a prohibited drug to another person; or                                                                                                       |                                                                   |
| (e) has in his possession a prohibited drug for the purpose of sale or supply to another person,                                                                                 |                                                                   |

is guilty of an indictable offence.

Presumption  
with regard  
to posses-  
sion of cer-  
tain quanti-  
ties of pro-  
hibited drug

"5A. A person who has in his possession a prohibited drug in a quantity in excess of the prescribed quantity shall be deemed to have that prohibited drug in his possession for the purpose of sale or supply to another person.

Presumption  
with regard  
to growing  
or culti-  
vating cer-  
tain quan-  
tities of  
prohibited  
drug

"5B. A person who grows or cultivates a prohibited drug-

(a) in a quantity equal to or less than that prescribed shall be deemed to have that drug in his possession; or

(b) in a quantity in excess of that prescribed shall be deemed to have that drug in his possession for the purpose of sale or supply to another person.

Responsibil-  
ity of own-  
er or occu-  
pied of  
premises  
with rela-  
tion to pro-  
hibited drug

"5C. The owner or occupier of premises who knowingly allows a prohibited drug -

(a) to be produced, manufactured or prepared; or

(b) used or kept,  
on those premises is guilty of an indictable offence."

5. Section 6 of the Principal Ordinance is repealed and the following sections substituted:

Power of  
member of  
Police  
Force to  
enter and  
search  
after issue  
of warrant

"6.(1) If it is made to appear to a Special Magistrate, by information on oath, that there is reason to suspect that an offence against this Ordinance has been, is being or is about to be committed on or in certain premises, or in relation to the use of those premises, the Magistrate may issue a warrant authorizing a member of the Police Force, with assistants, to break into, enter and search those premises.

"(2) A member of the Police Force shall not, pursuant to this Ordinance, enter and search premises except -

(a) after the issue of a warrant under sub-section (1); or

(b) as provided under section 6A.

"6A. Where a member of the Police Force has reason to suspect that an offence against this Ordinance has been, is being or is about to be committed on or in certain premises, or in relation to the use of those premises and the exigencies of the circumstances at the relevant time make it impractical to comply with section 6(1), he may, with assistants, break into, enter and search those premises.

Power of member of Police Force in emergency

"6B. Where a member of the Police Force has exercised the power conferred upon him under section 6A, he shall, as soon as reasonably possible, forward a report in writing to the Administrator of all the circumstances relating to the exercise of that power, including-

Member of Police Force to forward report in case of entering and searching premises without warrant

- (a) the date and time when and place where the power was exercised;
- (b) details of the grounds he had for suspecting that an offence against this Ordinance had been, was being or was about to be committed; and
- (c) details of the exigencies which prevailed at the time which prevented him from applying for a warrant under section 6.

"6C. A member of the Police Force may stop, search and detain -

Power of police to stop, search and detain

- (a) a vessel, aircraft, vehicle, caravan, trailer or other conveyance in which he has reason to suspect that a prohibited drug may be found; and
- (b) a person who he has reason to suspect has in his possession, or is in any way conveying, a prohibited drug.

"6D. The power to search conferred by sections 6A or 6C or under a warrant issued under section 6 authorizes a member of the Police Force -

Meaning of power to search

- (a) to break into, enter and search the premises or conveyances to be searched;

- (b) to break open any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found there;
- (c) to search a person found there;
- (d) to apprehend a person -
  - (i) found there committing, or to have committed, an offence; or
  - (ii) who he has reason to suspect is there for an illegal purpose; and
- (e) to seize and take away -
  - (i) a prohibited drug found there;
  - (ii) a substance found there which he has reason to suspect is a prohibited drug;
  - (iii) any money or valuable security found there which he has reason to suspect is the proceeds of the sale of a prohibited drug; or
  - (iv) an article found there which he has reason to suspect is being used for a purpose contrary to this Ordinance.

Search of  
female

"6E. A search under this Ordinance of a female shall be conducted only by another female.

Members of  
the Police  
Force and  
certain  
other per-  
sons may in  
certain cir-  
cumstances  
be in pos-  
session of  
a prohib-  
ited drug

"6F.(1) Notwithstanding anything contained in this Ordinance, the possession of a prohibited drug by a member of the Police Force or any other person authorized by a member of the Police Force to have that prohibited drug in his possession is not an offence if that prohibited drug -

- (a) was seized or obtained in the execution of his duties and the exercise of his powers, under this Ordinance as a member of the Police Force;
- (b) is in his possession pending the institution and hearing of proceedings under this Ordinance; or

(c) is in his possession for a purpose associated with the administration of this Ordinance.

