NORTHERN TERRITORY OF AUSTRALIA

WATER ACT 1992

As in force at 13 September 2025

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 13 September 2025

WATER ACT 1992

An Act to provide for the investigation, allocation, use, control, protection, management and administration of water resources, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Water Act 1992*.

2 Commencement

The various provisions of this Act shall come into operation on such dates as are respectively fixed by the Administrator by notice in the *Gazette* in relation to those provisions.

3 Repeal

(1) The Acts of the State of South Australia specified in Part A of Schedule 1, in their application to the Territory as laws of the Territory, are repealed.

(2) The Act and Ordinances specified in Part B of Schedule 1 are repealed.

4 Interpretation

(1) In this Act:

Aboriginal economic development means economic development by or for the benefit of eligible Aboriginal people.

Aboriginal water reserve means a reserve of water allocated in a water allocation plan for Aboriginal economic development in respect of eligible land designated under section 22C.

action notice, see section 88A(1).

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.

Advisory Committee means a Water Advisory Committee established under section 23.

aquifer means a geological structure or formation, or an artificial land-fill, permeated or capable of being permeated permanently or intermittently with water.

authorised officer means a person appointed as an authorised officer under section 24.

bed and ***banks***, in relation to a waterway, means the land over which normally flows, or which is normally covered by, the water of the waterway, whether permanently or intermittently, but does not include land from time to time temporarily covered by the flood waters of the waterway and abutting on or adjacent to its bed and banks, the bed being the relatively flat portion and the banks being the relatively steep portions of the land comprising the bed and banks.

beneficial uses means the uses of water specified in subsection (3).

bore means a natural or constructed hole in the ground that is used, or could reasonably be used, for any of the following purposes:

(a) taking groundwater;

(b) investigating the behaviour, occurrence and availability of groundwater;

(c) monitoring the condition of groundwater;

(d) injecting water to recharge an aquifer;

(e) disposing waste directly or indirectly into groundwater.

bore work means any of the following:

(a) drilling, decommissioning, constructing, altering, deepening, plugging, backfilling or sealing off a bore;

(b) removing, replacing, altering, slotting or repairing the casing, lining or screen of a bore.

consent means a consent granted and in force under this Act.

Controller means the Controller of Water Resources appointed under section 18.

developer, for Part 6B, see section 71F(1).

development, for Part 6B, see section 71F(1)(a).

drilling licence means a drilling licence granted under section 49.

eligible Aboriginal people are Aboriginal people who have a legal entitlement to access water resources because of their ownership of or interest in eligible land.

eligible land, see section 4B.

environment means all aspects of the surroundings of humans, including the physical, biological, economic, cultural and social aspects.

environmental harm means any harm to or adverse effect on, or potential harm to or adverse effect on, the environment.

flow, in relation to water, includes the discharge, release, escape or passage of water.

groundwater means water occurring or obtained from below the surface of the ground (other than water contained in works, not being a bore, for the distribution, reticulation, transportation, storage or treatment of water or waste) and includes water occurring in or obtained from a bore or aquifer.

hydraulic fracturing means the underground petroleum extraction process involving the injection of fluids at high pressure into a geological formation to induce fractures that conduct petroleum for extraction.

hydraulic fracturing waste, see section 4A.

interfere with a waterway means any of the following:

(a) cause a material change to the shape of a waterway;

(b) cause a material change to the volume, speed or direction of the flow or likely flow of water in or into a waterway;

(c) cause an alteration to the stability of the bed or banks of a waterway, including by the removal of vegetation.

land includes a building or structure on land.

licence means a licence granted and in force under this Act.

material environmental harm means environmental harm that:

(a) is not trivial or negligible in nature; or

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

(c) results in actual or potential loss or damage to the value of not more than $50,000.

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

mining site, *see* section 4 of the *Environment Protection Act 2019*.

occupier, in relation to land, means:

(a) a person occupying the land (under whatever title or permission, or without title or permission); or

(b) a person entitled to occupy the land, whether or not the person is actually occupying the land.

owner means:

(a) in relation to land alienated from the Crown by grant or by an Act – the owner of an estate in fee simple in the land; and

(b) in relation to land held under a lease granted by the Crown – the lessee; and

(c) in relation to land of the Crown subject to an agreement for sale or right of purchase – the person entitled to the benefit of the agreement or right of purchase; and

(d) in relation to unalienated Crown land, not being land referred to in paragraph (c) – the Territory.

permit means a permit granted and in force under this Act.

petroleum activity means exploration, extraction or processing of petroleum under an Act or an Act of the Commonwealth, including another activity for a purpose ancillary to one of those activities.

petroleum site means:

(a) an access authority area, licence area or permit area, each as defined in the *Petroleum Act 1984*, on which petroleum activity occurs; or

(b) an area of land on which exploration for petroleum occurs, or petroleum is extracted or processed, under an Act of the Commonwealth.

pollute, in relation to water, means directly or indirectly to alter the physical, thermal, chemical, biological or radioactive properties of the water so as to render it less fit for a prescribed beneficial use for which it is or may reasonably be used, or to cause a condition which is hazardous or potentially hazardous to:

(a) public health, safety or welfare; or

(b) animals, birds, fish or aquatic life or other organisms; or

(c) plants.

prescribed in relation to a form, includes approved by the Minister or the Controller under the Regulations.

public authority includes:

(a) a statutory corporation; and

(b) a council constituted under the *Local Government Act 2019*.

remediation notice, see section 33A(2).

residential premises means any premises, or part of premises, that are occupied as a place of residence.

Restricted Water Extraction Area means an area of land declared under section 14A(1).

re-use, in relation to water, includes to use waste water or effluent, whether or not it has been treated.

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

(a) results or is likely to result in more than $50,000 being spent in taking appropriate action to prevent or minimise the harm or rehabilitate the environment; or

(b) results in actual or potential loss or damage to the value of more than $50,000; or

(c) damages an aspect of the environment that is of a high conservation value or of special significance; or

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

take, in relation to water, includes to withdraw, pump, extract, use or re-use, and to divert for the purposes of using or re-using, that water and, where it is artesian water occurring in a bore, to allow the artesian water to flow from the bore.

tidal water means:

(a) water within the geographical area constituting the Territory that is directly affected by the tide; and

(b) water within the geographical area constituting the Territory seaward of water referred to in paragraph (a) that is not coastal waters of the Territory within the meaning of the *Coastal Waters (Northern Territory Powers) Act 1980* of the Commonwealth; and

(c) coastal waters of the Territory within the meaning of the *Coastal Waters (Northern Territory Powers) Act 1980* of the Commonwealth, declared under section 5(6) to be tidal waters.

waste includes matter or a thing, whether wholly or partly in a solid, liquid or gaseous state, which, if added to water, may pollute the water.

waste discharge licence, see section 74(1).

water means water, whether or not it contains impurities.

water allocation plan means a plan declared under section 22B.

water extraction licence means:

(a) a licence under section 45 to take water; or

(b) a licence under section 60 to take water from a bore.

water extraction licence decision, see section 71A(1).

waterway means any of the following:

(a) a river, creek, stream or watercourse;

(b) a natural channel in which water flows, whether or not the flow is continuous;

(c) a channel formed wholly or partly by the alteration or relocation of a waterway described in paragraph (a) or (b);

(d) a lake, lagoon, swamp or marsh, whether formed by geomorphic processes or modified by works:

(i) in which water collects, whether or not the collection is continuous; and

(ii) into, through or out of which a current (which forms the flow or part of the flow of a river, creek, stream or watercourse) passes, whether or not that passage is continuous;

(e) land on which, as a result of works constructed on a waterway described in paragraph (a), (b) or (c), water collects, whether or not the collection is continuous;

(f) land which is intermittently covered by water from a waterway described in paragraph (a), (b), (c), (d) or (e), but does not include any artificial channel or work which diverts water away from such a waterway;

(g) if any land described in paragraph (f) forms part of a slope rising from the waterway to a definite lip, the land up to that lip;

(ga) shallow groundwater immediately underlying the bed or banks of a waterway;

(h) land declared under section 5(1) to be a waterway.

