NORTHERN TERRITORY OF AUSTRALIA

PARKS AND WILDLIFE COMMISSION ACT

As in force at 13 February 2019

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 13 February 2019

PARKS AND WILDLIFE COMMISSION ACT

An Act to establish a Commission to establish and manage, or assist in the management of, parks, reserves, sanctuaries and other land, to encourage the protection, conservation and sustainable use of wildlife, to establish a land-holding corporation in connection with those purposes, and for related purposes

Part I Preliminary

1 Short title

This Act may be cited as the *Parks and Wildlife Commission Act*.

2 Commencement

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

3 Definitions

In this Act, unless the contrary intention appears:

Aboriginal land has the same meaning as in the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

Chief Executive Officer means the Chief Executive Officer, within the meaning of the *Public Sector Employment and Management Act*, of the Agency administering this Act.

Commission means the Parks and Wildlife Commission of the Northern Territory established by this Act.

Corporation means the Conservation Land Corporation established by this Act.

Director means the Director of Parks and Wildlife holding office under section 4, and includes a person acting as Director.

wildlife includes both animals and plants.

Note for section 3

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

3A Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 3A

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part II Director of Parks and Wildlife

4 Director

(1) The Director of Parks and Wildlife is:

(a) the Chief Executive Officer; or

(b) the person appointed under subsection (2).

(2) The Minister may appoint a person to be the Director of Parks and Wildlife.

(3) The Minister may at any time terminate an appointment made under subsection (2).

(4) Where a person appointed as Director under subsection (2) is absent from duty or from the Territory, the Minister may appoint a person to act as Director during the absence.

(5) A person appointed as Director under subsection (2) is subject to the direction of the Commission when exercising the Director's powers or performing the Director's functions.

5 Functions of the Director

The functions of the Director are:

(a) to represent the Commission;

(b) to execute the policy decisions of the Commission; and

(c) such other functions as are conferred on the Director by this Act or any other Act.

6 Powers of Director

Subject to this Act, the Director has power to do all things that are necessary or convenient to be done for or in connection with, or incidental to, the performance of the Director's functions.

7 Delegation by Director

(1) The Director may, in writing, delegate to a person (or to the holder from time to time of a particular designation or office) any of the Director's powers and functions under this or any other Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, is deemed to have been exercised or performed by the Director.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or performance of a function by the Director.

Part III Parks and Wildlife Commission of the Northern Territory

9 Establishment of Commission

(1) There is hereby established a commission by the name of the Parks and Wildlife Commission of the Northern Territory.

(2) The Commission:

(a) is a body corporate with perpetual succession;

(b) has a common seal; and

(c) is capable in its corporate name of suing and being sued.

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

10 Membership of Commission

(1) The Commission consists of the Chief Executive Officer.

(2) The establishment of the Commission is not affected by reason of a vacancy in the office of the Chief Executive Officer.

19 Functions of Commission

The functions of the Commission are:

(a) to promote the conservation and protection of the natural environment of the Territory:

(i) by managing or participating in the management of:

(A) parks, reserves and sanctuaries established under the *Territory Parks and Wildlife Conservation Act* or any other Act of the Territory or the Commonwealth; and

(B) other land by agreement with the owners or occupiers of that land; and

(ii) by the promotion, and the enforcement where necessary, of the protection, conservation and sustainable use of wildlife, whether on such parks, reserves or sanctuaries or elsewhere in the Territory; and

(b) the management, for a purpose approved by the Minister, of other land;

and such other functions as are conferred on it by or under this or any other Act.

20 Power of Commission

(1) Subject to section 22, the Commission has power to do all things necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

(2) Without limiting the generality of subsection (1), the Commission may, for the purpose of carrying out its functions and exercising its powers, including the powers conferred on it elsewhere in this Act:

(a) enter into contracts;

(b) erect buildings and structures and carry out works;

(c) acquire, hold and dispose of personal property or an interest in personal property;

(d) accept gifts and bequests made to the Commission whether in trust or otherwise and act as trustees of moneys and other property vested in the Commission upon trust; and

(e) occupy, use, manage and control any land or building owned or leased by the Territory, or the Corporation continued in existence by the *Northern Territory Land Corporation Act*, and made available to the Commission.

