NORTHERN TERRITORY OF AUSTRALIA

WASTE MANAGEMENT AND POLLUTION CONTROL ACT 1998

As in force at 13 September 2025

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 13 September 2025

WASTE MANAGEMENT AND POLLUTION CONTROL ACT 1998

An Act to provide for the protection of the environment through encouragement of effective waste management and pollution prevention and control practices and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Waste Management and Pollution Control Act 1998*.

2 Commencement

The provisions of this Act come into operation on the date or respective dates fixed by the Administrator by notice in the *Gazette*.

3 Act binds Crown

This Act binds the Crown not only in right of the Territory but, so far as the legislative power of the Legislative Assembly permits, in all its other capacities.

4 Interpretation

(1) In this Act, unless the contrary intention appears:

activity means a current or proposed activity and includes a current or proposed process, operation, project, venture or business.

air includes any layer of the atmosphere.

approved means approved in writing by the NT EPA.

auditor, in relation to an environmental audit program, means a person who carries out an environmental audit for the purposes of the program.

authorised officer means an authorised officer appointed under section 70.

best practice environmental management means the management of an activity or premises in a cost-effective manner that, having regard to national or international practices for management of activities or premises of the same kind, ensures the continued minimisation of the actual or potential environmental impact of the activity or premises.

best practice licence means:

(a) a best practice licence granted under section 34; or

(b) a licence that is to be taken to be a best practice licence by virtue of section 44(6).

code of practice means a code of practice approved under section 13.

compliance plan means a compliance plan approved under section 61.

contaminant means a solid, liquid or gas or any combination of such substances and includes:

(a) noise, odour, heat and electromagnetic radiation;

(b) a prescribed substance or prescribed class of substances; and

(c) a substance having a prescribed property or prescribed class of properties.

ecologically sustainable development, see section 4 of the *Environment Protection Act 2019*.

emergency authorisation, see section 46A.

environment means land, air, water, organisms and ecosystems and includes:

(a) the well-being of humans;

(b) structures made or modified by humans;

(c) the amenity values of an area; and

(d) economic, cultural and social conditions.

environment protection approval means an approval granted under section 34.

environment protection licence means:

(a) an environment protection licence granted under section 34; or

(b) a licence that is to be taken to be an environment protection licence by virtue of section 44(3).

environmental audit has the meaning given in section 47.

environmental audit program means an environmental audit program specified in a notice under section 48 or an order under section 49.

environmental harm means:

(a) any harm to or adverse effect on the environment; or

(b) any potential harm (including the risk of harm and future harm) to or potential adverse effect on the environment,

of any degree or duration and includes environmental nuisance.

environmental nuisance means:

(a) an adverse effect on the amenity of an area that:

(i) is caused by noise, smoke, dust, fumes or odour; and

(ii) unreasonably interferes with or is likely to unreasonably interfere with the enjoyment of the area by persons who occupy a place within the area or are otherwise lawfully in the area; or

(b) an unsightly or offensive condition caused by contaminants or waste.

environment protection objective means an environment protection objective under Part 4 as amended and in force from time to time.

environmental value means a feature of, or a use of, the environment, or of a part of the environment, that is specified in an environment protection objective under section 17(1)(b) as a feature or use to be protected.

holder of an environment protection approval includes a person to whom an environment protection approval has been transferred under section 46.

holder of a licence includes a person to whom a licence has been transferred under section 46.

improvement plan means a plan implementing in stages:

(a) improvements in waste management; or

(b) improvements in the prevention, reduction, control, rectification or clean up of pollution or environmental harm resulting from pollution,

that are consistent with this Act but which are improvements greater than that required by or under this Act.

land includes water and air on, above or under land.

licence means a licence granted under this Act.

listed waste means a waste prescribed for the purposes of this definition.

material environmental harm means environmental harm that:

(a) is not trivial or negligible in nature;

(b) consists of an environmental nuisance of a high impact or on a wide scale;

(c) results, or is likely to result, in not more than $50,000 or the prescribed amount (whichever is greater) being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or

(d) results in actual or potential loss or damage to the value of not more than $50,000 or the prescribed amount (whichever is greater).

monitoring means an action taken to detect or measure qualitatively or quantitatively the presence or amount of any substance, characteristic or effect.

national environment protection measure means a measure made under section 14(1) of the *National Environment Protection Council (Northern Territory) Act 1994*.

noise means a vibration of a frequency in the range of 0 to 20,000 Hertz.

NT EPA, see section 3 of the *Northern Territory Environment Protection Authority Act 2012*.

occupier means:

(a) in relation to premises – a person who occupies or controls the premises, whether or not he or she owns them; or

(b) where different parts of premises are occupied by different persons, in relation to a part of premises – the person who occupies or controls that part of the premises, whether or not he or she owns the premises,

but does not include a mortgagee in possession of the premises unless the mortgagee assumes active management of some or all activities on the premises.

owner, in relation to premises, does not include a mortgagee in possession of the premises unless the mortgagee assumes active management of some or all activities on the premises.

performance agreement means a performance agreement entered into under section 66.

pollute means:

(a) emit, discharge, deposit, or disturb, directly or indirectly, a contaminant or waste; or

(b) cause, permit, or fail to prevent, directly or indirectly, the emission, discharge, deposition, disturbance or escape of a contaminant or waste.

pollution means:

(a) a contaminant or waste that is emitted, discharged, deposited or disturbed or that escapes; or

(b) a contaminant or waste, effect or phenomenon, that is present in the environment as a consequence of an emission, discharge, deposition, escape or disturbance of a contaminant or waste.

pollution abatement notice means a notice issued under section 77 or 78.

premises includes equipment, plant and structures, whether stationary or portable, and the land on which premises are situated.

re-cycling means the recovery and reprocessing of waste into a new product or base material.

re-use means the treatment of waste without reprocessing so that it may be used again for its original purpose or an alternative purpose.

residential premises, in relation to premises that are used for both residential and non-residential purposes, only includes that part of premises that are used only for residential purposes.

sale includes:

(a) every method of disposition for valuable consideration, including by way of barter;

(b) the disposition to an agent for sale on consignment;

(c) offering for sale or attempting to sell;

(d) receiving or having in possession for sale;

(e) exposing for sale;

(f) sending or delivering for sale;

(g) causing or permitting to be sold, offered or exposed for sale; and

(h) disposal by way of raffle, lottery or other game of chance.

serious environmental harm means environmental harm that is more serious than material environmental harm and includes environmental harm that:

(a) is irreversible or otherwise of a high impact or on a wide scale;

(b) damages an aspect of the environment that is of a high conservation value, high cultural value or high community value or is of special significance;

(c) results or is likely to result in more than $50,000 or the prescribed amount (whichever is greater) being spent in taking appropriate action to prevent or minimise the environmental harm or rehabilitate the environment; or

(d) results in actual or potential loss or damage to the value of more than $50,000 or the prescribed amount (whichever is greater).

this Act means this Act, the Regulations or an environment protection objective, environment protection approval, environment protection licence, best practice licence, environmental audit program, compliance plan, performance agreement or pollution abatement notice.

vehicle means:

(a) a conveyance or other device designed to be propelled or drawn by any means; or

(b) a device that runs on wheels or tracks (whether or not with motive power), including agricultural machinery, equipment and implements, trailers and caravans; or

(c) an aircraft; or

(d) a vessel as defined in section 8 of Schedule 1 to the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (Cth).

voluntary environmental audit means an environmental audit carried out other than for the purposes of an environmental audit program.

waste means:

(a) a solid, a liquid or a gas; or

(b) a mixture of such substances,

that is or are left over, surplus or an unwanted by-product from any activity (whether or not the substance is of value) and includes a prescribed substance or class of substances.

waste management includes the management of the generation, re-use, re-cycling, storage, collection, transportation, treatment and disposal of waste.

water includes:

(a) surface water, ground water and tidal waters;

(b) coastal waters of the Territory, within the meaning of the *Coastal Waters (Northern Territory Powers) Act 1980* of the Commonwealth; and

(c) water containing an impurity.

Note for subsection (1)

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

(2) For the purposes of this Act, loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures:

(a) to prevent or mitigate pollution or environmental harm arising from pollution; and

(b) to make good environmental damage resulting from pollution.

(3) For the purposes of this Act, environmental harm or environmental damage may be caused by pollution whether the harm or damage:

(a) is caused directly or indirectly or is a direct or indirect result of the pollution; or

(b) results from, or is caused by, the pollution alone or from the combined effects of the pollution and other factors.

5 Objectives

The objectives of this Act are:

(a) to protect, and where practicable to restore and enhance the quality of, the Territory environment by:

(i) preventing pollution;

(ii) reducing the likelihood of pollution occurring;

(iii) effectively responding to pollution;

(iv) avoiding and reducing the generation of waste;

(v) increasing the re-use and re-cycling of waste; and

(vi) effectively managing waste disposal;

(b) to encourage ecologically sustainable development; and

(c) to facilitate the implementation of national environment protection measures made under the *National Environment Protection Council (Northern Territory) Act 1994*.

6 Application

(1) Subject to this section, this Act applies in addition to, and does not limit the application of, any other Act in force before or after the commencement of this Act.

(2) This Act does not apply in relation to a contaminant or waste:

(a) that results from, directly or indirectly, the carrying out of a petroleum exploration activity, or petroleum extraction activity, by a person on land on which the activity is authorised by or under the *Petroleum Act 1984*, the *Petroleum (Submerged Lands) Act 1981* or an Act of the Commonwealth; and

(b) that is confined within the land on which the activity is being carried out.

(2A) This Act does not apply in relation to a contaminant or waste that results from, directly or indirectly, the carrying out of a mining activity which is authorised under an environmental (mining) licence under the *Environment Protection Act 2019*.

(3) This Act does not apply in relation to a contaminant or waste:

(a) released from a pipeline during the conduct of an activity authorised under the *Petroleum Act 1984*, the *Petroleum (Submerged Lands) Act 1981* or an Act of the Commonwealth; and

(b) confined within land that is not more than 1 kilometre from the centre of the pipeline.

(4) This Act does not apply in relation to a contaminant or waste:

(a) released from a pipeline during the conduct of an activity authorised under the *Energy Pipelines Act 1981*; and

(b) confined within land that is not more than 1 kilometre from the centre of the pipeline.

(5) Where a waste or contaminant referred to in subsection (2), (3) or (4) is not confined within the land referred to in subsection (2)(b), (3)(b) or (4)(b) respectively, this Act applies in relation to all of the contaminant or waste notwithstanding that some of it is on that land and the remainder is on other land.

(6) Notwithstanding subsections (2), (3) and (4), an environment protection objective submitted to the Administrator as a draft environment protection objective under section 22 applies, to the extent that it would have applied, in relation to contaminants and wastes that:

(a) result from the carrying out of mining activities or petroleum exploration or extraction activities; or

(b) are released from a pipeline during the conduct of an activity authorised under the *Energy Pipelines Act 1981*, the *Petroleum Act 1984*, the *Petroleum (Submerged Lands) Act 1981* or an Act of the Commonwealth.

(7) Subsections (2), (3) and (4) do not apply in relation to a substance that is prescribed to be an ozone-depleting substance.

(8) Notwithstanding subsection (1), this Act does not apply to a circumstance if the *Marine Pollution Act 1999* applies to the circumstance.

(9) In this section:

mining activity*,* see section 13A of the *Environment Protection Act 2019*.

petroleum has the meaning it has in the *Petroleum Act 1984*.

7 Civil remedies and common law not affected

(1) Except where expressly provided for, nothing in this Act is to be taken to affect a civil right or remedy available to a person in respect of conduct, or a failure or refusal to engage in conduct, to which this Act applies.

(2) Compliance with this Act is not of itself evidence that a common law duty of care has been satisfied.

Part 2 Administration

8 Delegation

(1) The Minister may, in writing, delegate to an Agency, body or person any of his, her or its powers and functions under this Act, other than this power of delegation.

(2) A delegation under subsection (1) may be made to a named person or a person holding, acting in or performing the duties of an office, designation or position at a particular time or from time to time.

(3) A power or function delegated under this section, when exercised or performed by the delegate, is, for the purposes of this Act, deemed to have been exercised or performed by the Minister.

(4) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

9 Register

(1) The NT EPA must cause to be maintained a register of the following information:

(a) the information specified in Schedule 1;

(b) information required or permitted to be placed on the register by or under this Act;

(c) information that the NT EPA thinks fit to place on the register.

(2) The register is to be kept in the form, which may include an electronic form, the NT EPA thinks fit.

(3) The NT EPA may, by notice in the *Gazette*, amend, omit or insert an item in Schedule 1.

(4) A member of the public may, on payment of the prescribed fee, if any, view the register at any time during the normal office hours of the NT EPA.

10 Commercially confidential information

(1) A person may apply, in the approved form, to the NT EPA to have information:

(a) otherwise required to be maintained on the register – withheld from the register; or

(b) that may otherwise be provided to a person under section 115 – withheld from distribution to such a person,

on the ground that it is commercially confidential information.

(2) The NT EPA may, if satisfied that the information to which an application relates is commercially confidential:

(a) withhold the information from the register; or

(b) withhold the information from distribution under that section.

(3) Notwithstanding subsection (2), the NT EPA may:

(a) place information on the register; or

(b) distribute information to a person under section 115,

if the information is in a form that retains its commercial confidentiality.

(4) The onus of establishing to the satisfaction of the NT EPA that information to which an application relates is commercially confidential rests on the applicant under subsection (1).

11 Consultative committees

(1) The Minister or the NT EPA may, by notice in the *Gazette*, establish such committees as the Minister or the NT EPA thinks fit:

(a) to provide information to the Minister or the NT EPA or conduct research; or

(b) for another purpose,

as specified in the notice.

(2) The membership of a committee is as specified in the notice.

(3) The practices and procedures of a committee are as specified in the notice or, where they are not specified, are as determined by the committee.

Part 3 Environmental duties

12 General environmental duty

(1) A person who:

(a) conducts an activity that causes or is likely to cause pollution resulting in environmental harm or that generates or is likely to generate waste; or

(b) performs an action that causes or is likely to cause pollution resulting in environmental harm or that generates or is likely to generate waste,

must take all measures that are reasonable and practicable to:

(c) prevent or minimise the pollution or environmental harm; and

(d) reduce the amount of the waste.

(2) Without limiting the generality of subsection (1), in determining which measures are reasonable and practicable for the purposes of subsection (1), a person is to have regard to:

(a) the nature of the environmental harm and the sensitivity of the environment into which a contaminant or waste is placed or may be placed;

(b) current technical information reasonably available to the person in relation to the activity and the likelihood that a measure proposed in the information would minimise the pollution, environmental harm or waste that the activity or action may cause; and

(c) the financial implications of implementing or carrying out the measures.