"(2) A prohibited drug shall be deemed to be in a person's possession for a purpose associated with the administration of this Ordinance if it is held by him for analysis for the purpose of proceedings for an offence against this Ordinance or of qualifying him to give evidence at the hearing of such proceedings.

"(3) Where proceedings for an offence against this Ordinance have commenced, no member of the Police Force who has purchased a prohibited drug and no person who has purchased a prohibited drug at the request of a member of the Police Force shall, by reason of that circumstance, be deemed an accomplice in that offence or guilty of an offence against this Ordinance, nor shall the evidence of the member of the Police Force or of that person be deemed, on the hearing of the proceedings, to be the evidence of an accomplice.

"6G. The following things may be seized by a member of the Police Force -

Seizure of  
drugs, etc.

- (a) a prohibited drug found in the possession of a person; and
- (b) an article found in the possession of, or being used by, a person contrary to a provision of this Ordinance.

"6H. A conviction for an offence against this Ordinance operates as a forfeiture of the prohibited drug or article in respect of which the conviction is made.

Forfeiture

"6J. (1) When a thing is seized under this Ordinance and no proceedings are instituted, within 30 days after seizure, for an offence relating to the thing seized, the Commissioner of Police may, by notice in writing under his hand, require the person from whom the thing was seized or any person appearing to the Commissioner of Police to be the owner of the thing seized, to claim delivery to him of the thing seized.

Notice to  
claim things  
seized

"(2) If no claim is made within 21 days of the date of service of the notice in writing, the thing seized is forfeited to the Crown and shall be disposed of in the manner directed by the Administrator.

"(3) Where a person served with a notice under sub-section (1) makes a claim for the delivery to him of a thing seized, the Commissioner of Police shall refer the claim to a court of summary jurisdiction which may deal with the matter in all respects as if the claim were made by a claimant of property under section 130B of the Justices Ordinance.

"(4) Where it is proved to the satisfaction of the court, that a sum of money, seized in accordance with section 6D(e)(iii) has been obtained from the sale of a prohibited drug, then, at the discretion of the court, that money may be forfeited to the Crown.

#### Penalties

"6K. A person who is guilty of an offence against this Ordinance -

(a) shall, if the offence is one against the provisions of section 5(a) or (b), section 5B(a) or 5C(b), be liable -

(i) for a first offence - to a fine of 2,000 dollars;

(ii) for a second offence - to imprisonment for 2 years; and

(iii) for any subsequent offence - to imprisonment for 5 years; and

(b) shall, if the offence is one against the provisions of section 5(c), (d) or (e), 5B(b) or 5C(a) be liable -

(i) for a first offence - to imprisonment for 7 years;

(ii) for a second offence - to imprisonment for 15 years; and

(iii) for any subsequent offence - to imprisonment for 25 years.

#### Application of Justices Ordinance

"6L.(1) Section 120 of the Justices Ordinance does not apply to an offence against the provisions of section 5(a) or (b), section 5B(a) or section 5C(b).

"(2) The provisions of Division 2 of Part V of the Justices Ordinance do not apply to an offence against the provisions of section 5(c), (d) or (e), section 5B(b) or section 5C(a).

#### Obstruction of Police

"6M. No person shall obstruct or hinder any member of the Police Force in the performance of any

of his duties under this Ordinance, or the execution of any of the powers by this Ordinance vested in him.

Penalty: 400 dollars or imprisonment  
for 6 months, or both.

"6N. Without restricting the meaning of the word 'possession', prohibited drugs or articles used in preparing, consuming, smoking or administering a prohibited drug shall be deemed to be in the possession of a person if found upon him, upon any land occupied by him, or if used, enjoyed or controlled by him in any place whatever, unless he proves that he had no knowledge of the drugs or articles being in his possession.".

6. The Schedule to the Principal Ordinance is amended -

(a) by inserting after "Desomorphine or a salt of desomorphine," the word "DET.";

(b) by inserting after "Diacetylmorphine (heroin) or a salt of diacetylmorphine (heroin)" the following:

"DMHP.