21 Commission not to acquire real property

The Commission must not acquire or hold any estate or interest in real property.

22 Direction of the Minister

The Commission, in the performance of its functions and the exercise of its powers, is subject to the direction of the Minister.

23 Delegation by Commission

(1) The Commission may, in writing, delegate to a person who is an employee, within the meaning of the *Public Sector Employment and Management Act*, any of the Commission's powers and functions under this or any other Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, is deemed to have been exercised or performed by the Commission.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or performance of a function by the Commission.

24 Employment by Commission

In addition to employees employed under the *Public Sector Employment and Management Act* by the Commission, the Commission may employ, on such terms and conditions as it thinks fit, persons it thinks necessary for the purposes of the Commission.

25 Consultants to Commission

The Commission may engage consultants and may make arrangements to be provided with such advice relating to its functions as it thinks fit.

Part IV Conservation Land Corporation

26 Definition of member

In this Part, ***member*** means a person appointed under section 30(2) to be a member of the Corporation.

27 Establishment of Corporation

(1) There is hereby established a body corporate by the name of the Conservation Land Corporation.

(2) The Corporation is:

(a) a body corporate with perpetual succession and a common seal; and

(b) capable, in its corporate name, of:

(i) subject to this Act, acquiring, holding and disposing of real and personal property; and

(ii) suing and being sued.

28 Judicial notice of seal

All courts, judges and persons acting judicially are to take judicial notice of the common seal of the Corporation affixed to a document and are to presume that it was duly affixed.

29 Corporation not authority

(1) The Corporation is not an authority or instrumentality of the Crown and is not, for the purposes of the *Interpretation Act*, a statutory corporation.

(2) The Corporation is not subject to the control and direction of the Minister or the Crown.

(3) The Corporation is not, and is not capable of being, an Agency within the meaning and for the purposes of the *Financial Management Act*.

30 Membership of Corporation

(1) The Corporation consists of not less than 2 members.

(2) The Minister may, by *Gazette* notice, appoint a person to be a member.

(3) The exercise of a power or the performance of a function of the Corporation is not affected by reason only of there being a vacancy in its membership.

31 Resignation of member

A member may resign the member's office by writing signed by the member and delivered to the Minister.

32 Termination of appointment

(1) The Minister may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity.

(2) If a member:

(a) is absent, except on leave granted by the Corporation, from 3 consecutive meetings of the Corporation;

(b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit; or

(c) fails to comply with section 37;

the Minister must terminate the appointment of the member.

33 Chairperson

The Minister may, by *Gazette* notice, appoint a person to be the Chairperson of the Corporation.

34 Date of appointment

An appointment under section 33 takes effect from:

(a) the date of publication of the notification; or

(b) if there is a later date specified in the notification – that later date.

35 Member not personally liable

A member or person acting with the authority of the Corporation is not personally liable in respect of any matter or thing done, or contract entered into:

(a) by the Corporation; or

(b) by that person;

if the matter or thing was done, or the contract was entered into, in good faith for the purpose of executing this Act or any other Act conferring or imposing functions on the Corporation.

36 Unauthorised disclosure of confidential information

(1) A member commits an offence if:

(a) the member obtains information in the course of performing duties as a member; and

(b) the member intentionally engages in conduct; and

(c) the conduct results in the disclosure of the information and the member is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

(3) Subsection (1) does not apply if:

(a) the member discloses the information:

(i) in the course of the member's duties as a member; or

(ii) with the consent of the person to whom the information relates; or

(iii) for legal proceedings arising out of the operation of this Act; or

(b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

37 Disclosure of personal interest by member

(1) If a member has a personal interest in a matter being considered or about to be considered by the Corporation, the member must disclose the following at a meeting of the Corporation as soon as practicable after the relevant facts come to the member's knowledge:

(a) the nature and extent of the personal interest;

(b) how the interest relates to the matter being considered or about to be considered by the Corporation.

(2) The disclosure must be recorded in the minutes of the meeting.

(3) For this section, a member has a personal interest in a matter if the member:

(a) has a direct or indirect financial interest in the matter; or

(b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about the matter.