(3) A failure to comply with subsection (1) does not of itself constitute an offence, but where a person has failed to comply with the subsection a pollution abatement notice may be issued to him or her.

13 Person complying with code complies with general environmental duty

(1) The Minister may, by notice in the *Gazette*, approve a code of practice, as in force at a particular time or as in force from time to time, that specifies ways in which the general environmental duty specified in section 12 may be complied with in relation to an activity, action, contaminant or waste.

(2) Where a person, in relation to an activity, action, contaminant or waste, takes all measures specified in accordance with a code of practice approved under subsection (1) in relation to the activity, action, contaminant or waste, the person is to be taken to have complied with the general environmental duty specified under section 12 in relation to the activity, action, contaminant or waste.

(3) The notice under subsection (1) is to specify where copies of the approved code of practice may be viewed.

(4) The NT EPA must ensure that copies of an approved code of practice are available for viewing at the place specified in the notice under subsection (1).

14 Duty to notify of incidents causing or threatening to cause pollution

(1) Where:

(a) an incident occurs in the conduct of an activity; and

(b) the incident causes, or is threatening or may threaten to cause, pollution resulting in material environmental harm or serious environmental harm,

the person conducting the activity must notify the NT EPA in accordance with subsection (3) as soon as practicable after (and in any case within 24 hours after) first becoming aware of the incident or the time he or she ought reasonably be expected to have become aware of the incident.

Penalty: environmental offence level 4.

(2) Where:

(a) an incident occurs in the conduct of an activity; and

(b) the incident causes, or is threatening or may threaten to cause, pollution resulting in material environmental harm or serious environmental harm,

the person must not intentionally fail to notify the NT EPA in accordance with subsection (3) as soon as practicable and in any case within 24 hours after first becoming aware of the incident.

Penalty: environmental offence level 3.

(3) A notification under subsection (1) or (2) is to specify:

(a) the incident causing or threatening to cause pollution;

(b) the place where the incident occurred;

(c) the date and time of the incident;

(d) how the pollution has occurred, is occurring or may occur;

(e) the attempts made to prevent, reduce, control, rectify or clean up the pollution or resultant environmental harm caused or threatening to be caused by the incident; and

(f) the identity of the person notifying.

(4) It is a defence to a charge of committing an offence against subsection (1) or (2) if the defendant establishes that he or she

believed, on reasonable grounds, that the NT EPA had been notified of the incident before 24 hours after the person first became aware, or ought reasonably be expected to have become aware, of the incident.

(5) For the purposes of this section, ***incident*** includes:

(a) an accident, emergency or malfunction; and

(b) a deliberate action, whether or not that action was taken by the person conducting the activity in the course of which the incident occurred.

(6) Notification provided under subsection (1) or (2) is not to be used as evidence in proceedings before a court, other than proceedings for an offence against this section.

Part 4 Environment protection objectives

Division 1 Purpose and contents of objectives

15 Purpose of environment protection objectives

The purpose of an environment protection objective is to establish the principles on which:

(a) environmental quality is to be maintained, enhanced, managed or protected;

(b) pollution, or environmental harm resulting from pollution, is to be assessed, prevented, reduced, controlled, rectified or cleaned up; and

(c) effective waste management is to be implemented or evaluated.

16 Matters dealt with by environment protection objectives

An environment protection objective may be made in relation to any of the following:

(a) air quality;

(b) water quality;

(c) soil quality as it relates to the assessment, management and clean up of polluted soil;

(d) a type or class of contaminant;

(e) a type or class of waste;

(f) a type or class of industry or activity;

(g) waste management;

(h) a technology or process;

(j) a pollution control practice,

and may relate to all of the Territory, or a part of the Territory, as specified in the objective.

17 Contents of environment protection objectives

(1) An environment protection objective may specify, or incorporate by reference, any of the following:

(a) a goal, standard, guideline or protocol as in force at a particular time or as in force from time to time;

(b) that a feature or use of the environment or a part of the environment is to be protected;

(c) an environmental indicator that can be used to define and measure environmental quality;

(d) a result necessary or desirable to be achieved by an action in order to effectively manage waste or assess, prevent, reduce, control, rectify or clean up pollution or environmental harm resulting from pollution;

(e) indicators, criteria or methods to be used in evaluating practices for waste management or the assessment, prevention, reduction, control, rectification or clean up of pollution or environmental harm resulting from pollution;

(f) requirements to be considered in determining whether an action is to be taken or whether an instrument of a legislative or administrative character is to be made, varied or revoked under this Act;

(g) requirements to be considered in determining the conditions to which an environment protection approval or a licence may be subject.

(2) An environment protection objective may specify any of the following:

(a) that a person who contravenes or fails to comply with a provision of the objective is guilty of an environmental offence level 2, 3 or 4 within the meaning of the *Environmental Offences and Penalties Act 1996*;

(b) that an offence against a provision of the objective is a regulatory offence.

18 Beneficial uses, &c., under *Water Act 1992* are environment protection objectives

A beneficial use, quality standard, criteria or objective declared under section 73 of the *Water Act 1992* and in force is an environment protection objective for the purposes of this Act.

Division 2 Preparation and exhibition of proposed objectives

19 Notification of intention to prepare draft environment protection objectives

(1) The Minister may propose the preparation of a draft environment protection objective.

(2) Where the Minister proposes to prepare a draft environment protection objective, he or she may place a notice in a newspaper circulating in the Territory.

(3) A notice under subsection (2) is to:

(a) specify that the Minister proposes to prepare a draft environment protection objective;

(b) provide an outline of the proposal;

(c) specify the place where copies of the proposal may be viewed; and

(d) specify that members of the public may make submissions to the Minister in relation to the proposal on or before a date, specified in the notice, not earlier than 30 days after the date on which the notice appears in the newspaper.

(4) The Minister must ensure that a proposal to prepare a draft environment protection objective to which a notice under subsection (2) relates is available for viewing by the public:

(a) at the place specified in the notice in accordance with subsection (3)(c); and

(b) until the end of the date specified in the notice in accordance with subsection (3)(d).

(5) A person may, on or before the date specified in the notice in accordance with subsection (3)(d), make a submission to the Minister in relation to a proposal to prepare a draft environment protection objective.

20 Preparation and exhibition of draft objectives

(1) The Minister may prepare a draft environment protection objective.

(2) The Minister may only prepare a draft environment protection objective if:

(a) the proposal to which the draft environment protection objective relates has been notified and available for viewing in accordance with section 19; and

(b) he or she has considered each submission made under section 19(5) in relation to the proposal.

(3) Where a draft environment protection objective has been prepared under subsection (1), the Minister may place a notice in a newspaper circulating in the Territory.

(4) A notice under subsection (3) is to:

(a) specify that the Minister has prepared a draft environment protection objective;

(b) specify the place where copies of the draft environment protection objective may be viewed;

(c) specify that members of the public may make submissions to the Minister in relation to the draft environment protection objective on or before a date, specified in the notice, not earlier than 60 days after the date on which the notice appears in the newspaper; and

(d) specify the place where members of the public may, after the date specified in the notice in accordance with paragraph (c), view submissions in relation to the draft environment protection objective in accordance with subsection (8).

(5) A person may, on or before the date specified in the notice in accordance with subsection (4)(c), make a submission to the Minister in relation to a draft environment protection objective.

(6) The Minister must ensure that a draft environment protection objective to which a notice under subsection (3) relates is available for viewing and purchase by the public:

(a) at the place specified in the notice in accordance with subsection (4)(b); and

(b) until the end of the date specified in the notice in accordance with subsection (4)(c).

(7) The Minister must ensure that copies of each submission made under subsection (5) in relation to a draft environment protection objective are available for viewing by members of the public:

(a) after the date specified in the notice in accordance with subsection (4)(c); and

(b) until the end of the date on which the Administrator approves or refuses to approve the draft environment protection objective under section 23.

(8) A submission is to be made available for viewing in accordance with subsection (7) during normal business hours at the place specified in the notice in accordance with subsection (4)(d).

21 Submission of draft environment protection objectives to Administrator

After the Minister has:

(a) considered each submission made under section 20(5) in relation to a draft environment protection objective; and

(b) made the alterations to the draft environment protection objective that he or she thinks fit,

the Minister may submit the draft environment protection objective to the Administrator for approval.

22 National environment protection measure may be incorporated as environment protection objective

(1) The Minister may submit to the Administrator a draft environment protection objective that incorporates, with such declatory, machinery or administrative changes as the Minister thinks fit, part or all of a national environment protection measure as in force at a particular time for approval under section 23 as an environment protection objective.

(2) Sections 19, 20 and 21 do not apply in relation to a draft environment protection objective submitted under subsection (1).

23 Administrator may approve environment protection objective

(1) The Administrator may approve a draft environment protection objective submitted to him or her under section 21 or 22.

(2) The Administrator must:

(a) give notice of the approval of an environment protection objective in the *Gazette* and in a newspaper circulating in the Territory; and

(b) specify in the notice the place where copies of the objective may be viewed.

(3) An environment protection objective takes effect:

(a) on the date of notification in the *Gazette* under subsection (2); or

(b) where a later date is provided for in the notice – on the later date.

24 Overlap between national measure and other objective or law

Where:

(a) a draft environment protection objective submitted under section 22 is approved under section 23; and

(b) a law in force in the Territory, including another objective approved under section 23, establishes more stringent requirements than that required by the environment protection objective,

the law in force in the Territory is to apply and the objective referred to in paragraph (a) is, to the extent of the inconsistency, of no effect.

25 Objectives to be available to public

The Minister must ensure that copies of an environment protection objective are available for viewing at the place specified in the notice in relation to the objective under section 23(2) or section 27(2).

Division 3 Amendment and revocation of objectives

26 Amendment of objectives

This Part applies in relation to the amendment of an environment protection objective as if a reference in this Part to a draft environment protection objective were a reference to a draft amendment of an environment protection objective.

27 Minor amendments to objectives

(1) Notwithstanding section 26, the Minister may approve an amendment to an environment protection objective:

(a) to correct a typographical error; or

(b) to change the wording of a provision of the objective but not so as to change the general intention of the provision.

(2) The Minister must:

(a) give notice of an amendment approved under subsection (1) in the *Gazette* and in a newspaper circulating in the Territory; and

(b) specify in the notice where copies of the amendment may be viewed.

(3) An amendment under subsection (1) takes effect:

(a) on the date of notification in the *Gazette* under subsection (2); or

(b) where a later date is provided for in the notice – on that later date.

28 Procedure for revocation

(1) The Minister may propose that an environment protection objective be revoked.

(2) Where the Minister proposes that an environment protection objective be revoked, he or she may place a notice in a newspaper circulating in the Territory.

(3) A notice under subsection (2) is to specify:

(a) that the Minister proposes that an environment protection objective be revoked;

(b) the reasons for the proposal; and

(c) that members of the public may make submissions in relation to the proposal by a date, specified in the notice, not earlier than 30 days after the date on which the notice appears in the newspaper.

(4) A person may, within the period specified in the notice in accordance with subsection (3)(c), make a submission to the Minister in relation to a proposal to revoke an environment protection objective.

(5) The Minister may submit to the Administrator a proposal to revoke an environment protection objective.

(6) Subject to subsection (7), the Minister may only submit to the Administrator a proposal under subsection (5) if:

(a) notice has been given in accordance with subsection (2); and

(b) the Minister has considered all submissions made under subsection (4) in relation to the proposal.

(7) Subsection (6) does not apply in relation to a proposal to revoke an environment protection objective if:

(a) the environment protection objective was submitted to the Administrator for approval under section 22; and

(b) the national environment protection measure to which the environment protection objective relates has been revoked under the *National Environment Protection Council (Northern Territory) Act 1994.*

29 Revocation of objectives

(1) The Administrator may revoke an environment protection objective in accordance with a proposal submitted to him or her under section 28(5).

(2) The Administrator must give notice of the revocation of an environment protection objective in the Gazette and in a newspaper circulating in the Territory.

(3) A revocation of an environment protection objective takes effect:

(a) on the date of notification in the *Gazette* under subsection (2); or

(b) where a later date is provided for in the notice of revocation – on the later date.

Part 5 Environment protection approvals and licences, best practice licences and emergency authorisations

Division 1 Grant of approvals and licences

30 Where approval or licence required

(1) A person must not, except under an environment protection approval or an emergency authorisation, conduct an activity specified in Part 1 of Schedule 2.

Penalty: environmental offence level 4.

(2) A person must not, except under an environment protection approval or an emergency authorisation, modify or alter premises in or on which an activity specified in Part 1 or 2 of Schedule 2 is conducted or is to be conducted if:

(a) while the modification or alteration is being carried out, there is likely to be:

(i) a significant increase or alteration in the waste generated, stored, treated or disposed of; or

(ii) a significant increase in pollution resulting in environmental harm or the risk of pollution resulting in environmental harm; or

(b) at the premises as modified or altered, there is likely to be:

(i) a significant increase or alteration in the waste generated, stored, treated or disposed of; or

(ii) a significant increase in pollution resulting in environmental harm or the risk of pollution resulting in environmental harm.

Penalty: environmental offence level 4.

(3) A person must not, except under an environment protection licence, a best practice licence or an emergency authorisation, conduct an activity specified in Part 2 of Schedule 2.

Penalty: environmental offence level 4.

(4) Subsections (1) and (2) do not apply in relation to the maintenance of premises in or on which an activity specified in Part 1 or 2 of Schedule 2 is conducted or is to be conducted.

(5) The NT EPA may, by notice in writing, declare that subsection (1) or (2) does not apply in relation to an activity specified in Part 1 of Schedule 2 conducted at specified premises if a development permit has been granted under section 53 of the Planning Act in relation to the activity.

(6) The NT EPA may, by notice in writing, declare that subsection (1), (2) or (3) does not apply in relation to premises or an activity if satisfied that the risk of environmental harm resulting from pollution from the premises or arising from the activity is insignificant.

31 Application for approvals and licences

(1) A person may apply to the NT EPA for the grant of:

(a) an environment protection approval;

(b) an environment protection licence; or

(c) a best practice licence.

(2) An application under subsection (1) is to be in the approved form accompanied by the prescribed fee, if any.

(3) An application under subsection (1) may relate to:

(a) more than one activity specified in Schedule 2; or

(b) an activity specified in Schedule 2 that is to be conducted at more than one location.

(4) An application under subsection (1) is to be accompanied by information to enable the NT EPA to assess the environmental risks associated with the activity specified in Schedule 2 to which the application relates.