"DMT.";

(c) by inserting after "Ketobemidone or a salt of ketobemidone" the following:

"(+)-LYSERGIDE

LSD, LSD - 25.

"Mescaline."; and

(d) by inserting after "Methyl cinchophen (methyl ester of phenylcinchonic acid)." the following:

"PARAHEXYL.

"PSILOCINE

PSILOTSIN.

"PSILOCYBINE.

"STP

DOM .

"TETRAHY-

DROCANNA-

BINOLS,

ALL ISOMER.".

THE NORTHERN TERRITORY OF  
AUSTRALIA  
A BILL  
for  
AN ORDINANCE

To amend the Construction Safety Ordinance

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

- |                                                                                                                                                                                                                                                                                                     |                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| 1. This Ordinance may be cited as the <u>Construction Safety Ordinance</u> 1976.                                                                                                                                                                                                                    | Short title                           |
| 2. The <u>Construction Safety Ordinance</u> is in this Ordinance referred to as the Principal Ordinance.                                                                                                                                                                                            | Principal Ordinance                   |
| 3. This Ordinance shall come into operation on the date of commencement of the Principal Ordinance.                                                                                                                                                                                                 | Commencement                          |
| 4. Section 4(1) of the Principal Ordinance is amended by omitting "working" from the definition of "serious bodily injury".                                                                                                                                                                         | Interpretation                        |
| 5. Section 5(1)(d) of the Principal Ordinance is amended by omitting "on which an explosive is or is intended to be used".                                                                                                                                                                          | Application                           |
| 6.(1) Section 12(1) of the Principal Ordinance is amended by omitting "The" and substituting "Subject to section 12A, the".                                                                                                                                                                         | Notice of intention to carry out work |
| (2) Section 12(2)(b) of the Principal Ordinance is amended by omitting "construction work in which the only scaffolding used is" and substituting "the addition to, or repair, maintenance, cleaning, or painting of a dwelling occupied as a single unit where no scaffolding is used other than". |                                       |
| 7. After section 12 of the Principal Ordinance, the following section is inserted:                                                                                                                                                                                                                  |                                       |

Exemption  
from re-  
quirement  
to give  
notice

"12A.(1) The Chief Inspector may, in his discretion, upon payment of the prescribed fee, exempt a constructor from compliance with section 12(1) for a specified period, in respect of a specified class or classes of work and subject to specified conditions.

"(2) The conditions subject to which an exemption is granted under sub-section (1) may include a condition that the constructor shall appoint a safety supervisor to supervise all work in respect of which the exemption applies.

"(3) Sections 14(2), 14(3) and 16 apply in respect of the appointment of a safety supervisor appointed in pursuance of sub-section (2) as though the safety supervisor was appointed under section 14(1).

"(4) The constructor to whom an exemption is granted under sub-section (1) shall keep a log book of work to which the exemption applies showing-

- (a) the place where, and the date upon which, it is intended to commence each job of work; and
- (b) such other particulars as are prescribed.

Penalty: 200 dollars."

Appointment  
of Safety  
Supervisors

8. Section 14(2) of the Principal Ordinance is amended by omitting "one" and substituting "3".

Requirements  
with regard  
to rigging,  
scaffolding  
and direc-  
ting crane

9. Section 21 of the Principal Ordinance is repealed and the following section substituted:

"21.(1) A constructor shall not cause or permit a worker to be engaged in work to which this Ordinance applies involving the erection or dismantling of structural steel, plant or equipment (other than scaffolding) unless a person who holds a licence as a rigger in respect of that class of work is in charge of the work.

"(2) A constructor shall not cause or permit a worker to be engaged in work to which this Ordinance applies involving the erection or dismantling of scaffolding unless a person who holds a licence as a scaffolder is in charge of the work.

"(3) A constructor shall not cause or permit a worker to be engaged in work to which this Ordinance applies involving the slinging of loads unless a person who holds a licence as a dogman is in charge of the work.

"(4) A constructor shall not cause or permit a worker to be engaged in work to which this Ordinance applies involving the direction of the movement of loads by a crane where those loads are not at all times in full view of the driver of the crane unless that worker holds a licence as a dogman.

Penalty: 200 dollars."