37A Effect of personal interest

(1) If a member has a personal interest in a matter that is required to be disclosed under section 37:

(a) the member must not take part in any deliberation or decision of the Corporation about the matter; and

(b) the member must be disregarded for the purpose of constituting the quorum of the Corporation for the deliberation or decision; and

(c) the quorum for the deliberation or decision is a majority of persons entitled to participate in the deliberation or decision.

(2) However, a failure by the member to disclose the interest in the matter does not, on its own, invalidate any decision of the Corporation about the matter.

38 Procedure

The Corporation may, subject to this Act, determine its own procedures.

39 Function of Corporation

(1) The function of the Corporation is to acquire, hold and dispose of real property (including any estate or interest in real property) in accordance with this Act and it may acquire and hold such property, notwithstanding any other law in force in the Territory which would restrict or otherwise limit the capacity of the Corporation to acquire and hold such property.

(2) The Corporation has power to do all things necessary or convenient to be done for or in connection with or incidental to the carrying out of its function.

(3) Any moneys payable by the Corporation for or incidental to the acquisition of any estate or interest in real property may be advanced by the Commission on such terms and conditions as the Commission thinks fit.

(4) Any moneys payable to the Corporation in respect of any estate or interest in real property held or disposed of by the Corporation must be paid to the Commission, whose receipt is sufficient discharge therefor, and any moneys payable by the Corporation in respect of any estate or interest in real property held by the Corporation may be paid by the Commission.

(5) Notwithstanding anything contained in the *Stamp Duty Act*, no stamp duty is payable on any instrument by which any property or interest is granted or assured to or vested in the Corporation.

(6) The Commission has the care, control and management of all land (including an interest in land) acquired or held by the Corporation.

Part V Miscellaneous

41 Advisory council

(1) The Minister may establish a council to advise the Commission on matters concerning the management of parks and wildlife.

(2) The members of the council must be appointed by the Minister and must be persons who have an interest or expertise and knowledge in matters relating to the environment and the management and conservation of natural resources.

42 Regulations

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

Part VI Transitional matters for Parks and Wildlife Commission Amendment Act 2018

43 Offence provisions – before and after commencement

(1) The offence provisions, as amended by the *Parks and Wildlife Commission Amendment Act 2018*, apply only in relation to offences committed after the commencement of that Act (the ***commencement***).

(2) The offence provisions, as in force before the commencement, continue to apply in relation to offences committed before the commencement.

(3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

(4) In this section:

offence provisions means the provisions of this Act that create or relate to offences committed against this Act (including in relation to criminal responsibility, defences and penalties).

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Conservation Commission Act 1980* (Act No. 13, 1980)**

Assent date	13 March 1980
Commenced	28 March 1980 (*Gaz* G13, 28 March 1980, p 7)

***Public Service and Statutory Authorities Amendment Act 1985* (Act No. 28, 1985)**

Assent date	26 June 1985
Commenced	26 June 1985

***Conservation Commission Amendment Act 1985* (Act No. 69, 1985)**

Assent date	24 December 1985
Commenced	24 February 1988 (*Gaz* G8, 24 February 1988, p 5)

***Conservation Commission Amendment Act 1986* (Act No. 54, 1986)**

Assent date	19 December 1986
Commenced	24 December 1986 (s 2, s 2 *Northern Territory Land Corporation Act 1986* (Act No. 53, 1986) and *Gaz* S90, 24 December 1986)

***Public Sector Employment and Management (Consequential Amendments) Act 1993* (Act No. 28, 1993)**

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz* S53, 29 June 1993)

***Financial Management (Consequential Amendments) Act 1995* (Act No. 5, 1995)**

Assent date	21 March 1995
Commenced	1 April 1995 (s 2, s 2 *Financial Management Act 1992* (Act No. 4, 1995) and *Gaz* S13, 31 March 1995)

***Conservation Commission Amendment Act 1995* (Act No. 43, 1995)**

Assent date	15 November 1995
Commenced	29 November 1995 (*Gaz* S42, 29 November 1995)