(5) The NT EPA may request an applicant under subsection (1) to provide it with further information to enable the NT EPA to assess the environmental risks associated with the activity specified in Schedule 2 to which the application relates.

32 Matters to be considered in granting approvals and licences

(1) In determining whether to grant an environment protection approval, environment protection licence or best practice licence, the NT EPA must have regard to:

(a) the objectives of this Act;

(b) all relevant environment protection objectives;

(c) a relevant compliance plan or performance agreement;

(d) the siting, design and layout of the premises;

(e) the sensitivity of the surrounding land use and environment;

(g) the results of an environmental audit, if any, submitted as required under section 48 or 49; and

(h) best practice environmental management for the particular activity specified in Schedule 2 to which it is intended the approval or licence is to relate.

(1A) If an activity or a proposed activity is required to be referred to the NT EPA under Part 4, Division 3 of the *Environment Protection Act 2019*, the NT EPA must not grant an environment protection approval or an environment protection licence or a best practice licence in relation to that activity or proposed activity unless:

(a) the NT EPA has determined that an environmental impact assessment is not required under that Act for that activity; or

(b) if the NT EPA has determined that an environmental impact assessment is required – an environmental approval has been granted under that Act for that activity; or

(c) the *Environment Protection Act 2019* otherwise permits the granting of the environment protection approval or environment protection licence or best practice licence.

(2) The NT EPA must, before granting an environment protection approval, environment protection licence or best practice licence, consult with and have regard to the requirements of or comments from:

(a) all Agencies that, in the opinion of the NT EPA, have functions in relation to waste management or pollution that are relevant to the application;

(b) all prescribed persons, offices and bodies that have functions in relation to waste management or pollution that are relevant to the application; and

(c) any other persons the NT EPA thinks fit.

33 Additional matters to be considered in granting best practice licence

The NT EPA must not grant a best practice licence to a person unless the NT EPA is satisfied that, in relation to the activity specified in Schedule 2 to which the application relates, the person:

(a) has during the 2 years immediately preceding the application under section 31, complied with this Act;

(b) is implementing a program of voluntary environmental audits;

(c) has implemented or is implementing an improvement plan;

(d) is implementing a system for environmental management;

(e) is implementing a program for reporting to the community, and involving the community in, environmental performance and management; and

(f) has complied with the prescribed requirements, if any.

34 Grant of approvals and licences

(1) The NT EPA may grant or refuse to grant an environment protection approval or a licence.

(2) An environment protection approval or a licence is to be in the approved form.

(3) The NT EPA may grant an environment protection approval or a licence relating to:

(a) more than one activity specified in Schedule 2; or

(b) an activity specified in Schedule 2 that is to be conducted at more than one premises or location.

Division 2 Conditions of approvals and licences

35 Conditions of approvals and licences

(1) An environment protection approval or a licence is subject to the conditions the NT EPA thinks fit and specifies on it.

(2) The NT EPA must have regard to the matters specified in section 32(1)(a) to (h) (inclusive) in determining the conditions to impose on an environment protection approval or a licence.

(3) Without limiting the generality of subsection (1), the conditions that may be imposed on an environment protection approval or a licence include, but are not limited to:

(a) a condition requiring the provision of a financial assurance in pursuance of section 36; and

(b) a condition that the holder of the environment protection approval or the licence must, within the specified period, if any:

(i) achieve specified results necessary to effectively manage wastes or control pollution;

(ii) conform to specified standards in the conduct of an activity;

(iii) carry out specified measures that are necessary to effectively manage wastes, prevent, reduce, control, rectify or clean up pollution or environmental harm resulting from pollution or to protect the environment;

(iv) carry out specified testing or monitoring;

(v) provide the results of specified testing or monitoring to the NT EPA;

(vi) provide specified information to the NT EPA; and

(vii) prepare, review, update or implement a plan for environmental management to the satisfaction of the NT EPA and make, as specified, all or part of the plan available for public viewing.

36 Conditions relating to financial assurances

(1) The NT EPA may impose on:

(a) an environment protection approval; or

(b) a licence,

a condition that the holder of the environment protection approval or a licence must provide to the NT EPA a specified financial assurance of a specified amount within a specified time.

(2) A financial assurance may be by way of:

(a) ADI guarantee, bond or insurance policy; or

(b) other security approved by the NT EPA.

(3) The NT EPA may not impose a condition referred to in subsection (1) on an environment protection approval or a licence unless satisfied that:

(a) the condition is justified by the degree of risk of pollution causing environmental harm posed by the activity to which the environment protection approval or the licence relates;

(b) the condition is justified by the likelihood of action being required to be taken to prevent, minimise or make good environmental damage resulting from the activity to which the environment protection approval or the licence relates; or

(c) the applicant for the environment protection approval or the licence has on one or more occasions contravened or failed to comply with this Act in relation to the activity to which the environment protection approval or the licence relates and the condition is justified by the nature, number or frequency of the contraventions or failures to comply.

(4) The NT EPA may not specify a total amount of a financial assurance that is greater than the amount that would, in the NT EPA's opinion, be required to cover the likely costs of preventing, minimising or making good environmental damage that may result from the activity to which the environment protection approval or the licence relates.

(5) A financial assurance is to be provided:

(a) for the period specified on the environment protection approval or the licence unless:

(i) the condition imposing the financial assurance is revoked;

(ii) the financial assurance is discharged; or

(iii) the environment protection approval or licence is revoked, surrendered or transferred; or

(b) where no period is specified on the environment protection approval or licence, until:

(i) the condition imposing the financial assurance is revoked;

(ii) the financial assurance is discharged; or

(iii) the environment protection approval or the licence is revoked, surrendered or transferred.

(6) A condition may require that a financial assurance extend beyond the period of the environment protection approval or licence to which the condition relates.

37 Application to amend or revoke conditions

(1) A person may apply to the NT EPA for an amendment to, or a revocation of, a condition of an environment protection approval or a licence.

(2) An application is to be in the approved form accompanied by the prescribed fee, if any.

Note for section 37

For an administrative amendment to a condition, see section 46AA.

38 Amendment or revocation of conditions

(1) The NT EPA may:

(a) amend a condition of an environment protection approval or a licence; or

(b) subject to section 36, impose a new condition on an environment protection approval or a licence.

(2) The NT EPA may only amend a condition or impose a new condition if:

(a) the amendment or condition is requested by the holder of the approval or licence;

(b) the holder of the approval or licence has contravened or failed to comply with a provision of this Act;

(c) there is a risk of pollution resulting in material environmental harm or serious environmental harm;

(d) it is necessary or desirable for the purposes of an environment protection objective;

(e) the NT EPA is permitted or required to do so by or under this Act;

(f) a licence has been or is to be downgraded or upgraded under section 44; or

(g) the approval or licence is to be transferred.

(3) The NT EPA may revoke a condition of an environment protection approval or a licence as it thinks fit.

(4) The NT EPA must have regard to:

(a) the matters specified in section 32(1); and

(b) in relation to a best practice licence – the matters specified in section 33,

in determining whether to amend or revoke a condition or to impose a new condition on an approval or licence.

(5) The NT EPA must give notice of the amendment or revocation of a condition of, or the imposition of a new condition on, an environment protection approval or a licence to the holder of the approval or licence.

(6) An amendment or a revocation of a condition under subsection (1) or (3), and the imposition of a new condition under subsection (1), takes effect:

(a) on the date on which notice is given to the person under subsection (5); or

(b) where a later date is provided for in the notice – on the later date.

Division 3 Miscellaneous matters

39 Person must comply with approval or licence

(1) The holder of an environment protection approval or a licence must not intentionally contravene or fail to comply with the environment protection approval or licence.

Penalty: environmental offence level 3.

(2) The holder of an environment protection approval or a licence must not contravene or fail to comply with the approval or licence.

Penalty: environmental offence level 4.

40 Duration and renewal of licences

(1) Subject to this Act, a licence or a renewal of a licence remains in force for the period specified in it by the NT EPA.

(2) An application for the renewal of a licence is to be:

(a) made to the NT EPA within the prescribed period before the licence expires;

(b) in the approved form; and

(c) accompanied by the prescribed fee (if any).

(3) The NT EPA may, on receipt of an application in accordance with subsection (2), renew a licence.

(4) A licence may be renewed subject to the conditions the NT EPA thinks fit, including but not limited to:

(a) the conditions specified on the licence as originally granted or last renewed; and

(b) any other conditions specified in section 35 and 36.

(5) In determining:

(a) whether to renew a licence; and

(b) the conditions, if any, to be placed on a licence that is to be renewed,

the NT EPA is to have regard to the matters it thinks fit including, but not limited to:

(c) whether the holder of the licence has contravened or failed to comply with a provision of this Act;

(d) the extent to which the holder of the licence has complied with a pollution abatement notice issued to him or her;

(e) the extent to which the holder of the licence has complied with the lawful directions of an authorised officer;

(f) the matters specified in section 32(1); and

(g) in the case of a best practice licence – the matters specified in section 33.

41 Duration of approval

(1) An environment protection approval permitting the construction or installation of, or the carrying out of works in relation to, premises remains in force until:

(a) a licence comes into force in relation to the premises; or

(b) the period specified on the approval expires,

whichever occurs first.

(2) An environment protection approval permitting the modification or alteration of premises remains in force until the expiry of the period specified on the approval.

(3) A person may apply in the approved form to the NT EPA for an extension or reduction of the period specified on an approval or to which an approval is subject under subsection (4) and the NT EPA may, by notice in writing, extend or reduce the period accordingly.

(4) In a case to which subsection (1) or (2) does not apply, an approval remains in force until 2 years after the date on which the approval is granted.

42 Annual fee

(1) The holder of:

(a) an environment protection licence; or

(b) a best practice licence,

that is granted for a period of 2 years or more must pay the annual fee, if any, determined under subsection (2) and specified on the licence in respect of each year or part of a year that the licence remains in force.

(2) For the purposes of subsection (1), the Regulations may prescribe:

(a) the amount of an annual fee for a type of licence, type of activity or both; or

(b) the method of calculating an annual fee for a type of licence, type of activity or both.

(3) The annual fee payable in relation to a licence is due and payable:

(a) if the fee is for the first year – on the grant of the licence; and

(b) if the fee is for a subsequent year or part of a year – on the date specified on the licence as the date by which the fee is payable.

(5) If a person has not paid an annual fee on or before the due date, the NT EPA may notify the person in writing that unless the fee is paid by a specified date the person's licence may be suspended.

(5A) The date specified in a notice under subsection (5) must be at least 14 days after the date of the notice.

(6) If the holder of a licence has paid the annual fee payable in relation to the licence in respect of a particular year and the licence is downgraded or upgraded within the meaning of section 44 during the year, the holder of the licence is to be taken to have paid the correct fee for the licence as downgraded or upgraded in respect of that year.

43 Notification of ceasing to conduct licensed activity and surrender of licence

(1) The holder of a licence must, within 14 days after ceasing to conduct the activity to which the licence relates, notify the NT EPA accordingly.

Penalty: environmental offence level 4.

(2) Subsection (1) does not apply to a holder of a licence where the NT EPA has approved under section 46 the transfer of the licence to another person.

(3) The holder of a licence may, with the approval of the NT EPA, surrender the licence to the NT EPA.

44 Best practice licence may be downgraded to environment protection licence, &c.

(1) The NT EPA may downgrade a best practice licence if satisfied that:

(a) a requirement specified in section 33 has not been complied with; or

(b) a condition of the best practice licence has not been complied with.

(2) The NT EPA must give notice of the downgrading of a best practice licence to the holder of the licence.

(3) Where a best practice licence is downgraded under subsection (1), the licence is to be taken, on and from the date on which notice is given under subsection (2), to be an environment protection licence subject to the same conditions as those imposed on the best practice licence.

(4) The NT EPA may upgrade to a best practice licence an environment protection licence that was downgraded under subsection (1) if satisfied that:

(a) the requirement specified in section 33 that was not complied with has been complied with;

(b) the condition of the best practice licence that was not complied with has been complied with; and

(c) the requirements of section 33, other than the requirement specified in section 33(a), have been complied with.

(5) The NT EPA must give notice of the upgrading of an environment protection licence to the holder of the licence.

(6) Where an environment protection licence is upgraded under subsection (4), the licence is to be taken, on and from the date on which notice is given under subsection (5), to be a best practice licence subject to the same conditions as those imposed on the environment protection licence.

45 Suspension and cancellation of licences

(1) The NT EPA may, in writing:

(a) suspend a licence for a period specified in the notice under subsection (3); or

(b) cancel a licence,

if satisfied that:

(c) the holder of the approval or licence has not complied with a provision of this Act; or

(d) there is a risk of pollution resulting in material environmental harm or serious environmental harm.

(2) If a person has not paid an annual fee required under section 42 by the date specified in a notice under section 42(5), the NT EPA may suspend the licence to which the fee relates until:

(a) the annual fee is paid; or

(b) arrangements to the satisfaction of the NT EPA for the payment of the fee are made.

(3) The NT EPA must give notice of the suspension or cancellation of a licence to the holder of the licence.

(4) A suspension or cancellation of a licence under subsection (1) takes effect:

(a) on the date on which notice is given to the person under subsection (3); or

(b) where a later date is provided for in the notice – on the later date.

46 Transfer of environment protection approval or environment protection licence

(1) The holder of an environment protection approval or an environment protection licence may apply to the NT EPA to transfer the approval or licence to another person.

(2) An application under subsection (1) is to be:

(a) in the approved form;

(b) accompanied by the approval document or licence document to be transferred; and

(c) accompanied by the prescribed fee, if any.

(3) The NT EPA may approve, or refuse to approve, an application under subsection (1).

(4) Where the NT EPA approves an application under subsection (1), the NT EPA is to:

(a) give notice in writing to the transferor and the transferee; and

(b) replace the approval document or licence document issued to the transferor with a new approval document or licence document in the transferee's name.

(5) The transfer of an environment protection approval or a licence under subsection (3) takes effect:

(a) on the date on which notice is given to the transferor and transferee under subsection (4)(a); or

(b) where a later date is provided for in the notice – on the later date.

46AA Administrative amendment to environment protection approval or licence

(1) The NT EPA may make an administrative amendment to an environment protection approval or a licence on the NT EPA's own initiative or at the request of the holder of the approval or licence.

(2) The NT EPA must give notice of the administrative amendment to the holder of the environment protection approval or licence.

(3) The administrative amendment takes effect on the day on which the notice is given.

(4) Sections 37 and 38 do not apply in relation to an administrative amendment.