Note for subsection (1)

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

(2) In this Act, a reference to a waterway includes a reference to a part or portion of a waterway.

(3) The following are the beneficial uses of water:

(a) agriculture – to provide irrigation water for primary production including related research;

(b) aquaculture – to provide water for commercial production of aquatic animals including related research;

(c) public water supply – to provide source water for drinking purposes delivered through community water supply systems;

(d) environment – to provide water to maintain the health of aquatic ecosystems;

(e) cultural – to provide water to meet aesthetic, recreational and cultural needs;

(f) industry – to provide water for other industry uses not mentioned elsewhere in this subsection;

(g) rural stock and domestic – to provide water for the purposes permitted under sections 10, 11 and 14;

(h) mining activity – to provide water for a mining activity;

(i) petroleum activity – to provide water for a petroleum activity;

(j) Aboriginal economic development – to provide water for Aboriginal economic development.

4A Meaning of *hydraulic fracturing waste*

(1) ***Hydraulic fracturing waste*** is any of the following that is leftover from, surplus to or an unwanted by-product of hydraulic fracturing, whether it has been treated or is untreated:

(a) a solid, liquid or gas;

(b) a mixture of those substances.

(2) In addition, hydraulic fracturing waste includes a substance or a class of substances prescribed by regulation.

4B Meaning of *eligible land*

(1) ***Eligible land*** means the following:

(a) Aboriginal land as defined in section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);

(b) land in relation to which, under the *Native Title Act 1993* (Cth), a determination of native title was made that native title rights and interests to possess, occupy, use and enjoy land and waters to the exclusion of all others exist on the land and those rights and interests were not subsequently extinguished;

(c) freehold land, land held under a lease in perpetuity or land held under a lease for a term that expires on or after the expiry of the water allocation plan:

(i) if the title holder of the land or lease is one of the following:

(A) an incorporated association under the *Associations Act 2004*;

(B) an Aboriginal and Torres Strait Islander Corporation established under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth);

(C) a trust established under a law of the Territory; and

(ii) to which at least one of the following applies:

(A) the land or lease is granted under a law of the Territory as part of the settlement of a land claim under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);

(B) the title to the land or lease is expressly held by or for the benefit of Aboriginal people and a law of the Territory or a law of the Commonwealth imposes a restriction on the use, occupation or any dealing with the land for the purpose of ensuring the title to the land or lease is held by or for the benefit of Aboriginal people.

(2) In this section:

lease does not include a sublease.

5 Declarations of waterways

(1) The Minister may, by notice in the *Gazette*, declare any land not already a waterway:

(a) over which water collects or flows, whether or not the collection or flow is continuous; or

(b) adjacent to land that is otherwise a waterway,

to be a waterway for the purposes of this Act.

(2) The Minister shall not make a declaration under subsection (1) unless:

(a) the Minister is satisfied that:

(i) the declaration has been applied for by a person who, if the land were a waterway, would have the right to take and use water from it under section 10 or 11;

(ii) the applicant has caused notice of the application to be published in a newspaper circulating generally in the area in which the land is situated; and

(iii) the applicant has caused notice of the application to be given or sent by post to:

(A) the owner and the lawful occupier of the land;

(B) the council of the municipality in which the land is situated, if it is situated in a municipality; and

(C) the responsible authority in relation to a planning area, if any, in which the land is situated; and

(b) the Minister has considered all submissions on the application made within 40 business days after the publication or giving of notice of the application under paragraph (a)(ii) or (iii), whichever is the later.

(3) The Minister may require further information in relation to an application to be provided by the applicant.

(4) A copy of a request made under subsection (3) shall be given or sent by post to all persons who, in the opinion of the Minister, are affected by the request.

(5) The Minister may, in writing, as a condition precedent to the Minister making a declaration under subsection (1), require a person who:

(a) owns land on the declared waterway; or

(b) who will benefit from the declaration,

to pay the amount of compensation specified by the Minister to another person who:

(c) owns land on the declared waterway; or

(d) will suffer detriment as a result of the declaration.

(6) The Minister may, by notice in the *Gazette*, declare coastal waters of the Territory (within the meaning of the *Coastal Waters (Northern Territory Powers) Act 1980* of the Commonwealth), to be tidal water for the purposes of this Act.

6 Act to bind Crown

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

7 Application of Act to mining activity or petroleum activity

(1) Section 16 does not apply to waste that comes into contact with water, or water that is polluted, if the contact or pollution occurs in the course of carrying out a mining activity which is authorised under an environmental (mining) licence under the *Environment Protection Act 2019*.

(2) Section 16 does not apply to waste that comes into contact with water, or water that is polluted, if:

(a) the contact or pollution occurs in the course of carrying out a petroleum activity; and

(b) the waste or polluted water is confined within the petroleum site on which the activity is being carried out.

(3) Part 6, Division 5 applies to the disposal underground of waste in the course of carrying out a petroleum activity on a petroleum site if the waste is not confined within the petroleum site.

8 Exercise of certain functions by statutory authorities

(1) A local government council or a prescribed statutory authority or body must not exercise functions relevant to the purposes of this Act except in accordance with this Act or as authorised by a delegation under this Act or a direction given by the Minister.

(2) The Minister may give written directions to a local government council or a prescribed statutory authority or body in regard to the exercise of functions to which subsection (1) applies.

8A Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act, other than an offence against section 16, 62, 64, 65, 76 or 97.

Note for section 8A

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

Part 2 General provisions relating to natural water, pollution and hydraulic fracturing waste

Division 1 Rights related to water and waterways

9 Crown rights to water

(1) In this Division, ***water*** means:

(a) the water flowing or contained in a waterway; or

(b) groundwater.

(2) Subject to this Act, the property in and the rights to the use, flow and control of all water in the Territory is vested in the Territory and those rights are exercisable by the Minister in the name of and on behalf of the Territory.

10 Public right to take water for domestic and stock purposes

(1) Subject to section 99, a person may take water for domestic purposes, or for watering travelling stock, from a waterway.

(2) Nothing in subsection (1) shall be construed as authorising a person to enter or remain on land to which the person does not otherwise have legal access.

11 Rights of owners or occupiers of land in contact with waterway to take water for certain purposes

Subject to section 14A, the owner or occupier of land on or immediately adjacent to which there is a waterway may take water from that waterway for:

(a) the use of the owner or occupier or the owner's or occupier's family and employees, for domestic purposes on the land; or

(b) drinking water for grazing stock on the land; or

(c) irrigating a garden, not exceeding 0.5 ha, which is part of the land and used solely in connection with a dwelling.

12 Ownership of bed and banks of waterway forming boundary of land

(1) Where a waterway forms the boundary of land which is alienated by the Crown and that boundary is not a boundary surveyed for the purposes of the registration of the title to the land under the *Land Title Act 2000*, the bed and banks of the waterway, to the extent, if any, that they were not the property of the Crown immediately before the commencement of this section are, by virtue of this section, acquired by and vested in the Territory.