10. Section 24 of the Principal Ordinance is amended by inserting at the end:

Scaffolding,  
&c., not to  
be repaired  
without  
permission  
of  
Inspector

"(2) It is a defence to a prosecution for an offence against sub-section (1) if the person charged proves that the action taken was necessary in order to save life, or to relieve suffering, or to prevent damage to property."

11. Section 32(a) and (b) of the Principal Ordinance are amended by omitting "or scaffolder" and substituting ", scaffolder or dogman".

Regulations

=====

THE NORTHERN TERRITORY OF  
AUSTRALIA  
A BILL  
for  
AN ORDINANCE

To amend the Territory Parks and Wildlife  
Conservation Ordinance

**B**E it ordained by the Legislative Assembly for the Northern Territory  
of Australia as follows:

1. This Ordinance may be cited as  
the Territory Parks and Wildlife Conservation  
Ordinance (No. 2) 1976.

Short  
title

2. The Territory Parks and Wildlife  
Conservation Ordinance is in this Ordinance  
referred to as the Principal Ordinance.

Principal  
Ordinance

3.(1) Sections 1, 2, 3 and 4 of this  
Ordinance shall come into operation on a date  
to be fixed by the Administrator by notice in  
the Gazette.

Commence-  
ment

(2) The provisions of this Ordinance  
that amend provisions contained in Part VIII  
or Part X of the Principal Ordinance shall  
come into operation on the date of commence-  
ment of Parts VIII and X of the Principal Or-  
dinance.

(3) The remaining provisions of  
this Ordinance shall come into operation on  
the date of commencement of section 3 of the  
Principal Ordinance.

4. Section 2 of the Principal Ordinance is repealed and the following section substituted:

Commence-  
ment of  
Principal  
Ordinance

"2.(1) Sections 1 and 2 and Parts V, VI, VII, VIII, IX and X of this Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the Gazette as the date on which those provisions come into operation.

"(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 as the date on which those remaining provisions come into operation."

Inter-  
preta-  
tion

5. Section 9.(1) of the Principal Ordinance is amended -

(a) by omitting from the definition of "animal" the words ", alive or dead," and all the words from and including the words ", and includes -";

(b) by inserting after the definition of "commission" the following definition:

"'Conservation officer' means a person appointed to be a conservation officer under section 92;";

(c) by omitting the definition of "game";

(d) by inserting after the definition of "fund" the following definition:

"'honorary conservation officer' means -

(i) a person appointed to be an honorary conservation officer under section 92;  
or

(ii) a person who is an honorary conservation officer by virtue of section 93;";

- (e) by omitting the definition of "partly protected animal";
- (f) by omitting the definition of "ranger";
- (g) by inserting after the definition of "reserve" the following definition:

"'sanctuary' means a sanctuary declared by section 25A;";

- (h) by inserting after the definition of "traffic sign" the following definition:

"'unprotected animal' means an animal declared by the Regulations to be an unprotected animal, while it is an unprotected animal;";

- (i) by inserting after the definition of "vehicle" the following definition:

"'vertebrate' means an animal that is -

- (a) a mammal;
- (b) a bird;
- (c) a reptile; or
- (d) an amphibian;";

- (j) by omitting the definition of "warden"; and

- (k) by omitting from paragraph (e) of the definition of "wild-life" the words "not being domesticated animals or cultivated plants,".

Revoca-  
tion of  
park or  
reserve

6. Section 13(1) of the Principal Ordinance is amended by omitting all the words from and including "by notice in the Gazette," and substituting "by notice in the Gazette -

- (a) revoke or amend a notice given under section 12; or
- (b) revoke the declaration by this Ordinance of a sanctuary or change the boundaries of a sanctuary."

Section  
24 not to  
apply to  
conserva-  
tion  
officers,  
&c.

7. Section 25 of the Principal Ordinance is amended -

- (a) by omitting "warden" and substituting "conservation officer"; and
- (b) by omitting "ranger" and substituting "honorary conservation officer".

8. Part IV of the Principal Ordinance is repealed and the following Parts are substituted :

#### " PART IIIA - SANCTUARIES

Sanct-  
uaries

"25A. Where, immediately before the commencement of this Ordinance, an area of land was a sanctuary under the Wildlife Conservation and Control Ordinance, that area continues to be a sanctuary, but the declaration by this section may be revoked by action taken under this Ordinance.