(5) In this section:

administrative amendment means an amendment:

(a) correcting a clerical error; or

(b) correcting an error arising from an omission, a material mistake in a calculation or in the description of any person, thing or matter; or

(c) removing duplicate or conflicting material; or

(d) clarifying any matter.

Division 3A Emergency authorisation

46A Emergency authorisation

(1) Despite Divisions 1, 2 and 3, the Minister may authorise a person to conduct an activity specified in Schedule 2 if the Minister considers it appropriate for the purposes of an emergency situation (an ***emergency authorisation***).

(2) An emergency authorisation must be in writing and specify the following information:

(a) the activity to be conducted;

(b) the location at which the activity is to be conducted;

(c) any conditions the Minister considers appropriate for conducting the activity;

(d) the period during which the authorisation is to be in force.

(3) The emergency authorisation remains in force for the period specified in the authorisation regardless of whether the emergency situation still exists.

(4) In this section:

emergency situation means the following:

(a) an emergency situation under section 18 of the *Emergency Management Act 2013*;

(b) a state of emergency under section 19 of the *Emergency Management Act 2013*;

(c) a state of disaster under section 21 of the *Emergency Management Act 2013*.

46B Person must comply with emergency authorisation

(1) A person commits an offence if:

(a) the person is authorised under an emergency authorisation to conduct an activity specified in Schedule 2; and

(b) the person intentionally contravenes the emergency authorisation.

Penalty: environmental offence level 3.

(2) A person commits an offence if:

(a) the person is authorised under an emergency authorisation to conduct an activity specified in Schedule 2; and

(b) the person contravenes the emergency authorisation.

Penalty: environmental offence level 4.

Part 6 Environmental audits

47 Environmental audits

An environmental audit is an evaluation of any of the following:

(a) the ability of management systems to manage waste or prevent, reduce, control, rectify or clean up pollution or environmental harm resulting from pollution;

(b) the extent to which actions required to be taken, or results required to be achieved, for waste management or the prevention, reduction, control, rectification or clean up of pollution or environmental harm resulting from pollution have been taken or achieved;

(c) the extent, nature and source of wastes generated by an activity, premises or process;

(d) the likelihood of waste management problems or pollution resulting in environmental harm occurring and the adequacy of safeguards in place to prevent their occurrence or limit their impact on the environment;

(e) the extent to which compliance with this Act, the *Water Act 1992* or a code of practice has been achieved;

(f) the types, amount, distribution or mobility of contaminants or waste present in the environment.

48 NT EPA may require environmental audit program to be carried out

(1) The NT EPA may, by notice in writing to a person, including but not limited to a person who:

(a) is required to hold an environment protection approval or a licence; or

(b) has been issued with a pollution abatement notice,

require him or her to carry out the environmental audit program specified in the notice.

(2) An environmental audit program in a notice under subsection (1) is to specify:

(a) the environmental audits to be performed under the program;

(b) the activities, operations, premises or locations to which the environmental audits are to relate;

(c) the date or dates by which the environmental audits are to be performed or the frequency with which and the period during which the environmental audits are to be performed; and

(d) the date or dates by which results of the environmental audits performed under the program are to be submitted to the NT EPA or the frequency with which or the period in which the results are to be so submitted.

(3) A notice under subsection (1) may specify conditions or other matters relating to the conduct of the environmental audit program that the NT EPA thinks fit.

(4) A notice under subsection (1) is to specify the reasons for the requirement to carry out the environmental audit program specified in the notice.

49 Court may order environmental audit program to be carried out

(1) Where a person is found guilty of an offence against this Act, the Court may, on the application of the prosecutor, order the person to carry out the environmental audit program specified in the order.

(2) An order under subsection (1) may be made in addition to or instead of any other punishment that the Court may impose.

(3) Where the prosecutor makes an application under subsection (1), he or she is to provide to the Court an environmental audit program, approved by the NT EPA, for the Court's consideration.

(4) An order under subsection (1) is to specify:

(a) the environmental audits to be performed under the program;

(b) the activities, operations, premises or locations to which the environmental audits are to relate;

(c) the date or dates by which the environmental audits are to be performed or the frequency with which and the period during which the environmental audits are to be performed; and

(d) the date or dates by which results of the environmental audits performed under the program are to be submitted to the NT EPA or the frequency with which or the period in which the results are to be so submitted.

(5) An order under subsection (1) may specify conditions or other matters relating to the conduct of the environmental audit program that the Court thinks fit.

50 Amendment and revocation of environmental audit programs

(1) The NT EPA may, in writing, amend or revoke an environmental audit program it has required the person to carry out under section 48.

(2) The NT EPA must give notice of the amendment or revocation of an environmental audit program to the person required to carry out the program.

(3) Where the NT EPA amends an environmental audit program it must specify in the notice under subsection (2) the reasons for amending the program.

(4) An amendment or revocation under this section takes effect:

(a) on the date on which the notice is given to the person under subsection (2); or

(b) where a later date is provided for in the notice – on the later date.

51 Performance and reporting under program

(1) A person must comply with a notice under section 48.

Penalty: environmental offence level 4.

(2) A person is not to be taken to have submitted results to the NT EPA in accordance with an environmental audit program unless he or she submits with the results:

(a) a statutory declaration signed by him or her stating that he or she has provided all relevant information to the auditor and has not provided to the auditor information that the person knows or suspects to be false or misleading; and

(b) a statutory declaration signed by the auditor stating that the results are accurate to the best of his or her knowledge or belief and that he or she has not included in the results information that he or she knows or suspects to be false or misleading or failed to include in the report information that he or she knows to be relevant.

52 Offences

(1) The person required to carry out an environmental audit program must provide to the auditor all information that is relevant to the audit.

Penalty: environmental offence level 3.

(2) A person must not provide to an auditor information that the person knows to be false or misleading in a material particular.

Penalty: environmental offence level 3.

(3) A person required to carry out an environmental audit program must not submit under section 51 results or information that he or she knows to be false or misleading in a material particular.

Penalty: environmental offence level 3.

(4) An auditor:

(a) must not provide to a person required to carry out an environmental audit program results or information relating to an environmental audit if he or she knows the results or information to be false or misleading in a material particular; and

(b) must provide to a person required to submit results under section 51 all information relevant to the audit to which the results relate.

Penalty: environmental offence level 3.

53 Audit results may be placed on register

The NT EPA may include in the register kept under section 9 the results of an environmental audit performed under an environmental audit program.

54 Voluntary environmental audit results are privileged

(1) The results of a voluntary environmental audit are not admissible as evidence in proceedings for an offence against this Act.

(2) Nothing in subsection (1) relieves a person from the requirement to provide to the NT EPA results of testing or monitoring where required to do so:

(a) by or under this Act or a code of practice; or

(b) by virtue of an obligation to notify the NT EPA under section 14.

(3) Nothing in subsection (1) prevents the seizure and use of the results of a voluntary environmental audit for the purpose of administering this Act.

(4) Subsection (1) does not apply in relation to the results of a voluntary environmental audit if the person relies or attempts to rely on the results in proceedings for an offence against this Act.

Part 7 Compliance plans

55 Purpose of compliance plans

The purpose of a compliance plan is to enable a person who, for reasons satisfactory to the NT EPA, is or will be unable to comply with a provision of the Regulations or of an environment protection objective to enter into a compliance plan that, through requiring the implementation in stages of improvements in waste management and the prevention, reduction, control, rectification or clean up of pollution or environmental harm resulting from pollution, will enable at the conclusion of the program the person to comply with the provision.

56 Contents of compliance plans

A compliance plan is a plan that:

(a) specifies the person responsible for implementing the plan;

(b) describes the premises or activity to which the plan applies;

(c) specifies the provision of the Regulations, or of an environment protection objective, to which the plan applies;

(d) details the practical difficulties in complying with the provision specified in accordance with paragraph (c);

(e) specifies the period within which the person is required to achieve compliance, being a period that ends no later than 5 years after the commencement of the provision specified in accordance with paragraph (c);

(f) details a program for achieving compliance within the period specified in accordance with paragraph (e); and

(g) provides for the monitoring of compliance with the plan and reporting of the monitoring results to the NT EPA.

57 Voluntary compliance plans

(1) A person may submit to the NT EPA a draft compliance plan if he or she:

(a) conducts an activity; and

(b) is of the opinion that it is not practicable to comply with a provision of the Regulations, or of an environment protection objective, that came into effect after the commencement of the activity.

(2) A draft compliance plan submitted to the NT EPA under subsection (1) is not admissible as evidence in proceedings for an offence against the provision of the Act specified in the plan in accordance with section 56(c).

58 NT EPA may require compliance plan

(1) The NT EPA may, by notice in writing to:

(a) a person required to hold a licence;

(b) a person who has been issued with a pollution abatement notice; or

(c) a person who has submitted under section 51 results of an environmental audit carried out under an environmental audit program,

require the person to submit to the NT EPA a draft compliance plan on or before the date specified in the notice.

(2) A person must comply with a notice under subsection (1).

Penalty: environmental offence level 4.

59 Court may order compliance plan

(1) Where a person is found guilty of an offence against this Act, the Court may, on the application of the prosecutor, order the person to prepare and submit to the NT EPA, before the date specified in the order, a draft compliance plan in relation to a provision of the Regulations or of an environment protection objective specified in the order.

(2) An order under subsection (1) may be made in addition to or instead of any other punishment that the Court may impose.

60 Matters to be taken into account in determining whether to approve compliance plan

(1) The NT EPA must, in determining whether to approve or refuse to approve a draft compliance plan under section 61, take into consideration:

(a) the objectives of this Act specified in section 5;

(b) all relevant environment protection objectives;

(c) best practice environmental management for the activity to which the draft compliance plan relates;

(d) the potential environmental consequences of delayed compliance with the provision specified in accordance with section 56(c); and

(e) the public interest.

(2) The NT EPA must not approve a draft compliance plan under section 61 unless satisfied that, in all the circumstances, it is impracticable for the person who submitted the draft compliance plan to comply with the provision specified in accordance with section 56(c) in the draft compliance plan.

61 Approval of compliance plans

(1) Where a draft compliance plan is submitted to the NT EPA under this Part, the NT EPA may approve or refuse to approve it.

(2) The NT EPA must notify the person who submitted the draft compliance plan of the NT EPA's decision under subsection (1).

(3) Where the NT EPA refuses under subsection (1) to approve a draft compliance plan, the NT EPA must specify in the notice under subsection (2) the reasons for the refusal.

(4) Where the NT EPA refuses under subsection (1) to approve a draft compliance plan that was required to be submitted under section 58, an order under section 59 or this subsection, the NT EPA may require in the notice under subsection (2) the person to submit a further draft compliance plan to the NT EPA before the date specified in the notice.

(5) A person required to prepare and submit a further draft compliance plan by a notice in accordance with subsection (4) must comply with the notice.

Penalty: environmental offence level 4.

(6) The NT EPA may prepare and approve a draft compliance plan in relation to a person where:

(a) the person has failed to submit a draft compliance plan he or she was required to submit to the NT EPA under section 58 or an order under section 59 or by a notice under subsection (2); or

(b) the person has submitted to the NT EPA 3 or more draft compliance plans he or she was required to submit to the NT EPA under section 58 or under an order under section 59 or by a notice under subsection (2) and the NT EPA has refused to approve all of them.

(7) The NT EPA must notify in writing the person in relation to whom a draft compliance plan is approved under subsection (6) of the approval and provide a copy of the compliance plan to him or her.

(8) The costs of preparing a draft compliance plan under subsection (6) are a debt due and payable by the person to whom the plan relates.

62 Effect of compliance plans

Proceedings against a person to whom a compliance plan relates for an offence against this Act cannot be instituted if:

(a) the alleged offence is an offence against the provision of the Act specified in the plan in accordance with section 56(c); and

(b) the person is complying with the compliance plan.

63 Offences in relation to compliance plans

(1) A person to whom a compliance plan relates must not intentionally contravene or intentionally fail to comply with the compliance plan.

Penalty: environmental offence level 3.

(2) A person to whom a compliance plan relates must not contravene or fail to comply with the compliance plan.

Penalty: environmental offence level 4.

64 Amendment and revocation of compliance plans

(1) The NT EPA may, on application by a person to whom the compliance plan relates or on the NT EPA's own initiative, amend in writing a compliance plan.

(2) Notwithstanding subsection (1), the NT EPA may not amend a compliance plan submitted under section 57 without the consent of the person to whom the compliance plan relates.

(3) In determining whether to amend a compliance plan, the NT EPA must take into account the matters specified in section 60(1).

(4) The NT EPA may not amend a compliance plan so that the day by which compliance with the provision specified in the compliance plan in accordance with section 56(c) is to be achieved is more than 5 years after the commencement of the provision specified.

(5) A person to whom a compliance plan relates may apply in the approved form to the NT EPA for an amendment to the compliance plan.

(6) The NT EPA may revoke a compliance plan if satisfied that the compliance plan has not been or is not being complied with.

(7) The NT EPA must give notice of the amendment or revocation of a compliance plan to the person to whom the compliance plan relates.

(8) A notice under subsection (7) is to specify the reasons why the NT EPA amended or revoked the compliance plan.

(9) An amendment or revocation of a compliance plan takes effect:

(a) on the date on which the notice of amendment or revocation is given to the person under subsection (7); or

(b) where a later date is provided for in the notice – on the later date.

65 NT EPA to notify of approval of compliance plan

The NT EPA is to notify the public of the approval, amendment or revocation of a compliance plan by notice in the *Gazette* and in a newspaper circulating in the Territory.

Part 8 Performance agreements

66 NT EPA may enter into performance agreements

(1) The NT EPA may enter into an agreement (in this section called a performance agreement) with a person who is:

(a) conducting an activity that causes, or is likely to cause, pollution resulting in environmental harm or that generates or is likely to generate waste; or

(b) the owner or occupier of land that is polluted.

(2) A performance agreement:

(a) is to be in writing;

(b) may provide that the person is to undertake or cause to have undertaken a program specified in the agreement, being a program to protect, restore or enhance the environment or to improve waste management or the prevention, reduction, control, rectification or clean up of pollution or environmental harm resulting from pollution; and

(c) may specify that the Territory is to provide assistance in relation to the performance of the program.

(3) Where the NT EPA enters into a performance agreement with a person, the agreement has effect as a contract binding on the Territory and the person with whom the agreement is entered into.

Part 9 Accreditation

67 Qualified persons to perform environmental audits for programs, &c.

A person must not:

(a) perform an environmental audit for the purposes of an environmental audit program; or

(b) engage in a prescribed activity,

unless the person:

(c) is registered in a register established under section 68; or

(d) is a member of a class of persons exempted in the Regulations from the requirement to be so registered.