(2) In a grant or lease of land made after the commencement of this section, the bed and banks of a waterway forming the boundary of the land shall remain the property of the Territory except to the extent that they are contained within the boundaries of the land surveyed for the purposes of the registration of the title to the land under the *Land Title Act 2000*.

13 Rights of owner or occupier of adjacent land over banks of boundary waterway

The owner or occupier of land immediately adjacent to the banks of a waterway, which banks are the property of the Territory, has, subject to this Act, the *Soil Conservation and Land Utilisation Act 1969* and section 79 of the *Pastoral Land 1992*, the right to access for the owner or occupier or the owner's or occupier's family and employees, and for the owner's or occupier's stock, to and over those banks.

14 Right of owners of overlying land to take groundwater for certain purposes

Subject to sections 14A and 70, the owner or occupier of land may take groundwater from beneath the land for:

(a) the use of the owner or occupier or the owner's or occupier's family and employees, for domestic purposes on the land; or

(b) drinking water for grazing stock on the land; or

(c) irrigating a garden, not exceeding 0.5 ha, which is part of the land and used solely in connection with a dwelling.

14A Restricted Water Extraction Area declaration

(1) The Minister may, by *Gazette* notice, declare an area of land to be an area where the right to take water under section 11 or 14 is restricted when the land is subdivided or consolidated.

(2) Before making the declaration, the Minister must be satisfied it is necessary to restrict taking of water from waterways or from groundwater in the area to:

(a) protect environmental or cultural values of water in the area; or

(b) ensure the ongoing supply of water to persons with a right to take water under this Part in the area.

(3) For subsection (2), the Minister must take into account the following:

(a) the characteristics of waterways and groundwater in the area;

(b) the amount of water allocated under water extraction licences in the area;

(c) the amount of water permitted to be taken in the area in accordance with a declaration under section 44(8) or 47(1);

(d) the amount of water taken each year by owners and occupiers of land in the area under sections 11 and 14;

(e) availability of water in the area;

(f) any water allocation plan applying to the area;

(g) existing demand and likely future demand for water for purposes mentioned in sections 11 and 14 in the area;

(h) the provisions of any agreement made by or on behalf of the Territory with a State concerning the sharing of water;

(i) other factors the Minister considers should be taken into account.

(4) A declaration under subsection (1) must:

(a) state the reasons for making the declaration; and

(b) describe the area of land to which the declaration applies; and

(c) state the effect of the restrictions in the area and whether the rights under section 11 or 14, or both, are restricted.

14B Effect of Restricted Water Extraction Area declaration

(1) A subdivision of land in a Restricted Water Extraction Area results in the same number of owners of land having the right under section 11 or 14 that is restricted as did immediately before the subdivision.

Example for subsection (1)

An owner of land in a Restricted Water Extraction Area where taking groundwater is restricted subdivides the land into 2 lots. On one of the new lots the owner will be able to take groundwater for use on the lot. On the second new lot the owner will not be able to take groundwater.

(2) A consolidation of land in a Restricted Water Extraction Area results in the same number of owners of land having the right under section 11 or 14 that is restricted as did immediately before the consolidation or, if the consolidation results in fewer owners of land, that number.

Example for subsection (2)

There are 3 adjacent lots in a Restricted Water Extraction Area where taking surface water is restricted. The 3 lots are consolidated into 2 lots. The owners of the 2 new lots will be able to take surface water for use on each lot.

(3) For subsections (1) and (2), subdivision or consolidation is:

(a) subdivision or consolidation of land under Part 2A, 4 or 5 of the *Planning Act 1999*; or

(b) preparation of a scheme statement under Part 2.3, Division 1 of the *Unit Title Schemes Act 2009* or lodgement of a scheme statement under section 111(1) of the Act for subdivision or consolidation of land; or

(c) preparation of a units plan of subdivision or units plan of consolidation under Part IIIA of the *Unit Titles Act 1975* for land.

Note for section 14B

Section 14B prevents an owner of land creating more rights to take water by subdividing or consolidating the land.

14C Requirements for subdivision or consolidation in Restricted Water Extraction Area

(1) If an owner of land in a Restricted Water Extraction Area proposes to subdivide or consolidate the land under Part 2A, 4 or 5 of the *Planning Act 1999*:

(a) the owner must nominate in the application under section 30C(1), 38(1) or 46(1) of the *Planning Act 1999* which of the titles proposed to be created by registration of the plan of subdivision or consolidation under section 51 of the *Land Title Act 2000*:

(i) the owner of which retains the right to take water that is restricted in the area; and

(ii) the owner (if any) of which no longer retains the right; and

(b) the owner must ensure that the application to register the plan of subdivision or consolidation under section 51 of the *Land Title Act 2000* specifies which of the titles proposed to be created on subdivision or consolidation:

(i) the owner of which retains the right to take water that is restricted in the area; and

(ii) the owner (if any) of which no longer retains the right.

(2) If a person who prepares a scheme statement under Part 2.3, Division 1 or section 111(1) of the *Unit Title Schemes Act 2009* for land in a Restricted Water Extraction Area proposes to subdivide or consolidate the land by registration of the scheme statement under section 54B of the *Land Title Act 2000*:

(a) the person must nominate in the scheme statement prepared under section 18 or 111(1) of the *Unit Title Schemes Act 2009* which of the titles proposed to be created by registration:

(i) the owner of which retains the right to take water that is restricted in the area; and

(ii) the owner (if any) of which no longer retains the right; and

(b) the person must ensure that the request for registration of a scheme statement under section 54B of the *Land Title Act 2000* specifies which of the titles proposed to be created by registration:

(i) the owner of which retains the right to take water that is restricted in the area; and

(ii) the owner (if any) of which no longer retains the right.

(3) If a person who prepares a units plan of subdivision or units plan of consolidation under Part IIIA of the *Unit Titles Act 1975* for land in a Restricted Water Extraction Area proposes to subdivide or consolidate the land by registration of the units plan under section 9B of the *Real Property (Unit Titles) Act 1975*:

(a) the person must nominate in the units plan prepared under Part IIIA of the *Unit Titles Act 1975* which of the titles proposed to be created by registration:

(i) the owner of which retains the right to take water that is restricted in the area; and

(ii) the owner (if any) of which no longer retains the right; and

(b) the person must ensure that the application for registration under section 9B of the *Real Property (Unit Titles) Act 1975* specifies which of the titles proposed to be created by registration:

(i) the owner of which retains the right to take water that is restricted in the area; and

(ii) the owner (if any) of which no longer retains the right.

(4) For section 35 of the *Land Title Act 2000*, a Restricted Water Extraction Area declaration imposes a restriction on land within the area and the Minister may lodge with the Registrar-General a memorandum in accordance with that section for land in the area.

Note for subsection (4)

The Registrar-General's directions and Regulations made under the Land Title Act 2000 may prescribe or provide for an approved form used for lodging a memorandum under section 35(1) of that Act.

14D Bores in Restricted Water Extraction Area

(1) If land with a bore on it in a Restricted Water Extraction Area is subdivided or consolidated and results in a title to land the owner of which no longer retains the right to take groundwater under section 14, the owner must discontinue the use of and decommission any bore on the land with that title.

(2) The Controller must not accept an application for a bore work permit made under section 57(1) in respect of the land with that title, other than:

(a) an application for a bore work permit for decommissioning or sealing off a bore; or

(b) an application for a bore work permit to take groundwater under any entitlement other than the right to take groundwater under section 14.