Notices  
to be ex-  
hibited  
in sanct-  
uaries

"25B.(1) The Director shall ensure that a clear sign, indicating that an area is a sanctuary and including such other terms as are approved by him, is prominently displayed and maintained in good condition at the side of each road entering that sanctuary, at or near the place where it enters that sanctuary.

"(2) A person shall not remove, deface or otherwise interfere with a sign displayed under sub-section (1).

Penalty : 400 dollars.

Penalty : 400 dollars.

"25C. A person other than -

Persons  
not to  
enter  
sanctu-  
aries

- (a) a conservation officer or an honorary conservation officer, exercising his powers or performing his functions under this Ordinance;
- (b) an officer or employee, within the meaning of the Public Service Act 1922 or the Public Service Ordinance, who is required in the course of his duty to enter a sanctuary; or
- (c) a person authorized by the Director to enter a sanctuary

shall not without lawful excuse enter or remain in a sanctuary.

Penalty : 2000 dollars, or imprisonment for 6 months, or both.

"25D. Subject to this Ordinance, a person shall not -

Firearms  
and traps  
prohibit-  
ed in a  
sanctuary

- (a) take a firearm or trap into a sanctuary; or
- (b) have in his possession in a sanctuary a firearm or trap.

Penalty : 2000 dollars, or imprisonment for 6 months, or both.

"25E. It is a defence to a prosecution for an offence against section 25C or section 25D if the defendant proves -

Defence  
against a  
prosecu-  
tion

- (a) that at the time the offence is alleged to have been committed he was on a public road or was otherwise authorized to be in the sanctuary and that the

firearm or trap was not used by him while he was in the area; or

- (b) that there was not on the road by which he entered the sanctuary the sign required to be displayed there by section 25B.

Persons  
not to  
kill in  
sanctuary

"25F.(1) Subject to this Ordinance, a person shall not in a sanctuary take, capture, kill or have in his possession any animal.

Penalty : 2000 dollars or imprisonment for 6 months, or both; and in addition a penalty of 100 dollars for every animal in respect of which the offence was omitted.

"(2) A person shall not fish in freshwater in a sanctuary, or have in his possession a fish that was caught in freshwater in a sanctuary.

Penalty : 2000 dollars or imprisonment for 6 months, or both; and in addition a penalty of 100 dollars for every animal in respect of which the offence was committed.

"(3) In this section, 'freshwater' means the water in a lake, lagoon or billabong whether or not it is at any time connected with the sea and water in any stream above the tidal limit.

Permission  
to pro-  
spect,  
mine,  
search and  
carry on  
mining

"25G.(1) The Administrator -

- (a) may endorse upon a miner's right or exploration licence under the Mining Ordinance an authorization permitting the holder to go onto a sanctuary for the purpose of prospecting for and mining gold or minerals; and

opera-  
tions in  
sanctuary

- (b) may endorse upon a permit or lease under the Petroleum (Prospecting and Mining) Ordinance an authorization permitting the holder to go onto a sanctuary for the purpose of searching for petroleum or carrying on mining operations as defined in section 4 of that Ordinance.

"(2) Where, under sub-section (1), an authorization is endorsed upon such a miner's right, exploration licence, permit or lease, the holder thereof and any employee of the holder may enter upon the sanctuary and may, subject to this section, do therein all things necessary or desirable for exercising the rights conferred by the miner's right or exploration licence, or for searching for petroleum or carrying on mining operations as defined in section 4 of the Petroleum (Prospecting and Mining) Ordinance.

"(3) The holder of such a miner's right or exploration licence which has been endorsed under sub-section (1) may take up and occupy land in the sanctuary in accordance with the Mining Ordinance for any of the purposes specified in section 39(a) to (d) inclusive of that Ordinance or in section 45(a) to (d) of that Ordinance but, unless a mining tenement is registered in his name under that Ordinance in respect of that land, he shall not -

- (a) commence to mine on that land or bore, sink for, pump or raise water on that land until the grant of a lease under section 39 or section 45 of that Ordinance is approved;
- (b) do any of the things specified in section 39(a) to (c) inclusive of that Ordinance until the grant of a lease under that section has been approved; or

- (c) do any of the things specified in section 45(a) to (c) inclusive of that Ordinance until the grant of a lease under that section has been approved.

"(4) Notice of an application for a mining lease or for the registration of a mining tenement of or in respect of land which is in a sanctuary shall be given by the applicant for the lease or for registration of the mining tenement to the Director who may appear upon the hearing of the application before the Warden.