Penalty: environmental offence level 4.

68 Register of qualified persons

(1) The NT EPA must cause to be established and maintained a register of:

(a) persons qualified to perform environmental audits for the purposes of an environmental audit program; or

(b) persons qualified to engage in a prescribed activity.

(2) A person who is qualified to perform environmental audits for the purposes of an environmental audit program or to engage in another activity that is prescribed may:

(a) in the approved form; and

(b) on payment of the prescribed fee in relation to the activity,

apply to the NT EPA to be registered in a register established under subsection (1).

(3) The NT EPA may register in a register maintained under subsection (1):

(a) a qualified person who has applied under subsection (2) to be registered; or

(b) a class of persons specified in the register, where the NT EPA is of the opinion that the members for the time being or from time to time of the class of persons should be registered by virtue of qualifications or experience.

(4) Where the NT EPA registers a person under subsection (3)(a):

(a) the NT EPA must notify the person of the registration and the period of the registration; and

(b) subject to this section, the registration remains in force for the period specified in the notice under paragraph (a).

(5) The NT EPA, or a court, may cancel or suspend the registration of a person under this section if the person is found guilty of an offence against this Act.

(6) The NT EPA must:

(a) cancel the registration of a person registered under subsection (3)(a); and

(b) cancel the registration of members of a class of persons registered in the register under subsection (3)(b),

if the NT EPA ceases to be satisfied that the person or class of persons should be registered by virtue of qualifications or experience.

69 Qualifications for registration

(1) For the purposes of section 68(3)(a), a person is only to be taken to be qualified to perform an environmental audit for the purposes of an environmental audit program or to perform a prescribed activity if he or she:

(a) has successfully completed a relevant training course approved by the NT EPA at an educational institution approved by the NT EPA;

(b) is accredited by a body or organisation approved by the NT EPA; or

(c) is a person, or is a member of a class of persons, who or which the NT EPA has approved under subsection (2).

(2) The NT EPA may approve in writing a person or a class of persons for the purposes of subsection (1)(c) where the NT EPA is of the opinion that the person or class of persons should be regarded as qualified by virtue of qualifications or experience.

Part 10 Enforcement

Division 1 Authorised officers

70 Authorised officers

(1) The NT EPA may, by notice in the *Gazette*, appoint:

(a) a person to be an authorised officer; or

(b) the members of a class of persons at a particular time or from time to time to be authorised officers,

for the purposes of this Act.

(2) An authorised officer may be appointed on the conditions, if any, the NT EPA specifies in the instrument of appointment.

(3) Where a person appointed under subsection (1) is an employee within the meaning of the *Public Sector Employment and Management Act 1993*, the appointment ceases to have effect when the person ceases to be such an employee.

(4) An authorised officer may resign by written notice delivered to the NT EPA.

71 Identity cards

(1) The NT EPA is to cause to be issued to each authorised officer an identity card, approved by the NT EPA, containing the officer's photograph and signed by the officer and the chairperson of the NT EPA.

(2) A person must, as soon as practicable after ceasing to be an authorised officer, return his or her identity card to the NT EPA.

Penalty: $1,000.

(3) Before performing a function or exercising a power in relation to:

(a) a person; or

(b) land, a vehicle or premises,

the authorised officer must produce his or her identity card to:

(c) the person; or

(d) a person apparently in charge of the land, vehicle or premises,

as the case may be, if the person requests to view the card.

(4) Where a request is made to view the authorised officer's card:

(a) the authorised officer; and

(b) a person authorised by the officer under section 72(1)(q),

is not entitled to perform a function or exercise a power in relation to the person, land, vehicle or premises until the card is produced to the person making the request.

72 Powers of authorised officers

(1) Subject to section 73, an authorised officer may do any of the following:

(a) enter land, a vehicle or premises;

(b) search land, a vehicle or premises and anything found there;

(c) take photographs, including video recordings or make sketches or other records of land, a vehicle or premises or things on or in land, a vehicle or premises;

(d) inspect and take copies of a document as defined in Part 1 of the Dictionary at the end of the *Evidence (National Uniform Legislation) Act 2011*;

(e) measure anything, or take samples of anything, on or in land, a vehicle or premises;

(f) examine or test any equipment, machinery, vehicle or other thing for the purpose of determining whether this Act is being or has been complied with and seize the object for that purpose;

(g) open a package or carton on land, in or on a vehicle or in premises for the purpose of inspecting, or taking a sample of, the contents;

(h) require a person to produce an environment protection approval, licence, environmental audit program, compliance plan, improvement plan or performance agreement, or a copy of such a document, for inspection;

(j) require a person on land, in a vehicle or in premises to provide his or her name and address;

(k) direct a person to prevent, reduce, control, rectify or clean up pollution or environmental harm resulting from pollution or to manage waste on or in land, a vehicle or premises by the method, and within the time, specified in the direction;

(m) require a person to treat a contaminant or waste, or to take specified measures in relation to equipment, a vehicle or premises, by a specified method and within a specified time, so as to reduce environmental harm;

(n) direct a person:

(i) to remove a thing on or in land, a vehicle or premises; or

(ii) to transport and hold a thing at a specified place,

for appraisal, treatment, destruction or other action in accordance with, and within the time specified in, the direction;

(p) require the driver of a vehicle that the officer believes may contain evidence of pollution, a contaminant or waste or of the commission of an offence against the Act:

(i) to stop the vehicle; or

(ii) to move the vehicle to a specified place,

to enable the officer to search it;

(q) authorise a person to provide assistance to an authorised officer in the exercise or performance of the authorised officer's powers or functions under this Act.

(2) Where an authorised officer seizes a thing under this section, the officer must, within 7 days, provide a written receipt that sets out the details of the thing seized to the person the officer believes or suspects to have had possession of the thing immediately before its seizure.

73 Exercise of powers in relation to residential premises

(1) An authorised officer must not enter residential premises except:

(a) with the consent of the owner or occupier of the premises; or

(b) under a search warrant issued under this section.

(2) A justice of the peace who is satisfied, on the application of an authorised officer, that there is reasonable cause to permit the officer to enter residential premises with a view to exercising a

power under section 72 or 74, may issue a warrant in relation to the premises directed to the authorised officer.

(3) A warrant issued under subsection (2) is, for a period of one month from its issue, sufficient authority:

(a) to the authorised officer to whom it is directed and a person authorised under section 72(1)(q) to enter the residential premises specified in the warrant; and

(b) to that authorised officer and that person to exercise in respect of the residential premises specified in the warrant the powers under section 72 or 74.

(4) Where it is impracticable for an authorised officer to apply in person to a justice of the peace for a warrant under subsection (2):

(a) the officer may make the application to a justice of the peace by telephone; and

(b) the justice of the peace may issue the warrant on that application.

(5) Where a justice of the peace issues a warrant under subsection (4):

(a) the justice of the peace is to complete and sign the warrant, inform the authorised officer by telephone of its terms and record on the warrant the justice of the peace's reasons for issuing it; and

(b) the authorised officer must:

(i) complete in duplicate a form of warrant in the terms provided by the justice of the peace;

(ii) write on it the name of the justice of the peaceand the date and time of its issue; and

(iii) forward one of the copies to the justice of the peace.

(6) On receiving the copy referred to in subsection (5)(b), the justice of the peace must:

(a) compare it with the warrant signed by the justice of the peace; and

(b) if satisfied that they are in substance identical, note this fact on the warrant and forward both the warrant and the copy to the NT EPA.

(7) A form of warrant prepared by an authorised officer under subsection (5)(b) has, if it is in substance identical with the terms of the warrant signed by the justice of the peace, the same authority as that of a justice of the peace's warrant issued under subsection (2).

74 Authorised officer may require information

An authorised officer may require a person to provide information that is reasonably necessary for the administration or enforcement of this Act.

75 Self-incrimination

(1) A person is not excused from answering a question, providing information or producing a document where required to do so under this Act on the ground that to do so would tend to incriminate the person.

(2) Where a person (whether a natural person or a body corporate) answers a question, provides information or produces a document where required to do so under section 72 or 74 of this Act:

(a) the answer to the question;

(b) the information provided; or

(c) the document produced,

is not admissible in evidence against the person in proceedings (whether civil or criminal) if it tends to incriminate the person.

76 Obstructing authorised officers

A person must not:

(a) resist or obstruct, or incite or encourage another person to resist or obstruct, an authorised officer or a person lawfully assisting the officer;

(b) use threatening language or behave in a threatening manner towards an authorised officer or a person lawfully assisting the officer;

(c) fail to comply with the lawful requirements of an authorised officer or a person lawfully assisting the officer;

(d) provide to an authorised officer or a person lawfully assisting the officer particulars which are false or misleading in a material respect; or

(e) impersonate or falsely claim to be an authorised officer or falsely claim to be a person lawfully assisting an officer.

Penalty: environmental offence level 4.

Division 2 Pollution abatement notices

77 NT EPA may issue pollution abatement notices

The NT EPA may issue a pollution abatement notice in the approved form to a person who:

(a) the NT EPA believes on reasonable grounds has committed or may commit an offence against section 83 or has contravened or failed to comply with section 12; or

(b) who is the owner or occupier of land that is polluted.

78 Authorised officer may issue pollution abatement notices in emergencies

(1) An authorised officer may issue a pollution abatement notice to a person who:

(a) he or she believes on reasonable grounds has committed or may commit an offence against section 83 or has contravened or failed to comply with section 12; or

(b) is the owner or occupier of land that is polluted,

if the officer is of the opinion that urgent action is required to be taken to protect the environment.

(2) A pollution abatement notice issued under subsection (1) is valid for 72 hours after the time it was issued but may be replaced by a pollution abatement notice issued under section 77.

79 Contents of pollution abatement notices

(1) A pollution abatement notice may require a person, within a specified time:

(a) to comply with a code of practice or to otherwise comply with the general environmental duty specified in section 12;

(b) to comply with a requirement of a provision of this Act, other than such a provision that the person is not required to comply with under a compliance plan;

(c) to prevent an action occurring or continuing to occur, where that action has caused, is causing or may cause pollution resulting in environmental harm; or

(d) to take remedial action to return polluted land as far as possible to a specified condition that the NT EPA thinks appropriate for the protection of the environment or the use of the land.

(2) A pollution abatement notice may require a person:

(a) to perform an action that is not otherwise permitted to be performed by or under this Act; or

(b) to cease to perform an action that the person is otherwise required to perform by or under this Act.

80 Person to comply with abatement notice

(1) A person to whom a pollution abatement notice is issued, and his or her employees and agents, must not intentionally contravene or intentionally fail to comply with the notice.

Penalty: environmental offence level 3.

(2) A person to whom a pollution abatement notice is issued, and his or her employees and agents, must not contravene or fail to comply with the notice.

Penalty: environmental offence level 4.

(3) A person is not liable to prosecution for an offence against this Act by performing or failing to perform an action if the action or failure to act is in pursuance of a pollution abatement notice.

(4) A pollution abatement notice in relation to an object or land remains in force notwithstanding that the person to whom it is issued has ceased to be the owner or lessee of the object or land or the occupier of the land.

81 Memorial of notice to be lodged with Registrar-General

(1) The NT EPA must, as soon as practicable after issuing a pollution abatement notice under section 77 in relation to land, cause to be lodged with the Registrar-General a copy of the notice, and, where the notice does not identify the land to which it relates, information that enables the land to which the notice relates to be identified.

(2) The Registrar-General must record a pollution abatement notice in the Register kept by him or her under the *Land Title Act 2000*.

82 Amendment and revocation of notices

(1) The NT EPA may amend or revoke a pollution abatement notice by notice in writing given to the person to whom the notice was issued.

(2) Where the NT EPA amends or revokes a pollution abatement notice issued under section 77 in relation to land:

(a) the NT EPA must provide a copy of the amendment or revocation to the Registrar-General; and

(b) the Registrar-General must amend or remove, as the case may be, the notice of the pollution abatement notice recorded in accordance with section 81.

Part 11 Offences, penalties and criminal proceedings

Division 1 Offences

83 General environmental offences

(1) A person must not intentionally pollute the environment, where:

(a) serious environmental harm results; and

(b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.

Penalty: environmental offence level 1.

(2) A person must not pollute the environment, where:

(a) serious environmental harm results; and

(b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.

Penalty: environmental offence level 2.

(3) A person must not intentionally pollute the environment, where:

(a) material environmental harm results; and

(b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.

Penalty: environmental offence level 2.

(4) A person must not pollute the environment, where:

(a) material environmental harm results; and

(b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.

Penalty: environmental offence level 3.

(5) A person must not cause an environmental nuisance.

Penalty: environmental offence level 4.

(6) A person must not intentionally cause or permit a contaminant or waste to be stored:

(a) in a manner or condition in which; or

(b) at a place from which,

it is reasonably likely that the contaminant or waste could:

(c) leak, spill, or escape from storage into the environment; and

(d) in leaking, spilling or escaping from storage, cause environmental harm.

Penalty: environmental offence level 3.

(7) A person must not cause or permit a contaminant or waste to be stored:

(a) in a manner or condition in which; or

(b) at a place from which,

it is reasonably likely that the contaminant or waste could:

(c) leak, spill, or escape from storage into the environment; and

(d) in leaking, spilling or escaping from storage, cause environmental harm.

Penalty: environmental offence level 4.

84 Defences to general environmental offence

(1) It is a defence to a prosecution for an offence against section 83 (other than subsection (5) or (7)), if it is proved that the alleged offence did not result from a failure on the defendant's part to exercise reasonable diligence.

(2) It is a defence to a prosecution for an offence against section 83 (other than subsection (5) or (7)) in relation to a particular contaminant or waste if it is proved the defendant complied with:

(a) a provision of an environment protection objective;

(b) a condition of an environment protection approval or a licence; or

(c) a provision of the Regulations,

that fixed maximum allowable levels for the particular contaminant or waste.

(3) Where, but for a defence specified by or under this Act, a person would have been guilty of an offence against section 83 (other than subsection (5) or (7)) the person is, for the purposes of:

(a) the grant, issue or enforcement of an environment protection approval, licence or pollution abatement notice; and

(b) the making of an order under section 97,

to be taken to have contravened or failed to comply with section 83.

85 Alternative verdicts available

In a proceeding for an offence against:

(a) section 83(1), the person charged with the offence may be found guilty alternatively of an offence against section 83(2), (3), (4) or (5);

(b) section 83(2), the person charged with the offence may be found guilty alternatively of an offence against section 83(3), (4) or (5);

(c) section 83(3), the person charged with the offence may be found guilty alternatively of an offence against section 83(4) or (5);

(d) section 83(4), the person charged with the offence may be found guilty alternatively of an offence against section 83(5); or

(e) section 83(6) the person charged with the offence may be found guilty alternatively of an offence against section 83(7).