14E Effect of revocation of Restricted Water Extraction Area declaration

(1) A declaration under section 14A(1) and the restrictions in the area continue in effect until the declaration is revoked.

(2) If the Minister revokes a declaration under section 14A(1):

(a) in the case of a declaration restricting the right to take water under section 11 – the right to take water under section 11 is restored to owners of:

(i) all titles to land created by subdivision or consolidation under Part 2A, 4 or 5 of the *Planning Act 1999* after the declaration; and

(ii) all unit titles created by registration of a scheme statement under section 54B of the *Land Title Act 2000* after the declaration; and

(iii) all unit titles created by registration of a units plan of subdivision or units plan of consolidation under section 9B of the *Real Property (Unit Titles) Act 1975* after the declaration; and

(b) in the case of a declaration restricting the right to take groundwater under section 14 – the right to take water under section 14 is restored to owners of:

(i) all titles to land created by subdivision or consolidation under Part 2A, 4 or 5 of the *Planning Act 1999* after the declaration; and

(ii) all unit titles created by registration of a scheme statement under section 54B of the *Land Title Act 2000* after the declaration; and

(iii) all unit titles created by registration of a units plan of subdivision or units plan of consolidation under section 9B of the *Real Property (Unit Titles) Act 1975* after the declaration.

(3) As soon as practicable after a declaration under section 14A(1) is revoked, the Minister responsible for administering the *Land Title Act 2000* must give a direction to the Registrar-General under section 36(1) of that Act to remove any memorandum made under section 35 of that Act in respect of the declaration.

Note for subsection (3)

The Registrar-General's directions and Regulations made under the Land Title Act 2000 may prescribe or provide for an approved form used for giving a direction under section 36(1) of that Act.

15 Rights of owner or occupier to drain land or retain water

Despite section 9(2), the owner or occupier of land may, if it does not materially diminish or increase the flow or likely flow of water in or into a waterway:

(a) drain the land in accordance with this Act and the *Soil Conservation and Land Utilisation Act 1969*; or

(b) for the retention or conservation of water for use on the land – construct, operate, maintain, repair or alter a dam or other water storage or works (other than prescribed works) not in a waterway.

Division 2 Pollution

16 Prohibition of pollution

(1) In this section, ***water*** means:

(a) water flowing or contained in a waterway;

(b) groundwater; or

(c) tidal water.

(2) A person shall not, unless authorised to do so by or under this or any other law in force in the Territory and in accordance with that authorisation, wilfully cause, either directly or indirectly:

(a) waste to come into contact with water; or

(b) water to be polluted,

causing serious environmental harm.

(2A) An offence against subsection (2) is an environmental offence level 1.

(2B) A person shall not, unless authorised to do so by or under this or any other law in force in the Territory and in accordance with that authorisation, cause, either directly or indirectly:

(a) waste to come into contact with water; or

(b) water to be polluted,

causing serious environmental harm.

(2C) An offence against subsection (2B) is an environmental offence level 2.

(2D) A person shall not, unless authorised to do so by or under this or any other law in force in the Territory and in accordance with that authorisation, cause, either directly or indirectly:

(a) waste to come into contact with water; or

(b) water to be polluted,

causing material environmental harm.

(2E) An offence against subsection (2D) is an environmental offence level 3.

(2F) A person shall not, unless authorised to do so by or under this or any other law in force in the Territory and in accordance with that authorisation, cause, either directly or indirectly:

(a) waste to come into contact with water; or

(b) water to be polluted.

(2G) An offence against subsection (2F) is an environmental offence level 4.

(3) In a proceeding for an offence against this section, proof of the existence on land of a drain, pond, dump or other means (including mechanical means) whereby waste is capable of being conveyed, retained or deposited in such a manner as to come into contact directly or indirectly with water is prima facie evidence that waste came into contact with such water at the time that such drain, pond, dump or other means existed.

Maximum default penalty: 4 penalty units or, in the case of a body corporate, 20 penalty units.

17 Rights to prevent pollution preserved

(1) Subject to subsection (2), nothing in this Act affects a right that a person has under a law in force in the Territory to restrict or prevent, or to obtain damages in respect of, the pollution of water.

(2) In an action to restrict or prevent the pollution of water, it is a defence if it is proved that the pollution was authorised by a licence granted under section 63 or 74.

Division 3 Hydraulic fracturing waste

17A Hydraulic fracturing waste and water

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in, directly or indirectly:

(i) hydraulic fracturing waste coming into contact with water; and

(ii) serious environmental harm; and

(c) the person has knowledge of the result.

Penalty: environmental offence level 1.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in, directly or indirectly:

(i) hydraulic fracturing waste coming into contact with water; and

(ii) serious environmental harm; and

(c) the person is reckless in relation to the result.

Penalty: environmental offence level 2.

(3) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in, directly or indirectly:

(i) hydraulic fracturing waste coming into contact with water; and

(ii) material environmental harm; and

(c) the person has knowledge of the result.

Penalty: environmental offence level 2.

(4) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in, directly or indirectly:

(i) hydraulic fracturing waste coming into contact with water; and

(ii) material environmental harm; and

(c) the person is reckless in relation to the result.

Penalty: environmental offence level 3.

(5) A person commits an offence if the person engages in conduct that results in, directly or indirectly, hydraulic fracturing waste coming into contact with water.

Penalty: environmental offence level 4.

(6) Strict liability applies to subsection (5).

(7) In this section:

water means:

(a) water flowing or contained in a waterway; or

(b) groundwater; or

(c) tidal water.

17B Application of section 17A

(1) Section 17A does not apply if:

(a) hydraulic fracturing waste is produced water or flowback fluid; and

(b) the hydraulic fracturing waste comes into contact with water that is contained in the geological formation being targeted by the process of hydraulic fracturing.

(2) In this section:

flowback fluid means fluid that is a mixture of hydraulic fracturing fluid and formation fluid that is allowed to flow from the well following hydraulic fracturing.

produced water means naturally occurring water that is extracted from a geological formation following hydraulic fracturing.

17C Evidentiary matters

In a proceeding for an offence against section 17A, proof of the existence on land, where hydraulic fracturing has occurred or is occurring, of any of the following things is evidence that hydraulic fracturing waste came into contact with water at the time the thing existed:

(a) a drain;

(b) a pond;

(c) a dump;

(d) any other means (including mechanical means) by which hydraulic fracturing waste is capable of being conveyed, retained or deposited so that it may, directly or indirectly, come into contact with water.

Part 3 Administration

Division 1 General administration

18 Controller of Water Resources

(1) The Minister may, by *Gazette* notice, appoint a person to be the Controller of Water Resources.

(2) The Controller has the functions conferred on the Controller under this Act and the powers necessary to perform those functions.

18A Staff and facilities of Controller

(1) The Chief Executive Officer must provide the Controller with staff and facilities to enable the Controller to properly exercise or perform the Controller's powers and functions.

(2) A staff member provided to the Controller under subsection (1) is subject only to the direction of the Controller in performing duties for the Controller.

18B Minister may direct Controller

(1) The Minister may direct the Controller generally in relation to a matter under this Act other than the following:

(a) a decision about a particular licence under section 45, 49, 60, 63, 67, 71G, 71H, 71M, 71R or 74;

(b) a decision about a particular permit under section 41;

(c) an approval under section 105(1A).

(2) In the performance of the Controller's functions and exercise of the Controller's powers, the Controller is subject to a direction under subsection (1).