"(5) Where the grant of a mining lease has been approved or a mining tenement has been registered of or in respect of land in a sanctuary, the lessee or the owner of the tenement shall not employ any person on the lease or tenement unless that person is the holder of a miner's right which has been endorsed under sub-section (1).

"(6) An authorization under sub-section (1) is subject to such conditions as the Administrator thinks fit and specifies in the authorization.

"(7) The holder of a miner's right, exploration licence, permit or lease which has been endorsed under sub-section (1) shall comply with any conditions to which the authorization endorsed on it is subject by virtue of sub-section (6).

Penalty : 2000 dollars or imprisonment for 6 months, or both.

## "PART IV - ANIMALS

### "Division 1 - Classification of Certain Animals

"26.(1) All animals that-

Protected  
animals

(a) are mammals, birds, reptiles or amphibians and are -

(i) indigenous to Australia or to the Australian coastal sea or the sea-bed and sub-soil beneath that sea; or

(ii) of a kind introduced into Australia, directly or indirectly, by Aborigines before the year 1788; or

(b) are migratory mammals, birds or reptiles and periodically or occasionally visit Australia or the Australian coastal sea

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, unprotected animals, pests or prohibited entrants.

"(2) Any vertebrate wildlife that is not a pest or a prohibited entrant is a protected animal while it is in a park, reserve, sanctuary, wilderness zone or protected area.

"(3) The Regulations may declare, whether with or without qualification, that an animal is a protected animal.

"27.(1) The Regulations may declare, whether with or without qualifications, that an animal is -

Unpro-  
tected  
animals,  
pests and  
prohibited  
entrants

(a) an unprotected animal;

(b) a pest; or

(c) a prohibited entrant.

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

"(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 Executive Council next following the date on which the declaration was made.

"(4) All prohibited entrants are pests while they are in those places in which they are prohibited entrants.

Effect  
of declar-  
ation

"28.(1) A declaration made under section 27(2) or in pursuance of section 26(3) or section 27(1) 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.

"(2) Subject to section 26(2), where a declaration is made under section 27(2) or in pursuance of section 26(3) or section 27(1), that declaration has effect according to its tenor to make the animal the subject of the declaration a protected animal, and unprotected animal, 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.

"Division 2 - Protected Animals

"29.(1) Subject to this Ordinance, a person shall not kill or injure a protected animal unless the act is done under the authority of and in accordance with the terms, conditions and limitations of a permit issued under this Ordinance.

Killing of  
a pro-  
tected  
animal

Penalty : 2000 dollars, or imprisonment for 6 months, or both; and, in addition, 100 dollars for each animal in respect of which the offence was committed.

"(2) A permit issued for the purposes of this section does not authorize the killing of an animal in a park, reserve, sanctuary, wilderness zone or protected area unless the permit names the species of animal that may be killed and describes the area in which it may be killed.

"30. Subject to this Ordinance, a person shall not, except under the authority of and in accordance with the terms, conditions and limitations of a permit issued under this Ordinance, take out of or destroy in a nest an egg of a protected animal.

Eggs of  
protected  
animal

Penalty : 2000 dollars, or imprisonment for 6 months, or both; and, in addition, 100 dollars for each egg in respect of which the offence was committed.

Parts of  
protect-  
ed  
animal

"31.(1) Subject to this Ordinance, a person shall not, except under the authority of and in accordance with the terms, conditions and limitations of the Regulations or of a permit issued under this Ordinance -

- (a) have in his possession or under his control;
- (b) buy, sell or offer for sale;
- (c) barter or offer to barter; or
- (d) otherwise obtain from or dispose of, or offer to dispose of, to another person

a dead protected animal, or the egg of a protected animal, or any flesh, bone, skin, horn, shell or other part of a protected animal or of the egg of a protected animal.

Penalty : 2000 dollars, or imprisonment for 6 months, or both; and, in addition, 100 dollars for each item in respect of which the offence was committed.

"(2) It is a defence to a charge for an offence against sub-section (1) of having an item in his possession or under his control if the defendant proves that he killed the animal under the authority of and in accordance with the terms, conditions and limitations of a permit issued under this Ordinance.