86 Application of Environmental Offences And Penalties Act

Where in this Act the penalty is specified at the foot of a provision to be an environmental offence level 1, 2, 3 or 4, an offence against the provision is designated to be an environmental offence level 1, 2, 3 or 4, respectively, within the meaning of the *Environmental Offences and Penalties Act 1996*.

87 General penalty and continuing offences

(1) A person who is found guilty of committing an offence against this Act for which no other penalty is prescribed is liable to the penalty that would be payable if the offence were designated to be an environmental offence level 4 within the meaning of the *Environmental Offences and Penalties Act 1996*.

(2) Where a court is satisfied on finding a person guilty of an offence against a provision of this Act that the person continued to contravene, or to fail to comply with, the provision after the date when he or she was notified of the alleged offence, the Court may, in addition to the penalty, if any, specified for the offence, impose a further penalty in respect of each day during which the offence continued to be committed after the first day on which it was committed not exceeding:

(a) where the offence is an environmental offence level 1 – $25,000;

(b) where the offence is an environmental offence level 2 – $10,000;

(c) where the offence is an environmental offence level 3 – $5,000; or

(d) where the offence is an environmental offence level 4 – $500.

88 Regulatory offences

An offence against section 14(1), 30, 39(2), 43(1), 46B(2), 51, 58(2), 61(5), 63(2), 67, 76(c), 80(2), 83(5) or (7) or 112 is a regulatory offence.

89 Confidentiality

A person acting for or on behalf of the Minister or the NT EPA must not disclose information obtained in the course of his or her duties under this Act unless the disclosure is made in the course of those duties.

Penalty: $50,000 or imprisonment for 6 months.

Division 2 Liability in relation to companies, partnerships, &c.

90 Actions, &c., of employee or agent of body corporate are those of body corporate

(1) Where in proceedings for an offence against this Act it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and

(b) that the director, employee or agent had the relevant state of mind.

(2) For the purposes of a prosecution for an offence against this Act, conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority is taken to have been engaged in also by the body corporate.

(3) For the purposes of this section, a reference to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.

91 Criminal liability of executive officer of body corporate

(1) An executive officer of a body corporate commits an offence if the body corporate commits an offence by contravening a declared provision (a ***relevant offence***).

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

(2) An offence against subsection (1) is a regulatory offence.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant:

(a) was not in a position to influence the conduct of the body corporate in relation to the contravention; or

(b) took reasonable steps to prevent the contravention; or

(c) did not know, and could not reasonably have been expected to know, that the contravention would happen.

Note for subsection (3)

A matter mentioned in subsection (3) must be proved on the balance of probabilities – see section 440 of the Criminal Code.

(4) In deciding whether the defendant took (or failed to take) reasonable steps to prevent the contravention, a court must consider the following:

(a) any action the defendant took directed towards ensuring the following (to the extent the action is relevant to the contravention):

(i) the body corporate arranged regular professional assessments of the body corporate's compliance with the declared provision;

(ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);

(iii) the body corporate's employees, agents and contractors had a reasonable knowledge and understanding of the requirement to comply with the declared provision;

(b) any action the defendant took when the defendant became aware that the contravention was, or could be, about to happen.

(5) Subsection (4) does not limit the matters the court may consider.

(6) This section does not affect the liability of the body corporate.

(7) This section applies whether or not the body corporate is prosecuted for, or found guilty of, the relevant offence.

(8) This section does not apply if the body corporate would have a defence to a prosecution for the relevant offence.

(9) In this section:

declared provision means:

(a) section 14(1) or (2), 30(1), (2) or (3), 39(1) or (2), 43(1), 51(1), 52(1), (2), (3) or (4), 63(1) or (2), 80(1) or (2) or 83(1), (2), (3), (4), (5), (6) or (7); or

(b) a provision of the Regulations prescribed by regulation.

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

92 Liability of partners and unincorporated associations

(1) Where a partner commits an offence against this Act, every other partner in the partnership is to be taken to have committed the same offence.

(2) Where a person commits an offence against this Act while engaging in conduct on behalf of an unincorporated association, each member of the committee of management of the association is to be taken to have committed the same offence.

(3) It is a defence to a prosecution for an offence committed by virtue of subsection (1) or (2) if the defendant establishes that:

(a) the person who committed the offence that the defendant is to be taken to have committed under subsection (1) or (2) had, under this Act, a defence to the offence that the defendant is, apart from this subsection, to be taken to have committed;

(b) the act or omission that constituted the offence took place without the defendant's authority, permission or consent;

(c) the defendant did not know, and ought not reasonably be expected to have known, the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence or a similar offence; or

(d) the defendant could not by the exercise of reasonable diligence have prevented the commission of the offence by the person who committed the offence.

(4) A person may be proceeded against and found guilty under a provision in pursuance of subsection (1) or (2) whether or not the person whose offence he or she is to be taken to have committed by virtue of subsection (1) or (2) has been proceeded against or found guilty of an offence against the provision.

(5) Notwithstanding anything in this Act or the *Environmental Offences and Penalties Act 1996*, a person is not liable to be punished by imprisonment for an offence if the person would not have been found guilty of the offence except for subsection (1) or (2).

(6) For the purposes of this section, a reference to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.

93 Liability for employees and agents

(1) For the purposes of a prosecution for an offence against this Act, conduct engaged in on behalf of a person other than a body corporate (in this section called the ***employer***) by an employee or agent of the person within the scope of his or her actual or apparent authority is taken to have been engaged in also by the employer.

(2) An employer may be proceeded against and found guilty under a provision in pursuance of subsection (1), whether or not the employee or agent has been proceeded against or found guilty of an offence against that provision.

(3) It is a defence to a prosecution for an offence committed by virtue of subsection (1) if the defendant establishes that:

(a) the person who committed the offence that the defendant is to be taken to have committed under subsection (1) had, under this Act, a defence to the offence that the defendant is, apart from this subsection, to be taken to have committed;

(b) the act or omission that constituted the offence took place without the defendant's authority, permission or consent;

(c) the defendant did not know, and ought not reasonably be expected to have known, the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence or a similar offence; or

(d) the defendant could not by the exercise of reasonable diligence have prevented the commission of the offence by the person who committed the offence.

(4) Notwithstanding anything in this Act or the *Environmental Offences and Penalties Act 1996*, a person is not liable to be punished by imprisonment for an offence if the person would not have been found guilty of the offence except for subsection (1).

(5) For the purposes of this section, a reference to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.

Division 3 Criminal proceedings

94 Limitation on proceedings

Notwithstanding section 52 of the *Local Court (Criminal Procedure) Act 1928*, a complaint for an offence against this Act may be brought at any time before 12 months after the NT EPA first became aware of the commission of the offence.

95 Notice of defence must be given

A person charged with an offence who intends to rely on a defence specified by or under this Act must give notice in writing of the intention to the prosecutor at least 14 days before the charge is heard.

96 Averments and evidence

(1) In a prosecution for an offence against this Act an averment in a complaint, information or indictment that:

(a) at a specified time, a particular person:

(i) was the owner or occupier of land specified in the complaint, information or indictment;

(ii) was a person to whom an instrument of an administrative character relates; or

(iii) was an employer, employee, or agent of, a specified person;

(b) a specified substance was a contaminant or a waste; or

(c) results referred to in the complaint were results of an analysis carried out by or under the direction of a person specified in the complaint, information or indictment,

is prima facie evidence of the matter so averred.

(2) An authorised officer may give evidence, without the need to call further opinion evidence, that the authorised person formed the opinion based on his or her own senses that:

(a) noise, smoke, dust, fumes or odour was emitted from a place occupied by the defendant, or was so emitted and travelled to a place occupied by a person or where a person lawfully was; and

(b) the level, nature or extent of the noise, smoke, dust, fumes or odour within the place to which it travelled was an unreasonable interference with the person's enjoyment of the place.

(3) Where an authorised officer gives evidence referred to in subsection (2) in relation to a matter, the evidence is prima facie evidence of the matter.

97 Additional court orders where offence proved

Where a person is found guilty of an offence against this Act, the Court may, in addition to any other order that it may make under this Act or the *Sentencing Act 1995*, make any of the following orders:

(a) an order that the offender is to take specified measures within a specified time:

(i) to prevent the offence occurring again; or

(ii) to make good any environmental damage resulting from the offence;

(b) an order requiring the offender to reimburse the costs and expenses incurred by the NT EPA in investigating the offence;

(c) an order requiring the offender to publicise the offence and the environmental consequences in a specified manner.

98 Forfeiture

(1) Where a person is convicted of an offence against this Act, the Court may, on the application of the prosecutor, order that an article used in or in relation to the commission of the offence is forfeited to the Crown and may be kept, sold, destroyed or otherwise disposed of as the Minister thinks fit.

(2) An order under subsection (1) is in addition to, and not in substitution for, any other penalty imposed by a court in relation to the offence.

(3) The Minister must notify in a newspaper circulating in the Territory that:

(a) an article specified in the notice is forfeited under an order made under subsection (1); and

(b) a person, other than the offender, may notify the Minister that he or she has an interest in the article.

(4) Where a motor vehicle within the meaning of the *Motor Vehicles Act 1949* or other prescribed object is forfeited to the Territory under subsection (1), the Minister must:

(a) search the Personal Property Securities Register established under section 147 of the *Personal Property Securities Act 2009* (Cth); and

(b) notify the person who is specified in the register to have an interest in the motor vehicle or prescribed object of the Minister's intention to keep, sell, destroy or otherwise dispose of the motor vehicle or prescribed object.

(5) If a person, other than the person convicted of the offence:

(a) had a legal or equitable interest in the property immediately before the order under subsection (1) was made; and

(b) advises the Minister of that interest,

the Minister must take the interest into account before exercising the power of keeping, selling, destroying or otherwise disposing of the forfeited property.

(6) Where the ownership of an article cannot be determined:

(a) at the time of its seizure under this Act; or

(b) within 90 days after the date of seizure, after reasonable attempts have been made to establish ownership of the property,

the property seized is forfeited to the Crown and may be sold, destroyed or otherwise disposed of as the Minister thinks fit.

99 Enforcement agency for *Fines and Penalties (Recovery) Act 2001*

The NT EPA is an enforcement agency for the purposes of the *Fines and Penalties (Recovery) Act 2001.*

Part 12 Miscellaneous

Division 1 Liabilities

100 Territory may compensate for damage

Notwithstanding section 107, where a person exercises a power or performs a function under this Act in good faith and damage is

caused as a result, the Minister may, at the Minister's discretion, pay the amount the Minister thinks fit in full or partial compensation for the damage to the person who appears to the Minister to have suffered the damage.

101 Costs of taking action to be debt due and payable

(1) Where a person does an act that is prohibited, or fails to do an action the person is required to do, by or under this Act, the NT EPA may cause to be carried out works or acts that are, in the opinion of the NT EPA, necessary to:

(a) prevent pollution, or environmental harm resulting from pollution, that is caused by the person's action or failure to act; or

(b) clean up pollution likely to have been caused by the person's action or failure to act and rectify environmental harm arising from pollution likely to have been caused by that action or failure.

(2) A person authorised in writing by the NT EPA to carry out works or acts for the purposes of subsection (1) in premises or on land on behalf of the NT EPA may enter the premises (unless they are residential premises) or land and carry out the works or acts.

(3) The amount of the expense incurred by the Territory in carrying out works or acts under subsection (1) is a debt due and payable to the Territory by the person whose action or failure caused or was likely to have caused the pollution or environmental harm.

102 Debts due to Territory, &c.

(1) Where a debt is payable to the Territory under this Act:

(a) the debt is to bear interest at the rate determined by the NT EPA by notice in the *Gazette*;

(b) the debt may be recovered, together with that interest, as a debt due to the Territory; and

(c) where the debt was incurred by the debtor in relation to acts performed or not performed on land owned by the debtor – the debt is a statutory charge, within the meaning of the *Land Title Act 2000*, on the land.

(2) Where under this Act 2 or more persons are liable for a debt to the Territory, they are jointly and severally liable for the whole debt.

(3) A person who under this Act is liable for a debt may recover contribution from another person who is likewise liable, either by joining that other person as a party in an action brought by the Territory to recover the debt or by bringing a separate action in a court of competent jurisdiction.

(4) A court hearing a claim for contribution under subsection (3) must consider the relative benefit to each party of the works or action under subsection 101(1) or 103(1) that gave rise to the debt and may make an order as to contribution and as to costs as it thinks fit.

103 Claims against financial assurances

(1) The NT EPA or a person authorised by the NT EPA may take action necessary to prevent, minimise or make good environmental damage that results from or may result from a contravention of or a failure to comply with an environment protection approval or a licence, where it is a condition of the approval or licence that a financial assurance is to be provided.

(2) The cost of performing an action under subsection (1) may be recovered by the NT EPA by making a claim on, utilising or realising the financial assurance in relation to the environment protection approval or the licence.

(3) Costs may be recovered in accordance with subsection (2) even though the costs, or part of the costs, can be attributed to actions taken, or a failure to take action, at a time before the financial assurance was provided to the NT EPA.

(4) Where the NT EPA intends to claim, utilise or realise the financial assurance, the NT EPA must notify in writing the person required to hold the assurance of:

(a) the reason for claiming, utilising or realising the financial assurance;

(b) the actions proposed to be taken under subsection (1); and

(c) the amount of the financial assurance that is to be claimed, utilised or realised.

(5) The holder of an environment protection approval or a licence in relation to which notice is given under subsection (4) may, within 30 days after the notice is given, make representations to the NT EPA in relation to the notice.

(6) The NT EPA may claim, utilise or realise a financial assurance if it has:

(a) notified under subsection (4) the person required to hold the assurance;

(b) considered the submission, if any, made under subsection (5) by the person; and

(c) notified the person of his or her decision to claim, utilise or realise the financial assurance.

(7) Where the amount recovered by the NT EPA by a claim on or by utilising or realising a financial assurance is less than the reasonable costs and expenses that are incurred by the NT EPA or on the NT EPA's behalf, the NT EPA may by notice in writing require the person required to provide the assurance to pay the amount specified in the notice by the time specified in the notice.

(8) The amount specified under subsection (7) is to be the difference between the costs and expenses claimed, utilised or realised under the financial assurance and the reasonable costs and expenses that are incurred in performing the action under subsection (1) to which the claim relates.