19 Delegation

(1) The Minister or the Controller may, by instrument in writing, delegate to a person any of their respective powers and functions under this Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister or the Controller, as the case may be.

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

(4) The Minister cannot delegate the power to declare a Restricted Water Extraction Area under section 14A(1).

22 Water control district

The Minister may, by notice in the *Gazette*, declare a part of the Territory to be a water control district for a purpose specified in the notice and allocate a name to the district.

22A Beneficial uses within water control district

(1) The Administrator may, by notice in the *Gazette*, declare the beneficial uses of the water in a water control district.

(2) Each of the following is a beneficial use of water in a water control district:

(a) environment;

(b) Aboriginal economic development.

22B Water allocation plans

(1) The Minister may, by notice in the *Gazette*, declare one or more water allocation plans in respect of all or part of a water control district.

(2) The Minister must specify the period (not longer than 10 years) that a water allocation plan is to remain in force.

(3) The Minister must ensure that a review of a water allocation plan is conducted at intervals not longer than 5 years.

(4) Water resource management in a water control district is to be in accordance with any water allocation plan declared in respect of the district.

(5) The water allocation plans for a water control district are to ensure that:

(a) water is allocated within the estimated sustainable yield to beneficial uses; and

(b) the total water use for all beneficial uses (including those provided through rural stock and domestic use and licences granted under sections 45 and 60) is less than the sum of the allocations to each beneficial use; and

(d) as far as possible – the full cost for water resources management is to be recovered through administrative charges to licensees and operational contributions from licensees.

(6) An allocation under subsection (5)(a) is to include an allocation to the environment.

(7) An allocation under subsection (5)(a) is to include an Aboriginal water reserve if any of the land in the water control district to which the water allocation plan relates is eligible land.

22C Designation of eligible land for Aboriginal water reserve in water allocation plan

(1) A water allocation plan may designate eligible land as land in respect of which an Aboriginal water reserve applies if:

(a) the land is of more than 1 hectare; and

(b) there are water resources:

(i) for surface water – on or immediately adjacent to the land; or

(ii) for groundwater – beneath the land.

(3) A water allocation plan must not designate land under subsection (1) that is held under a lease that permits the lessee to use the land solely or primarily for residential purposes.

23 Water Advisory Committees

(1) The Minister may, in writing:

(a) establish, and appoint the members of, a Water Advisory Committee for the Territory or a part of the Territory or for a particular purpose; and

(b) allocate a name to each such Advisory Committee.

(1A) If a water allocation plan is declared under section 22B, the Minister may, in writing:

(a) establish, and appoint the members of, a Water Advisory Committee for the plan; and

(b) allocate a name to the Advisory Committee.

(1B) An Advisory Committee referred to in subsection (1A):

(a) in addition to subsection (3) – is to advise the Minister on the effectiveness of the water allocation plan in maximising economic and social benefits within ecological restraints; and

(b) is to carry out any other functions that the Minister may from time to time direct the Advisory Committee to perform.

(2) An Advisory Committee shall consist of such members as the Minister thinks fit and the members shall hold office at the Minister's pleasure.

(3) An Advisory Committee shall consider and advise the Minister on such matters within its jurisdiction as are referred to it by the Minister.

Division 2 Authorised officers

24 Authorised officers

(1) The Minister may, in writing, appoint a person to be an authorised officer.

(2) The Minister must give an authorised officer an identity card stating the person's name and that the person is an authorised officer.

(3) The card must be signed by the authorised officer.

(4) The authorised officer must show the card to any person who requests to know the identity of the officer in the performance of the officer's duties under this Act.

25 Return of identity card

(1) A person commits an offence if the person:

(a) ceases to be an authorised officer; and

(b) fails to return the person's identity card to the Chief Executive Officer within 15 business days after the cessation.

Maximum penalty: 20 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

26 Powers of authorised officers: purposes

An authorised officer may exercise the powers set out in this Division for the following purposes:

(a) to assist with the exercise of the rights of the Territory under section 9(2);

(b) to assist in the performance of the Minister's duty under section 34;

(c) to monitor compliance with this Act;

(d) to investigate a suspected contravention of this Act.

27 General powers of authorised officers

(1) Subject to sections 28 and 29, an authorised officer may do any of the following:

(a) enter and remain on any land;

(b) move any vehicle;

(c) inspect any land and anything on the land;

(d) search any land entered and anything found there;

(e) take photographs and make sketches or other records of land or things found on land;

(f) take photographs of any person on or in land;

(g) make recordings in any medium, including audio, visual and audio-visual recordings, of land or things found on land;

(h) inspect and take copies of documents and records;

(i) seize any documents and any computer or other equipment required to access any documents;

(j) operate any computer or other equipment;

(k) bring equipment or materials on to land and install and maintain equipment or materials;

(l) measure anything or take samples of anything on land;

(m) examine or test any equipment, machinery or other thing;

(n) require a relevant person to:

(i) provide the person's name, address and date of birth and evidence of these; and

(ii) if the relevant person is acting as a member of a partnership – provide the name, address and telephone number of each other partner in the partnership; and

(iii) if the relevant person is acting as a member of the committee of management of an unincorporated body – provide the name, address and telephone number of each other member of the committee of management;

(o) require a person on the land to give the authorised officer reasonable assistance to exercise or perform the authorised officer's powers or functions including:

(i) by operating any computer or other equipment; and

(ii) by providing any access or assistance to access any computer or other equipment or any service;

(p) authorise a person to provide assistance to the authorised officer in the exercise or performance of the authorised officer's powers or functions;

(q) do any other act or thing or cause anything else to be done that the officer believes on reasonable grounds is necessary for, or incidental to, the exercise of a power mentioned in this Division.

(2) In this section:

associated person, of a person, means:

(a) if the person is a member of a partnership – a partner of the person; or

(b) if the person is a member of and acting on behalf of an unincorporated body – a member of the committee of management of the body; or

(c) an employee, agent, licensee, contractor or subcontractor of the person or of a partnership or body mentioned in paragraph (a) or (b).

relevant person means:

(a) a person who is on, or in the vicinity of, land entered by the authorised officer under this section; or

(b) a person who the authorised officer suspects on reasonable grounds is travelling to or from the land; or

(c) a person who the authorised officer suspects on reasonable grounds is the owner or occupier of the land; or

(d) a person who the authorised officer knows or suspects on reasonable grounds is the holder of a permit, licence or consent under this Act; or

(e) a person who the authorised officer suspects on reasonable grounds is a person who is under investigation for a suspected contravention of this Act; or

(f) a person who the authorised officer suspects on reasonable grounds is a person who is an associated person of a person mentioned in paragraph (c), (d) or (e).

28 Notice of entry

(1) This section does not apply in relation to the entry of land that is residential premises.

(2) An authorised officer who intends to enter land under section 27(1) must give the owner or occupier of the land written notice of the intention to enter the land, unless one of the following applies:

(a) entry is required in circumstances that the officer considers constitute an emergency;

(b) the purpose of entry is to ascertain whether a contravention of this Act (including a contravention of a term or condition of a licence, permit, consent or approval granted under this Act) has occurred;

(c) entry is required for the purpose mentioned in section 26(b).

(3) A notice under subsection (2) must be given to the owner or occupier of the land at least 10 business days before the proposed entry and must specify the following:

(a) the land proposed to be entered;

(b) the name and address of the authorised officer and any other person who will enter the land;

(c) details of any activities the authorised officer proposes to carry out on the land.