"(3) It is a defence to a charge for an offence against sub-section (1) of obtaining or disposing of an item if the defendant proves that the person disposing of the item killed the animal under the authority of and in accordance with the terms, conditions and limitations of a permit issued under this Ordinance and was sharing it as a meal with the person obtaining it.

"Division 3 - Vertebrate Wildlife

"32. Subject to this Ordinance, a person shall not, except under the authority of and in accordance with the terms, conditions and limitations of the Regulations or of a permit issued under this Ordinance have in his possession or under his control any live vertebrate wildlife.

Possession  
of live  
vertebrate  
wildlife

Penalty : 2000 dollars, or imprisonment for 6 months, or both; and, in addition, 100 dollars for each animal in respect of which the offence was committed.

"33. Subject to this Ordinance, a person shall not, except under the authority of and in accordance with the terms, conditions and limitations of the Regulations or of a permit issued under this Ordinance -

Trading  
in live  
vertebrate  
wild-  
life

- (a) buy, sell or offer for sale;
- (b) barter or offer to barter; or
- (c) otherwise obtain from or dispose of, or offer to dispose of, to another person

any live vertebrate wildlife.

Penalty : 2000 dollars, or imprisonment for 6 months or both; and, in addition, 100 dollars for each animal in respect of which the offence was committed.

Introduc-  
tion, etc.  
of  
vertebrate  
wildlife

"34. Subject to this Ordinance, a person shall not, except under the authority of and in accordance with the terms, conditions and limitations of the Regulations or of a permit issued under this Ordinance -

- (a) bring into or remove from the Territory;
- (b) move or consign from one place in the Territory to another place in the Territory; or
- (c) liberate or permit to escape within the Territory  
any vertebrate wildlife.

Penalty : 2000 dollars, or imprisonment for 6 months, or both; and, in addition, 100 dollars for each animal in respect of which the offence was committed.

#### "Division 4 - Prohibited Entrants

Introduc-  
tion etc.  
of  
prohibited  
entrants

"35.(1) A person shall not, except under the authority of and in accordance with the terms, conditions and limitations of 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 : 2000 dollars, or imprisonment for 6 months, or both; and, in addition, 100 dollars for each animal in respect of which the offence was committed.

"Division 5 - Pests

"36.(1) The Administrator in Council, Pest control areas  
by notice in the Gazette, upon the recommendation of the Commission or of a majority of the members of the Commission, may declare an area to be a pest control area.

"(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.

"37.(1) A conservation officer or a person under the control or instruction of a conservation officer 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. Conservation officer may enter and do work

"(2) Where a conservation officer 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 the person causing it; and
- (b) the owner or occupier has been required in writing under section 38 to undertake measures for the control or eradication

of pests and has failed to do so.

Notice to  
owner to  
eradicate  
pests

"38.(1) The Director may by notice in writing 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.

"(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 : 2000 dollars and in addition 50 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

"39. Where the Director has given notice to a person in accordance with section 38 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.

"Division 6 - Poisonous Baits

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

Poisoning  
of land

"(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 : 2000 dollars or imprisonment for 6 months, or both.

"41.(1) The Director may, by notice in writing, given to an owner of land -

Notice  
may be  
given  
with  
respect to  
poisons

- (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 : 2000 dollars or imprisonment for 6 months, or both.

Regula-  
tions

"Division 7 - General

"42.(1) The Regulations may allow -

(a) the keeping without a permit of -

(i) a dead protected animal;

(ii) a live animal that is  
vertebrate wildlife;

(iii) the egg of a protected  
animal; or

(iv) the flesh, bone, skin,  
horn, shell or other  
part of a protected  
animal;

(b) the sale without a permit of a  
live animal that is vertebrate  
wildlife; and

(c) the taking of an action that  
otherwise would be an offence  
against section 34.

"(2) Regulations made for the pur-  
poses of sub-section (1) may include regula-  
tions containing terms, conditions and  
limitations on the action that is allowed,  
including terms, conditions and limitations -

(a) as to species, number, age, sex  
and size of animals that are the  
subject of the regulations;

(b) as to areas in which the  
regulations operate;

(c) concerning housing requirements  
for animals that may be kept;

(d) imposing restrictions on the dis-  
posal of animals that may be kept,  
including animals that are bred  
in captivity; and

- (e) requiring the furnishing of returns.