(9) Where the NT EPA has notified a person under subsection (7), the amount specified in the notice is a debt due to the Territory and payable by the date specified in the notice.

(10) A person authorised in writing by the NT EPA to carry out an action for the purposes of subsection (1) in premises or on land on behalf of the NT EPA may enter the premises (unless they are residential premises) or land and carry out the action.

104 Certification of expenses

In proceedings by the Territory to recover an amount under this Act, a certificate by the NT EPA certifying that an amount specified in the certificate was the amount of expense incurred by the Territory in carrying out the works or action specified in the certificate is prima facie evidence of the fact certified.

105 Compensation may be claimed from third parties

(1) An owner or occupier of land (in this section called ***the claimant***) may recover damages or obtain an order for restitution from a person who has done an act, or failed to do an act that the person would reasonably be expected to have done where:

(a) the act or failure has resulted in pollution on the claimant's land resulting in environmental harm or an increase in the extent or the severity of pollution resulting in environmental harm on the claimant's land; and

(b) the claimant is required by or under this Act to do an act on the land owned or occupied by him or her partly or wholly as a result of the action or failure to act of the person.

(2) An action seeking damages or restitution under subsection (1) may be brought in a court of competent jurisdiction.

(3) In an action under subsection (1) a court may make orders as to contribution and costs as it thinks fit.

106 Just compensation to be paid

(1) To the extent that the operation of this Act or the due exercise or performance of a power, function, authority or discretion conferred by or under this Act constitutes an acquisition of property within the meaning of section 50 of the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, the property is to be acquired on just terms.

(2) A person who claims that the exercise of a power conferred by or under this Act has resulted in the acquisition by the Territory of property of which that person is the owner may apply to the Minister for payment to that person by the Territory of the value of the property which the person claims to have been acquired by the Territory.

(3) An application under subsection (2) is to be in writing and is to set out details of:

(a) the property alleged to have been acquired;

(b) the applicant's title to the property;

(c) the time when and the circumstances in which the property is alleged to have been acquired; and

(d) the amount alleged to be the value of the property.

(4) The Minister must consider an application under subsection (2) and, if satisfied that property of the applicant has been acquired by the Territory as a result of the exercise of a power conferred by or under this Act, must offer to the applicant payment of:

(a) the amount alleged by the applicant to be the value of the property; or

(b) the amount that in the opinion of the Minister is the value of that property,

whichever is the lesser.

(5) If the applicant accepts the offer under subsection (4), the Minister must pay to the applicant the amount of the offer.

(6) If the Minister rejects the application or the applicant rejects an offer of payment made by the Minister, the applicant may institute proceedings against the Territory in a court of competent jurisdiction for payment to the applicant of an amount as compensation for the property of the applicant acquired by the Territory in the exercise of a power conferred by or under this Act.

107 Liability of persons acting under this Act

No civil proceedings lie against:

(b) an authorised officer; or

(c) a person authorised under section 72(1)(q), section 101 or 103,

in relation to his or her exercise of a power or performance of a function under this Act in good faith.

Division 2 Review of decisions

108 Application for review

(1) A person may apply for a review of a decision:

(a) under section 34 to refuse to grant an environment protection approval or a licence to the person or to grant the approval or licence to the person on conditions;

(b) under section 38 to amend, refuse to amend, revoke or refuse to revoke, a condition of an environment protection approval or a licence granted to the person or to impose or refuse to impose a new condition on the approval or licence;

(c) under section 40 to refuse to renew an environment protection approval or a licence held by the person or to renew the approval or licence on conditions;

(d) under section 43 not to approve the surrender of a licence held by the person;

(e) under section 44 to downgrade a best practice licence held by the person;

(f) under section 45 to suspend or cancel a licence held by the person;

(g) under section 46 to refuse to approve the transfer of the person's environment protection approval or environment protection licence to another person;

(h) under section 48 to require the person to carry out an environmental audit program;

(j) under section 50 to amend an environmental audit program the person is required to carry out;

(k) under section 58 to require a person to submit a draft compliance plan;

(m) under section 61 to refuse to approve a draft compliance plan submitted by the person;

(n) under section 64 to amend a compliance plan approved in relation to the person;

(p) under section 77 to issue to the person a pollution abatement notice;

(q) under section 82 to amend a pollution abatement notice issued to the person under section 77;

(r) in relation to the person that is of a prescribed type.

(2) A person may only make an application under subsection (1):

(a) in the case of a decision referred to in subsection (1)(p) or (q) – within 7 days after the date on which the notice was issued or notice of the amendment was given; or

(b) in any other case, within 28 days after the day on which the notice of the decision was given.

(3) An application for review is to be:

(a) in the approved form; and

(b) lodged with the NT EPA.

109 Applications for further review

(1) Where the NT EPA has made a determination under section 111(5), the person who applied for the review may apply for a further review of the decision to which the NT EPA's determination related.

(2) Subsection (1) does not apply to a determination under section 111(5) in relation to a decision referred to in section 108(1)(p) or (q).

(3) An application under subsection (1) is to be:

(a) in the approved form; and

(b) lodged with the NT EPA within 28 days after the day on which notice of the NT EPA's determination was given to the applicant.

110 Conduct of review

(1) Where an application for review is made under section 108 in respect of a decision made by:

(a) a delegate of the Minister, or the NT EPA; or

(b) an authorised officer or other prescribed person,

the decision is to be reviewed by the NT EPA .

(2) Where:

(a) an application for review is made under section 108 in respect of a decision made by the NT EPA itself; or

(b) an application for a further review is made under section 109 in respect of a decision that is the subject of a determination under section 111 made by the NT EPA itself,

the decision is to be reviewed or further reviewed by:

(c) the Minister; or

(d) a review panel established by the Minister to review the decision.

111 Review procedure and determination

(1) In this section, ***review*** means:

(a) a review under section 108; or

(b) a further review under section 109.

(2) The Minister may in writing appoint one or more persons to constitute a review panel for the purposes of this section.

(3) A review is to be by hearing de novo and is to be determined within 28 days after the date on which the application for review is lodged.

(4) The practices and procedure of a review under this section of a decision are to be as determined by the person or panel reviewing the decision.

(5) The person or review panel reviewing a decision must determine the review by:

(a) confirming the decision;

(b) varying the decision; or

(c) setting aside the decision and making a decision in substitution for the decision to which the review relates.

(6) A decision under subsection (5)(b) or (c) is to be taken, except for the purposes of this Division, to be the decision of the person who made the decision to which the review related.

Division 3 Instruments, &c.

112 Obligations where land to which certain instruments relate is to be sold, leased, &c.

(1) In this section, ***relevant instrument*** means:

(a) a compliance plan, environmental audit program or a pollution abatement notice;

(b) a prescribed instrument.

(2) A person to whom a relevant instrument relates must, before:

(a) selling, leasing or sub-leasing land, premises, or a vehicle, to which the relevant instrument relates to another person; or

(b) permitting another person to occupy the land to which the relevant instrument relates by way of a gift or in exchange for a benefit,

notify in writing:

(c) the other person of the relevant instrument; and

(d) the NT EPA of his or her intention to sell, lease or sub-lease the land, premises or vehicle, or to permit another person to occupy the land.

Penalty: environmental offence level 4.

(3) A person notified in accordance with subsection (2) who:

(a) buys, leases or sub-leases the land, premises or vehicle to which the notice relates; or

(b) occupies, whether by way of a gift or in exchange for a benefit, the land to which the notice relates,

must, within 14 days after the purchase, lease, sublease or occupation, notify the NT EPA accordingly.

Penalty: environmental offence level 4.

(4) A person to whom a relevant instrument relates must, before:

(a) selling, leasing, sub-leasing or giving by gift to another person a business in relation to which is carried out part or all of the activity to which the relevant instrument relates; or

(b) exchanging with another person a business in relation to which is carried out part or all of the activity to which the relevant instrument relates in return for a business carried out by that other person,

notify in writing:

(c) the other person of the relevant instrument; and

(d) the NT EPA of his or her intention to sell, lease, sub-lease or exchange the business.

Penalty: environmental offence level 4.

(5) A person notified in accordance with subsection (4) who:

(a) buys, leases or sub-leases or accepts as a gift the business to which the notice relates; or

(b) exchanges his or her business for the business to which the notice relates,

must, within 14 days after the purchase, lease, sub-lease, acceptance or exchange, notify the NT EPA accordingly.

Penalty: environmental offence level 4.

113 Service of notices and public notice

(1) Except as otherwise provided in this Act and subject to subsection (2), a notice required by or under this Act to be given to a person may be given:

(a) by serving it on the recipient as authorised by section 25 of the *Interpretation Act 1978*; or

(b) by sending it to the recipient's email address as an attachment to an email.

(2) Subject to evidence to the contrary, a notice sent as mentioned in subsection (1)(b) is taken to be given to the recipient when it is sent to the recipient's email address.

Note for subsection (2)

See section 25(2) to (4) of the Interpretation Act 1978 for when notices served as mentioned in subsection (1)(a) are taken to be served.

(3) A requirement of or under this Act that a document be made available for viewing by the public at a place, may be satisfied by enabling an electronic version to be viewed and by specifying the place or the electronic address at which the electronic version may be viewed.

114 Recognition of certain interstate instruments

(1) The Minister may, by notice in the *Gazette*, declare:

(a) an instrument of a legislative or administrative character; or

(b) a class of instruments of a legislative or administrative character,

issued under an Act of the Commonwealth or of a State or another Territory of the Commonwealth to be an instrument or a class of instruments under this Act.

(2) The Minister may, by notice in writing to a person who applied for the declaration under subsection (3), declare an instrument of an administrative character under an Act of the Commonwealth, a

State or another Territory of the Commonwealth, to be an environment protection approval or a licence or a prescribed instrument of the type specified in the declaration.

(3) A person may apply in writing to the Minister for a declaration under subsection (1) or (2).

(4) Where the Minister makes a declaration under this section, the instrument the subject of the declaration is deemed to be an instrument made under this Act of the type specified by the Minister in the declaration.

115 Information may be provided to certain people

The NT EPA or a person authorised by it may provide to:

(a) a person acting on behalf of the Commonwealth or a State or another Territory of the Commonwealth; or

(b) a prescribed person or class of persons,

information provided to, obtained by or created by a person for the purposes of this Act.

116 Act to be reviewed every 5 years

The NT EPA must provide a report on the operation of this Act to the Minister after the end of each 5 year period after this Act comes into operation.

Division 4 Regulations

117 Regulations

(1) The Administrator may make regulations under this Act.

Note for subsection (1)

See section 65 of the Interpretation Act 1978.

(2) Without limiting the generality of subsection (1), the Regulations may:

(a) prescribe the procedures, processes and other matters required for the appropriate management of contaminants and wastes or the prevention, reduction, control, rectification or clean up of pollution or environmental harm resulting from pollution;

(b) provide for the implementation of a system to track the movement of waste, or a class of waste, from the place at which it is generated to the place at which it is disposed of;

(c) prohibit or regulate the manufacture, sale, distribution, movement, storage, possession or use of specified contaminants or articles containing or emitting specified contaminants;

(d) prohibit or regulate the generation of a specified waste or class of waste or prohibit or regulate the emission or discharge of contaminants or a specified waste into the environment;

(e) prescribe matters relating to the design, installation, operation, servicing, maintenance, repair, modification or decommissioning of an article or equipment for the purpose of appropriately managing contaminants or wastes or preventing, reducing or controlling pollution;

(f) require that specified information on the generation of waste or the emission of a contaminant or waste is to be collected by the generator or owner of the contaminant or waste and submitted to the NT EPA and made available to specified persons;

(g) require the labelling or marking of equipment, premises, instruments, devices, vehicles, packaging, contaminants, waste or an article containing a contaminant or waste and prescribe the content and form of that labelling or marking;

(h) make provision in relation to the recovery, re-cycling, storage, disposal or destruction of contaminants or wastes or articles containing contaminants or wastes, including:

(i) requiring the manufacturer or seller of an article to take specified steps to recover a contaminant or waste that the article contains;

(ii) requiring the manufacturer or seller of an article to institute specified measures to ensure or encourage the recovery of contaminants or wastes, including measures for the payment and refund of deposits on articles;

(iii) requiring the re-cycling of contaminants or wastes so recovered;

(iv) requiring the destruction or storage of contaminants or wastes;

(v) authorising the NT EPA to undertake or cause to be undertaken the recovery, storage or destruction of contaminants or wastes and empowering the NT EPA, or a person authorised by it, to recover the costs of doing so from the manufacturer or seller of an article that contained the contaminant or waste so recovered; and

(vi) specifying the required means of disposal, storage or destruction of substances and standards of the design and operation of and permissible emissions by disposal equipment;

(j) prescribe penalties for offences against the Regulations, designate an offence to be an environmental offence level 3 or level 4 within the meaning of the *Environmental Offences and Penalties Act 1996* or designating an offence against the Regulations to be a regulatory offence;

(m) prescribe methods for measuring the levels or characteristics of contaminants or wastes;

(n) prescribe the circumstances in which a contaminant or waste causes or results, or does not cause or result, in pollution or prescribe that a contaminant or waste is not a contaminant or waste for the purposes of this Act.

(3) The Regulations may adopt or incorporate an instrument, including guidelines, as in force at a particular time or as in force from time to time.

(4) The Regulations may amend, omit or insert an item in Schedule 2.

118 Regulations may provide for exemptions

The Regulations may contain provisions for or in relation to exemptions (whether or not subject to conditions) from compliance with all or any specified regulations, including provisions:

(a) authorising the NT EPA or the Minister to grant an exemption; and

(b) specifying circumstances in which an exemption granted under a law of the Commonwealth or of a State or another Territory of the Commonwealth is to be an exemption granted under the Regulations.

119 Regulations may contain savings and transitional provisions

(1) The Regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) The Regulations may provide that a savings or transitional provision takes effect from a date that is earlier than the date of its publication or notification in the *Gazette* but, where they do so, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the Territory), the rights of that person existing before the date of its publication or notification; or

(b) to impose liabilities on a person (other than the Territory) in respect of anything done or omitted to be done before the date of its publication or notification.

120 Instruments in Regulations to be available for viewing

The NT EPA must ensure that instruments adopted or incorporated in the Regulations are available for viewing by members of the public at an office of the NT EPA.

Part 13 Repeal

121 Repeal

The *Ozone Protection Act 1990* (No. 32 of 1990) is repealed.

Part 14 Transitional matters for Northern Territory Environment Protection Authority Act 2012

122 Definitions

In this Part:

Administering Agency means the Agency from time to time administering this Act before the commencement day.

commencement day means the day on which section 54 of the *Northern Territory Environment Protection Authority Act 2012* commences.

former CEO means the Chief Executive Officer of the Administering Agency.