29 Entry to residential premises

(1) An authorised officer must not:

(a) enter residential premises for the purpose mentioned in section 26(2)(b); or

(b) enter residential premises for any other purpose without:

(i) the consent of the occupier of the premises obtained in accordance with subsection (2); or

(ii) a warrant issued under section 30.

(2) An authorised officer seeking an occupier's consent to enter residential premises must:

(a) show the officer's identity card to the occupier; and

(b) inform the occupier of the reasons why the entry is sought; and

(c) inform the occupier that the occupier may refuse to give consent.

(3) Having entered residential premises, an authorised officer may remain on the premises for as long as is reasonably necessary to achieve the purpose of the entry.

30 Application for and issue of search warrant

(1) An authorised officer may apply to a judicial officer for a search warrant to enter residential premises:

(a) by appearing in person before the judicial officer; or

(b) if it is not practicable to appear in person – by telephone or other means of communication.

(2) If the judicial officer is satisfied that there are reasonable grounds to permit the authorised officer to enter the residential premises, the judicial officer may issue a warrant directed to the authorised officer.

(3) If the judicial officer issues a warrant on an application made under subsection (1)(b), the judicial officer must:

(a) complete and sign the warrant (the ***original warrant***); and

(b) record on the original warrant the reasons for issuing it; and

(c) inform the authorised officer by telephone or other means of communication of its terms.

(4) When informed of the terms of the warrant under subsection (3)(c), the authorised officer must as soon as practicable:

(a) complete 2 copies of the form of warrant in the terms provided by the judicial officer; and

(b) write on each copy the name of the judicial officer and the date and time of the issue of the original warrant; and

(c) forward one copy to the judicial officer.

(5) The authorised officer may use the remaining copy of the warrant to exercise the powers granted by the original warrant.

(6) If the judicial officer is satisfied, after comparing the forwarded copy with the original warrant, that the copy is in substance identical to the original warrant, the judicial officer must certify the copy as being in substance identical to the original warrant.

(7) In this section:

judicial officer means any of the following:

(a) a Supreme Court Judge;

(b) an Associate Judge;

(c) a Local Court Judge.

31 Effect and term of search warrant

(1) A search warrant permits the authorised officer to whom it is directed, and any other authorised officer, to:

(a) enter the land specified in the warrant; and

(b) exercise the powers of the authorised officer under this Act in relation to the land.

(2) A warrant remains in force for 30 business days from its date of issue.

32 Duty of authorised officer in relation to seized thing

(1) As soon as practicable but within 5 business days after an authorised officer seizes a thing under section 27, the officer must give a receipt for the seized thing to the person from whom it was seized.

(2) The receipt must describe generally each thing seized and its condition.

(3) If, for any reason, it is not practicable to comply with subsection (1), the authorised officer must:

(a) leave the receipt at the place of seizure; and

(b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.

(4) The authorised officer must allow the owner of the seized thing to inspect it and, if it is a document, to take extracts from it or make copies of it.

(5) The authorised officer must return the seized thing to its owner at the end of the later of:

(a) 12 months; or

(b) if a prosecution for an offence involving the seized thing is started within the 12 months – 12 months after the end of the prosecution for the offence and any appeal from the prosecution.

(6) Despite subsection (5), the authorised officer must return the seized thing to its owner immediately if the authorised officer stops being satisfied its retention as evidence is necessary.

(7) Despite subsections (5) and (6), the authorised officer may keep the seized thing if the authorised officer believes on reasonable grounds that it is necessary to continue to keep it to prevent its use in committing an offence.

(8) The authorised officer must give written notice to the owner of the seized thing as soon as practicable if the officer decides under subsection (7) to keep the thing.

32A Forfeiture of seized thing

Despite section 32, if the owner of the seized thing is convicted of an offence for which the thing was retained as evidence, the court may order its forfeiture to the Territory.

Division 4 Protection from liability

33 Protection from liability

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function connected with the administration of this Act.

(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

(3) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

Division 5 Remediation notices

33A Power to give remediation notice

(1) This section applies if the Controller believes on reasonable grounds that:

(a) a person is contravening or has contravened section 37(1), 40(1), 42(1), 44(1), 46(1), 48(1), 50(1), 55(2), 56(1), 58(1), 59(1), 61(1), 66(1), 68(1), 71(1), 79(3), 81(1) or 96(3) in circumstances that make it likely the contravention will continue or be repeated; and

(b) a matter relating to the contravention is reasonably capable of being rectified; and

(c) it is appropriate to give the person an opportunity to rectify the matter.

(2) The Controller may give the person a notice (a ***remediation notice***) requiring the person to take reasonable steps to rectify the matter and, if relevant, requiring the person to refrain from doing an act.

33B Requirements for remediation notice

A remediation notice must specify the following:

(a) that the Controller believes the person is contravening or has contravened a provision mentioned in section 33A(1)(a) in circumstances that make it likely the contravention will continue or be repeated;

(b) the provision the Controller believes is being, or has been contravened;

(c) briefly, how it is believed the provision is being, or has been contravened;

(d) the matter relating to the contravention that the Controller believes is reasonably capable of being rectified;

(e) the reasonable steps the person must take to rectify the matter;

(f) that the person must take the steps within a specified reasonable period;

(g) that the person may apply to NTCAT for a review of the decision to issue the remediation notice under section 105D;

(i) if the notice requires the person to do an act involving the carrying out of work – details of the work involved;

(j) if the notice requires the person to refrain from doing an act:

(i) a period for which the requirement applies; or

(ii) that the requirement applies until further notice.

33C Failure to comply with remediation notice

(1) A person commits an offence if the person:

(a) is given a remediation notice; and

(b) fails to comply with the notice.

Maximum penalty: The maximum penalty that may be imposed for the offence provision specified in the notice.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

33D Power to take action and recover costs

(1) If a person given a remediation notice fails to comply with the notice, the Minister may take the action required by the notice and any reasonable expenses incurred are payable by the person as a debt to the Territory.

(2) The Minister must give the person a notice stating the amount of any reasonable expenses incurred.

Part 4 Water resources investigation

34 Water resources investigation

To enable effective planning for water resource development and environmental protection, it is the duty of the Minister to ensure as far as possible that a continuous program for the assessment of water resources of the Territory is carried out, including the investigation collection, collation and analysis of data concerning the occurrence, volume, flow, characteristics, quality, flood potential and use of water resources, and for that purpose the Minister may:

(a) systematically gauge stream flow, record climatic data and monitor groundwater levels;

(b) construct, operate, repair, maintain, alter and remove gauging, recording and monitoring stations and investigation and monitoring bores;

(c) sample and analyse water and waste; and

(d) cooperate with a State of the Commonwealth in the investigation of water resources which traverse the boundary between the Territory and the State.

35 Equipment not fixture or improvement to land

If in the performance of the Minister's duty anything is attached to land, it is taken not to be:

(a) a fixture to the land for the purpose of giving the owner or occupier of the land a proprietary interest in it; or

(b) an improvement.

36 Water investigation permits

(1) Subject to this Act, the Minister may, on the Minister's own initiative or on application in the prescribed manner and form, grant to a person a permit to explore for water.

(2) A permit granted under subsection (1) is subject to such terms and conditions, if any, as are specified in the permit document.

(3) A permit may empower its holder to enter Crown land or private land and to take such measures and carry out such works for the purposes of this Part as are specified in the permit document or prescribed and, subject to this Act, the holder of the permit may, with such workmen and equipment as reasonably required for that purpose, enter the land and do those things accordingly.