"43.(1) The Director may issue a permit to a person, or to a person and his servants and agents -

Permits

- (a) to kill a protected animal;
- (b) to take an egg;
- (c) to take an action that, but for the permit, would be an offence against section 31(1), section 33 or section 34; or
- (d) to keep a live animal that is vertebrate wildlife.

"(2) A permit issued under this section may be issued subject to terms, conditions and limitations, including terms, conditions and limitations -

- (a) as to species, number, age, sex and size of animals that are the subject of the permit;
- (b) as to areas and times in which the permit operates;
- (c) concerning housing requirements for animals that may be kept;
- (d) imposing restrictions on the disposal of animals that may be kept, including animals that are bred in captivity; and
- (e) requiring the furnishing of returns.

"(3) The Director may, at any time, by notice in writing served on the holder of a permit -

(a) revoke the permit; or

(b) vary the terms, conditions and limitations of the permit.

Director  
may re-  
quire  
person to  
give up a  
protected  
animal

"44.(1) The Director may, at any time, by notice in writing served on a person, whether or not that person is the holder or former holder of a permit, require that person to give to the Director a protected animal, an egg of a protected animal or a part of a protected animal that is in the possession or under the control of that person.

"(2) A person shall comply with and shall not contravene a requirement made under sub-section (1).

Penalty : 2000 dollars and, in addition, 100 dollars for each animal, egg or item in respect of which the offence was committed.

"(3) Where the Director requires a person to give him an animal, egg or item that is lawfully in the possession or under the control of that person, the Director is liable to pay reasonable compensation for that animal, egg or item."

9. Sections 92 and 93 of the Principal Ordinance are repealed and the following sections substituted :

Appoint-  
ment of  
conserva-  
tion  
officer,  
&c.

"92.(1) The Commission may, by writing under its seal, appoint an officer or employee of the Commission as a conservation officer.

"(2) The Commission may, by writing under its seal, appoint -

(a) an officer or employee referred to in section 91; or

(b) an officer or employee of the Public Service of another State or Territory

as an honorary conservation officer.

"93. By force of this section-

(a) the Director is a conservation officer; and

(b) any member of the Police Force of the Territory is an honorary conservation officer.

Conservation officers &c. ex officio

"93A. It is the function of a conservation officer to assist the Director with the management of parks, reserves, sanctuaries and protected areas, and with the conservation of wildlife.

Functions of conservation officer

"93B. An honorary conservation officer has and may exercise the powers conferred upon a conservation officer by this Ordinance or the Regulations."

Powers of honorary conservation officer

10. Section 94 of the Principal Ordinance is amended -

Identity cards

(a) by omitting from sub-section (1) "warden, other than a member of the Police Force, and to each ranger" and substituting "conservation officer and to each honorary conservation officer, other than a member of the Police Force"; and

(b) by omitting from sub-section (2) "warden or ranger" and substituting "conservation officer or honorary conservation officer".

Conservation  
officer

11. Sections 95, 96 and 97 of the Principal Ordinance are amended by omitting "warden or ranger" (wherever occurring) and substituting "conservation officer".

Confiscation and  
forfeiture

12. Section 98 of the Principal Ordinance is amended -

- (a) by omitting from sub-sections (2) and (5) "warden or ranger" and substituting "conservation officer"; and
- (b) by omitting from sub-section (6) "warden" and substituting "conservation officer".

Authorized  
destruction of  
feral  
animals  
in  
sanctuary  
etc.

13. Section 113(1) of the Principal Ordinance is amended by inserting after "protected area" the word "sanctuary".

Exceptions

14.(1) Section 114 of the Principal Ordinance is amended by omitting sub-section (1) and substituting the following sub-sections:

"(1) Notwithstanding anything contained in this Ordinance, the Director may grant to the owner or occupier of a garden or a field in which there is standing or growing any cultivated fruit, vegetable or grain crop, a licence to kill in the garden or the field a protected animal which has caused, or is likely to cause, substantial damage to that fruit, vegetable or grain crop.

"(1A) A licence issued under sub-section (1) shall be for such period, not exceeding 12 months, as the Director thinks fit, but may be renewed."

(2) Section 114(6) of the Principal Ordinance is amended by omitting "Penalty : 400 dollars or imprisonment for 6 months" and substituting "Penalty : 2000 dollars, or imprisonment for 6 months, or both; and, in addition, 100 dollars for each protected animal in respect of which the offence is committed.".

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