123 Continuation of ongoing matters

(1) Anything done or omitted to be done under this Act by, to, or in relation to, the former CEO before the commencement day that is of ongoing effect becomes, on the commencement day, a thing done or omitted to be done by, to, or in relation to, the NT EPA.

(2) Anything done or omitted to be done under this Act by, to, or in relation to, the Administering Agency before the commencement day that is of ongoing effect becomes, on the commencement day, a thing done or omitted to be done by, to, or in relation to, the NT EPA.

(3) Anything done or omitted to be done under Part 7 or 8 or section 79(1)(d) of this Act by, to, or in relation to, the Minister before the commencement day that is of ongoing effect becomes, on the commencement day, a thing done or omitted to be done by, to, or in relation to, the NT EPA.

Part 15 Transitional matters for Statute Law Amendment (Directors' Liability) Act 2015

124 Offences – before and after commencement

(1) Section 91, as inserted by the *Statute Law Amendment (Directors' Liability) Act 2015*, (the ***new section***) applies in relation to a relevant offence committed by a body corporate after the commencement of Part 2, Division 41 of that Act (the ***commencement***) only if:

(a) all the conduct constituting the relevant offence occurred after the commencement; and

(b) all the conduct of the executive officer constituting the offence against the new section occurred after the commencement.

(2) Section 91, as in force before the commencement:

(a) continues to apply in relation to offences committed by a body corporate before the commencement; and

(b) applies in relation to relevant offences committed by a body corporate after the commencement to which, as a result of subsection (1), the new section does not apply.

Part 16 Transitional matters for Environment Protection Act 2019

125 Definition

In this Part:

commencement means the commencement of section 294 of the *Environment Protection Act 2019*.

126 Environmental assessment completed before commencement

(1) This section applies if:

(a) an application for an environment protection approval, environment protection licence or best practice licence for a development proposal was made before the commencement or within 2 years after the commencement; and

(b) an environmental assessment of the development proposal was completed under the *Environmental Assessment Act 1982* before the commencement; and

(c) the approval or licence was not granted or given before the commencement.

(2) This Act as in force immediately before the commencement continues to apply to the determination of the application for the approval or licence.

Part 17 Transitional matters for Environment Protection Legislation Amendment Act 2023

127 Application of Act to mining activities

(1) Section 6 as in force immediately before the commencement continues to apply in relation to a mining activity that is authorised under a deemed mining licence while the deemed mining licence is in effect.

(2) In this section:

amending Act means the *Environment Protection Legislation Amendment Act 2023*.

commencement means the day on which Part 4, Division 3, Subdivision 8 of the amending Act commences.

deemed mining licence, see section 303 of the *Environment Protection Act 2019*.

Schedule 1 Information to be included on register

section 9

The following information is to be included on the register:

(a) licences or environment protection approvals;

(b) plans for environmental management provided to the NT EPA in accordance with a condition of an environment protection approval or a licence granted under this Act;

(c) compliance plans;

(d) pollution abatement notices;

(e) incidents of which the NT EPA is notified under section 14.

Schedule 2 Activities that require approval or licence

section 30

Part 1 – Activities that require environment protection approval

1. Constructing, installing or carrying out works in relation to premises for disposing of waste by burial, other than:

   (a) domestic waste generated by a domestic residence and disposed of on the land on which the premises are situated;

   (b) domestic waste from temporary construction camps;

   (c) waste generated by pastoral activities that is disposed of on the land on which the pastoral activities are carried out;

   (d) waste rock, rubble and other inert materials used for the purpose of reclaiming land; and

   (e) waste of a prescribed class.

2. Constructing, installing or carrying out works in relation to premises, other than sewage treatment plants, for the storage, re-cycling, treatment or disposal of listed wastes on a commercial or fee for service basis.

3. Constructing, installing or carrying out works in relation to premises for processing hydrocarbons so as to produce, store and/or despatch liquefied natural gas or methanol, where:

   (a) the premises are designed to produce more than 500,000 tonnes annually of liquefied natural gas and/or methanol; and

   (b) no lease, licence or permit under the *Petroleum Act 1984* or the *Petroleum (Submerged lands) Act 1981* relates to the land on which the premises are or will be situated.

Part 2 – Activities that require licence

1. Operating premises for the disposal of waste by burial that service, or are designed to service, the waste disposal requirements of more than 1 000 persons.

2. Collecting, transporting, storing, re-cycling, treating or disposing of a listed waste on a commercial or fee for service basis, other than in or for the purpose of a sewage treatment plant.

3. Operating premises, other than a sewage treatment plant, associated with collecting, transporting, storing, re-cycling, treating or disposing of a listed waste on a commercial or fee for service basis.

5. Operating premises for processing hydrocarbons so as to produce, store and/or despatch liquefied natural gas or methanol, where:

   (a) the premises are designed to produce more than 500,000 tonnes annually of liquefied natural gas and/or methanol; and

   (b) no lease, licence or permit under the *Petroleum Act 1984* or the *Petroleum (Submerged lands) Act 1981* relates to the land on which the premises are situated.

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

***Waste Management and Pollution Control Act 1998* (Act No. 71, 1998)**

Assent date	28 September 1998
Commenced	ss 3 – 29 and ss 47 – 120: 1 February 1999; ss 30 – 46: 1 May 2003 (*Gaz* G35, 4 September 2002, p 4); s 121: 18 March 2009 (*Gaz* G11, 18 March 2009, p 5)

***Statute Law Revision Act 1999* (Act No. 27, 1999)**

Assent date	18 June 1999
Commenced	18 June 1999

***Planning (Consequential Amendments) Act 1999* (Act No. 56, 1999)**

Assent date	14 December 1999
Commenced	12 April 2000 (s 2, s 2 *Planning Act 1999* (Act No. 55, 1999) and *Gaz* S15, 12 April 1999)

***Land Title (Consequential Amendments) Act 2000* (Act No. 45, 2000)**

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz* G38, 27 September 2000, p 2)

***Corporations Reform (Consequential Amendments NT) Act 2001* (Act No. 17, 2001)**

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and Cth *Gaz* S285, 13 July 2001)

***Waste Management and Pollution Control (Administration) Regulations* (SL No. 53, 2001)**

Notified	19 December 2001
Commenced	19 December 2001

***Mining Management (Consequential Amendments) Act 2001* (Act No. 42, 2001)**

Assent date	19 July 2001
Commenced	1 January 2002 (s 2, s 2 *Mining Management Act 2001* (Act No. 43, 2001) and *Gaz* G46, 21 November 2001, p 2)

***Fines and Penalties (Recovery) (Consequential Amendments) Act 2001* (Act No. 60, 2001)**

Assent date	11 December 2001
Commenced	1 January 2002 (s 2, s 2 *Fines and Penalties (Recovery) Act 2001* (Act No. 59, 2001) and *Gaz* G50, 19 December 2001, p 3)

***Statute Law Revision (Financial Provisions) Act 2002* (Act No. 38, 2002)**

Assent date	13 September 2002
Commenced	30 October 2002 (*Gaz* G43, 30 October 2002, p 3)

***Statute Law Revision Act 2007* (Act No. 4, 2007)**

Assent date	8 March 2007
Commenced	8 March 2007

***Personal Property Securities (National Uniform Legislation) Implementation Act 2010* (Act No. 30, 2010)**

Assent date	9 September 2010
Commenced	ss 58 to 60: 30 January 2012 (*Gaz*, S2, 24 January 2012); rem: 25 November 2011 (*Gaz*,S68, 25 November 2011)

***Evidence (National Uniform Legislation) (Consequential Amendments) Act 2012* (Act No. 23, 2012)**

Assent date	21 November 2012
Commenced	1 January 2013 (*Gaz* G51, 19 December 2012, p 4)

***Northern Territory Environment Protection Authority Act 2012* (Act No. 28, 2012)**

Assent date	6 December 2012
Commenced	1 January 2013 (*Gaz* S82, 21 December 2012)

***Statute Law Revision Act 2014* (Act No. 38, 2014)**

Assent date	13 November 2014
Commenced	13 November 2014

***Statute Law Amendment (Directors' Liability) Act 2015* (Act No. 26, 2015)**

Assent date	18 September 2015
Commenced	14 October 2015 (*Gaz* G41, 14 October 2015, p 3)

***Local Court (Related Amendments) Act 2016* (Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

Environment Protection Act 2019 **(Act No. 31, 2019)**

Assent date	9 October 2019
Commenced	28 June 2020 (*Gaz* G17, 29 April 2020, p 2)

Amending Legislation

Statute Law Revision and Repeals Act 2019 **(Act No. 33, 2019)**

Assent date	6 November 2019
Commenced	pts 2 and 3: 11 December 2019 (*Gaz* G50, 11 December 2019, p 2); rem: 7 November 2019 (s 2)

Statute Law Amendment (Territory Economic Reconstruction) Act 2021 **(Act No. 19, 2021)**

Assent date	31 August 2021
Commenced	pt 6: 2 October 2021; rem: 29 September 2021 (*Gaz* G39, 29 September 2021, p 1)

Environment Legislation Amendment Act 2021 **(Act No. 22, 2021)**

Assent date	18 November 2021
Commenced	pt 7: 31 March 2022; rem: 1 February 2022 (*Gaz* G51, 22 December 2021, p 1)

Environment Protection Legislation Amendment Act 2023 **(Act No. 34, 2023)**

Assent date	6 December 2023
Commenced	pt 1, pt 3, div 1, ss 207 and 219 and pt 5: 7 December 2023 (s 2(1)); pt 3, div 2: 1 March 2024 (s 2(2), s 2 *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022* (Act No. 32, 2022) and (*Gaz* G4, 15 February 2024, p 1); pt 4: 1 July 2024 (*Gaz* G4, 15 February 2024, p 2); rem: 1 March 2024 (*Gaz* G4, 15 February 2024, p 2)

Lands, Planning and Environment Legislation Amendment Act 2025 **(Act No. 25, 2025)**

Assent date	12 September 2025
Commenced	pt 6: nc; rem: 13 September 2025 (s 2(1))

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 4, 5, 6, 17, 18, 28, 32, 47, 70, 72, 81, 86, 87, 92, 93, 94, 97, 98, 99, 102 and 117 and sch 2.

4 LIST OF AMENDMENTS

s 4	amd No. 28, 2012, s 55; No. 38, 2014, s 2; No. 22, 2021, s 31
s 6	amd No. 42, 2001, s 5; No. 4, 2007, s 7; No. 34, 2023, s 226
ss 8 – 11	amd No. 28, 2012, s 55
s 13	amd No. 28, 2012, s 55; No. 25, 2025, s 85
s 14	amd No. 28, 2012, s 55
s 19	amd No. 25, 2025, s 85
s 20	amd No. 28, 2012, s 55; No. 25, 2025, s 85
s 23	amd No. 25, 2025, s 85
s 25	amd No. 25, 2025, s 85
s 27	amd No. 25, 2025, s 85
pt 5 hdg	sub No. 22, 2021, s 32

s 30	amd No. 56, 1999, s 3; No. 28, 2012, s 55; No. 22, 2021, s 33
s 31	amd No. 28, 2012, s 55
s 32	amd No. 28, 2012, s 55; No. 31, 2019, s 328
ss 33 – 35	amd No. 28, 2012, s 55
s 36	amd No. 38, 2002, s 6; No. 28, 2012, s 55
s 37	amd No. 28, 2012, s 55; No. 25, 2025, s 81
s 38	amd No. 28, 2012, s 55
pt 5	
div 3 hdg	amd No. 25, 2025, s 85
ss 40 – 41	amd No. 28, 2012, s 55
s 42	amd No. 28, 2012, s 55; No. 19, 2021, s 106
ss 43 – 44	amd No. 28, 2012, s 55
s 45	amd No. 28, 2012, s 55; No. 19, 2021, s 107
s 46	amd No. 28, 2012, s 55
s 46AA	ins No. 25, 2025, s 82
pt 5	
div 3A hdg	ins No. 22, 2021, s 34
ss 46A – 46B	ins No. 22, 2021, s 34
ss 48 – 51	amd No. 28, 2012, s 55
ss 53 – 57	amd No. 28, 2012, s 55
s 58	amd No. 27, 1999, s 12; No. 28, 2012, s 55
ss 60 – 61	amd No. 28, 2012, s 55
ss 64 – 66	amd No. 28, 2012, s 55
ss 68 – 71	amd No. 28, 2012, s 55
s 72	amd No. 23, 2012, s 32
s 73	amd No. 28, 2012, s 55; No. 8, 2016, s 45
s 77	amd No. 28, 2012, s 55
s 79	amd No. 28, 2012, s 55
s 81	amd No. 45, 2000, s 11; No. 28, 2012, s 55
s 82	amd No. 28, 2012, s 55
s 85	amd No. 28, 2012, s 55
s 88	amd No. 22, 2021, s 35
s 89	amd No. 28, 2012, s 55
s 91	sub No. 26, 2015, s 126
s 94	amd No. 28, 2012, s 55; No. 8, 2016, s 45
s 97	amd No. 28, 2012, s 55
s 98	amd No. 30, 2010, s 55; No. 28, 2012, s 55
s 99	amd No. 60, 2001, s 18; No. 28, 2012, s 55
s 101	amd No. 28, 2012, s 55
s 102	amd No. 45, 2000, s 11; No. 28, 2012, s 55
ss 103 – 104	amd No. 28, 2012, s 55
ss 107 – 110	amd No. 28, 2012, s 55
s 112	amd No. 28, 2012, s 55
s 113	amd No. 17, 2001, s 21 sub No. 25, 2025, s 83
ss 115 – 116	amd No. 28, 2012, s 55
s 117	amd No. 27, 1999, s 13; No. 60, 2001, s 18; No. 28, 2012, s 55; No. 25, 2025, s 84
s 118	amd No. 28, 2012, s 55
s 120	amd No. 28, 2012, s 55
pt 14 hdg	ins No. 28, 2012, s 54
ss 122 – 123	ins No. 28, 2012, s 54
pt 15 hdg	ins No. 26, 2015, s 127
s 124	ins No. 26, 2015, s 127
pt 16 hdg	ins No. 31, 2019, s 329
ss 125 – 126	ins No. 31, 2019, s 329
pt 17 hdg	ins No. 34, 2023, s 227
s 127	ins No. 34, 2023, s 227

sch 1	amd No. 28, 2012, s 55
sch 2	amd SL No. 53, 2001; No. 38, 2014, s 2