(4) A permit shall be granted for such period, not exceeding 12 months, as is specified in the permit document.

37 Breach of water investigation permit

(1) A person commits an offence if the person:

(a) holds a permit granted under section 36; and

(b) contravenes a term or condition of the permit.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

38 Notice where private land disturbed

(1) If in the exercise of a power by virtue of a permit under this Part the holder of the permit wishes to enter land, the holder must given written notice to the owner or occupier of the land of the holder's intention to enter the land.

(2) A notice required under subsection (1) to be given shall be served not later than 10 business days before the exercise of the power and shall specify the land on which entry is to be made, the work

proposed to be carried out on the land and the name and place of business of each person who will enter on the land to carry out the work.

39 Access to confidential information

(1) This section applies if the holder of a mineral title under the *Mineral Titles Act 2010*, an environmental (mining) licence under the *Environment Protection Act 2019* or a petroleum licence or petroleum permit under the *Petroleum Act 1984*, has given any of the following to a person as required by that Act:

(a) water samples of, and data about, underground water encountered during exploration drilling;

(b) a geological sample, including a drill core and cutting;

(c) a report relevant to the mineral title, environmental (mining) licence, petroleum licence or petroleum permit.

(2) Either or both of the Controller and the Minister may do any of the following:

(a) have access to anything mentioned in subsection (1)(a) to (c);

(b) arrange for an analysis of a sample mentioned in subsection (1)(a) or (b);

(c) obtain copies of reports mentioned in subsection (1)(c).

(2A) The Controller and the Minister may share anything mentioned in subsection (2) with each other.

(3) Subsections (2) and (2A) apply to the Controller and the Minister:

(a) regardless of any provision in the *Mineral Titles Act 2010*, the *Environment Protection Act 2019* or the *Petroleum Act 1984* relating to confidentiality; and

(b) without the need to obtain the permission of the holder of the mineral title, environmental (mining) licence, petroleum licence or petroleum permit.

(4) A person commits an offence if:

(a) the person obtains information under this section in the course of performing a function connected with the administration of this Act or exercising a power under this Act; and

(b) the information is confidential and the person is reckless in relation to that circumstance; and

(c) the person intentionally engages in conduct; and

(d) the conduct results in the disclosure of the information and the disclosure is not:

(i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or

(ii) to a person who is otherwise entitled to the information; and

(e) the person is reckless in relation to the result and circumstance mentioned in paragraph (d).

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

(4A) Strict liability applies to subsection (4)(a).

(4B) If the information mentioned in subsection (4) relates to a person, it is a defence to a prosecution for an offence against that subsection if the person has consented to the disclosure of the information.

Example for subsection (4B)

A person to whom the information relates includes a person who has a direct interest in the information remaining confidential because the information is financial, commercial, personal or cultural information.

Note for subsections (4) to (4B)

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

(5) In this section:

environmental (mining) licence, see section 4 of the *Environment Protection Act 2019*.

mineral title means:

(a) a mineral title as defined in section 11(1) of the *Mineral Titles Act 2010*; or

(b) a non-compliant existing interest as defined in section 204(1) of the *Mineral Titles Act 2010*.

petroleum licence means a licence as defined in section 5(1) of the *Petroleum Act 1984*.

petroleum permit means a permit as defined in section 5(1) of the *Petroleum Act 1984*.

Part 5 Surface water

Division 1 Works

40 Interfering with waterway without authorisation

(1) A person commits an offence if the person:

(a) engages in conduct that interferes with a waterway; and

(b) is not authorised under this Act to interfere with the waterway.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct interferes with a waterway and the person is reckless in relation to the result; and

(c) the person is not authorised under this Act to interfere with the waterway.

Maximum penalty: 1 000 penalty units or imprisonment for 2 years.

(4) Strict liability applies to subsection (3)(c).

(5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (5).

(7) For subsections (1)(b) and (3)(c), a right, permit or licence under section 10, 11, 14, 41, 45, 60 or 67 authorises a person to interfere with a waterway to the extent that the person's conduct is in accordance with the right, permit or licence.

(8) In a proceeding for an offence against this section, proof of the existence of a structure or obstruction on land, or on, in or below a waterway, is evidence that the waterway was interfered with if the structure or obstruction was capable of interfering with the waterway.

(9) Subsections (1) and (3) do not apply if the Minister exempts the interference with a waterway under subsection (10).

(10) The Minister may, by *Gazette* notice, exempt a class of interference with a waterway from the application of subsections (1) and (3) and those subsections cease to apply to, or in relation to, interferences of that class on and from the day the notice is published in the *Gazette*.

41 Grant of permit to interfere with waterway

(1) Subject to this Act, the Controller may, on the Controller's own initiative or on application in the prescribed manner and form, grant to a person a permit in the prescribed form to interfere with a waterway.

(2) A permit may be granted under subsection (1) subject to any terms and conditions specified in the permit document.

42 Breach of permit to interfere with waterway

(1) A person commits an offence if the person:

(a) holds a permit granted under section 41; and

(b) contravenes a term or condition of the permit.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Division 2 Taking surface water

43 Definition

In this Division, ***water*** means water flowing or contained in a waterway.

44 Taking surface water without authorisation

(1) A person commits an offence if the person:

(a) takes water; and

(b) is not authorised under this Act to take the water.

Maximum penalty: 500 penalty units.

Note for subsection (1)

***Take**, in relation to water, is defined in section 4(1).*

(2) A person commits an offence if the person:

(a) intentionally takes water; and

(b) is not authorised under this Act to take the water.

Maximum penalty: 1 000 penalty units or imprisonment for 2 years.

Note for subsection (2)

***Take**, in relation to water, is defined in section 4(1).*

(3) Strict liability applies to subsections (1) and (2)(b).

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

(6) In a proceeding for an offence against this section, proof of the existence on land of a channel or other means (including mechanical means) by which water may be taken is evidence that water was taken while the channel or other means existed.

(7) Subsections (1) and (2) do not apply if the Administrator declares under subsection (8) that they do not apply.

(8) The Administrator may, on the recommendation of the Minister, declare by *Gazette* notice that subsections (1) and (2) do not apply to taking water:

(a) of a specified class, kind, description or volume; or

(b) at a specified rate or for a specified purpose.

45 Licence to take water

(1) Subject to this Act, the Controller may, on the Controller's own initiative or on application in the prescribed manner and form, grant to a person a licence in the prescribed form to take water.

(2) A licence may be granted under subsection (1) subject to any terms and conditions specified in the licence document.

(3) Subject to subsection (4), a licence is granted for the period, not exceeding 10 years, specified in the licence document.

(4) A licence may be granted under subsection (1) for a period exceeding 10 years if:

(a) the licence is for a purpose, or meets criteria, that the Minister, by *Gazette* notice, specifies as justifying a longer period; or

(b) the Controller is satisfied that special circumstances justify the longer period.

(5) The Controller must not grant a licence or accept an application for a licence to take water on land in a Restricted Water Extraction Area declared to restrict the right to take water under section 11, other than an application specified in subsection (6).

(6) For subsection (5), the following applications are specified:

(a) an application under subsection (1) in relation to Crown land in the Restricted Water Extraction Area, unless the land is leased from the Crown under the *Crown Lands Act 1992* or the *Special Purposes Leases Act 1953*;

(b) an application under subsection (1) made in accordance with section 71M or 71R;

(e) an application made because of the subdivision or consolidation of land which is the subject of one or more water extraction licences if:

(i) a development permit for the subdivision or consolidation is in force under the *Planning Act 1999*; and

(ii) the total quantity of water that may be taken under all licences relating to the subdivided or consolidated land would not increase if the application is granted.