***Statute Law Revision Act (No. 2) 1998* (Act No. 92, 1998,)**

Assent date	11 December 1998
Commenced	11 December 1998

***Parks and Wildlife Commission Amendment Act 1999* (Act No. 58, 1999)**

Assent date	14 December 1999
Commenced	1 March 2000 (*Gaz* G8, 1 March 2000, p 2)

***Parks and Wildlife Commission Amendment Act 2004* (Act No. 52, 2004)**

Assent date	15 September 2004
Commenced	15 September 2004

***Penalties Amendment (Miscellaneous) Act 2013* (Act No. 23, 2013)**

Assent date	12 July 2013
Commenced	28 August 2013 (*Gaz* G35, 28 August 2013, p 2)

***Parks and Wildlife Commission Amendment Act 2018* (Act No. 19, 2018)**

Assent date	6 September 2018
Commenced	13 February 2019 (*Gaz* G7, 13 February 2019, p 6)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 24 *Conservation Commission Amendment Act 1995* (Act No. 43, 1995)
s 8 *Parks and Wildlife Commission Amendment Act 1999* (Act No. 58, 1999)

4 LIST OF AMENDMENTS

lt	amd No. 43, 1995, s 5
s 1	amd No. 43, 1995, s 6
s 3	amd No. 28, 1993, s 3; No. 43, 1995, s 7; No. 58, 1999, s 4; No. 52, 2004, s 3; No. 19, 2018, s 9
s 3A	ins No. 19, 2018, s 4
pt II hdg	amd No. 43, 1995, s 8
s 4	amd No. 28, 1985, s 9; No. 28, 1993, s 3 sub No. 43, 1995, s 9 amd No. 52, 2004, s 4; No. 19, 2018, s 9
ss 5 – 6	amd No. 19, 2018, s 9
s 7	sub No. 43, 1995, s 10 amd No. 19, 2018, s 9
s 8	rep No. 52, 2004, s 5
pt III hdg	amd No. 43, 1995, s 11
s 9	amd No. 43, 1995, s 12; No. 19, 2018, s 9
s 10	amd No. 69, 1985, s 4 sub No. 43, 1995, s 13 amd No. 58, 1999, s 5 sub No. 52, 2004, s 6
s 11	rep No. 43, 1995, s 13
s 12	amd No. 43, 1995, s 14 rep No. 52, 2004, s 7
s 13	amd No. 43, 1995, s 15 rep No. 52, 2004, s 7
s 14	amd No. 28, 1985, s 9; No. 43, 1995, s 16 rep No. 52, 2004, s 7
s 15	amd No. 43, 1995, s 17; No. 58, 1999, s 6 rep No. 52, 2004, s 7

s 16	sub No. 43, 1995, s 18
	amd No. 58, 1999, s 7
	rep No. 52, 2004, s 7
s 17	amd No. 43, 1995, s 19
	rep No. 52, 2004, s 7
s 17A	ins No. 69, 1985, s 5
	sub No. 43, 1995, s 20
	rep No. 52, 2004, s 7
s 18	amd No. 69, 1985, s 6; No. 43, 1995, s 21
	rep No. 52, 2004, s 7
s 19	sub No. 43, 1995, s 22
	amd No. 19, 2018, s 9
s 20	amd No. 54, 1986, s 4
s 21	amd No. 19, 2018, s 9
s 23	sub No. 43, 1995, s 23
	amd No. 52, 2004, s 8; No. 19, 2018, s 9
s 24	amd No. 28, 1993, s 3
s 28	amd No. 19, 2018, s 9
s 29	amd No. 92, 1998, s 13
ss 30 – 31	amd No. 19, 2018, s 9
s 32	amd No. 19, 2018, s 5
ss 33 – 35	amd No. 19, 2018, s 9
ss 36 – 37	amd No. 23, 2013, s 18
	sub No. 19, 2018, s 6
s 37A	ins No. 19, 2018, s 6
s 39	amd No. 54, 1986, s 5; No. 19, 2018, s 9
s 40	rep No. 5, 1995, s 19
s 41	sub No. 52, 2004, s 9
	amd No. 19, 2018, s 7
pt VI hdg	ins No. 19, 2018, s 8
s 43	ins No. 19, 2018, s 8