45A No licence to take water for petroleum activity

The Controller must not grant a licence under section 45 if the proposed beneficial use of water under the licence is petroleum activity.

46 Breach of licence to take surface water

(1) A person commits an offence if the person:

(a) holds a licence granted under section 45; and

(b) contravenes a term or condition of the licence.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Part 6 Groundwater

Division 1 General

47 Declaration of exemptions

(1) The Administrator may, on the recommendation of the Minister, by notice in the *Gazette*, declare that a provision of this Part does not apply to or in relation to a bore, or to drainage water or waste, of a class or description specified in the notice and, accordingly, that provision does not apply.

(2) A declaration under subsection (1) must not exempt the application of the following provisions:

(a) section 60A;

(b) section 67(4).

Division 2 Drilling licences

48 Doing bore work without licence

(1) A person commits an offence if the person:

(a) does bore work; and

(b) does not hold a drilling licence that authorises the bore work.

Maximum penalty: 500 penalty units.

Note for subsection (1)

General rights to take water or do bore work under section 57 do not authorise unlicensed bore work, but this offence does not apply if the bore is subject to an exemption declared under section 47.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

(5) Subsection (1) does not apply if, at all times, the defendant does the bore work in the presence of a person who holds a drilling licence that authorises the bore work.

49 Grant of drilling licence

(1) Subject to this Act, the Controller may:

(a) on the Controller's own initiative or on application in the prescribed manner and form; and

(b) on being satisfied that the person has the prescribed qualifications,

grant to a person a drilling licence of a prescribed kind in the prescribed form.

(2) A drilling licence may be granted under subsection (1) subject to such terms and conditions, if any, as are specified in the licence document.

(3) A drilling licence shall be granted for such period, not exceeding 5 years, as is specified in the licence document.

50 Breach of drilling licence

(1) A person commits an offence if the person:

(a) holds a drilling licence; and

(b) contravenes a term or condition of the licence.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

51 Surrender of licence

The holder of a drilling licence to whom notice has been given in accordance with section 93 must, within 20 business days after the date of the notice, deliver to the Controller the licence document.

52 Obligation to produce drilling licence

A person working as a driller or on or in connection with a bore must, if required to do so by the Controller or an authorised officer, produce within a reasonable time to the Controller or authorised officer:

(a) the person's drilling licence; or

(b) satisfactory evidence that the person is acting under the supervision of the holder of a drilling licence.

53 Power to require drilling information and samples

(1) The Controller may, by written notice, require a holder of a drilling licence to provide the information and samples prescribed by regulation in the form and within the period specified in the notice.

(2) A person commits an offence if the person:

(a) is given a notice under subsection (1); and

(b) fails to comply with a requirement of the notice.

Maximum penalty: 30 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

54 Drillers' Qualifications Advisory Committee

(1) There is a Drillers' Qualifications Advisory Committee.

(2) The Drillers' Qualifications Advisory Committee:

(a) is constituted by a chairperson and the prescribed number of other members; and

(b) has powers and functions as prescribed.

(3) The chairperson and members of the Drillers' Qualifications Advisory Committee must be appointed by the Minister and hold office at the Minister's pleasure.

Division 3 Bore work permits

55 Power to require information about bore

(1) The Controller may, by *Gazette* notice, require an owner or occupier of land or land of a specified class, either generally or within a specified area:

(a) to provide information in relation to any bores situated on the land; and

(b) to provide the information within a specified time or as soon as practicable after the completion of bore work.

(2) A person commits an offence if the person:

(a) is required by a notice under subsection (1) to provide information; and

(b) fails to comply with the requirement.

Maximum penalty: 30 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

56 Doing bore work without authorisation

(1) A person commits an offence if:

(a) the person does bore work; and

(b) the bore work is not authorised by a permit granted under section 57.

Maximum penalty: 500 penalty units.

(2) A person commits an offence if:

(a) the person intentionally does bore work; and

(b) the bore work is not authorised by a permit granted under section 57.

Maximum penalty: 1 000 penalty units or imprisonment for 2 years.

(3) Strict liability applies to subsections (1) and (2)(b).

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if:

(a) the bore work was done:

(i) to prevent pollution or deterioration of the water in a bore; or

(ii) to provide urgent water supply for the benefit of public health, animal welfare or the environment; and

(b) it was not reasonably practicable to apply for a permit under section 57; and

(c) the defendant took reasonable steps to inform the Controller of the bore work; and

(d) the defendant complied with any regulations that apply to the bore work done for a purpose mentioned in paragraph (a).

(5) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(6) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4) or (5).

57 Grant of bore work permit

(1) Subject to this Act, the Controller may, on the Controller's own initiative or on application in the prescribed manner and form, grant to a person a permit in the prescribed form to carry out bore work.

(2) A permit may be granted under subsection (1) subject to any terms and conditions specified in the permit document.

(3) A permit must be granted for a period, not exceeding 2 years, as is specified in the permit document.

58 Breach of permit to do bore work

(1) A person commits an offence if the person:

(a) holds a permit granted under section 57; and

(b) contravenes a term or condition of the permit.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Division 4 Extraction of groundwater

59 Taking groundwater without authorisation

(1) A person commits an offence if the person:

(a) takes water from a bore; and

(b) is not authorised under this Act to take the water.

Maximum penalty: 500 penalty units.

Note for subsection (1)

***Take**, in relation to water, is defined in section 4(1).*

(2) A person commits an offence if the person:

(a) intentionally takes water from a bore; and

(b) is not authorised under this Act to take the water.

Maximum penalty: 1 000 penalty units or imprisonment for 2 years.

Note for subsection (2)

***Take**, in relation to water, is defined in section 4(1).*

(3) Strict liability applies to subsections (1) and (2)(b).

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

(6) In a proceeding for an offence against this section, proof of the existence on land of pumping equipment or other prescribed means by which water may be taken from a bore is evidence that water was taken in contravention of this section at the time the equipment or those means are proved to have existed.

60 Grant of licence to take groundwater

(1) Subject to this Act, the Controller may, on the Controller's own initiative or on application in the prescribed manner and form, grant to a person a licence in the prescribed form to take water from a bore.

(2) A licence may be granted under subsection (1) subject to such terms and conditions, if any, as are specified in the licence document.

(3) Subject to subsection (4), a licence shall be granted for such period, not exceeding 10 years, as is specified in the licence document.

(4) A licence may be granted under subsection (1) for a period exceeding 10 years if:

(a) the licence is for a purpose, or meets criteria, that the Minister, by *Gazette* notice, specifies as justifying a longer period; or

(b) the Controller is satisfied that special circumstances justify the longer period.

(5) The Controller must not grant a licence or accept an application for a licence to take water from a bore on land in a Restricted Water Extraction Area declared to restrict the right to take groundwater under section 14, other than an application specified in subsection (6).

(6) For subsection (5), the following applications are specified:

(a) an application under subsection (1) in relation to Crown land in the Restricted Water Extraction Area, unless the land is leased from the Crown under the *Crown Lands Act 1992* or the *Special Purposes Leases Act 1953*;

(b) an application under subsection (1) made in accordance with section 71M or 71R;

(e) an application made because of the subdivision or consolidation of land which is the subject of one or more water extraction licences if:

(i) a development permit for the subdivision or consolidation is in force under the *Planning Act 1999*; and

(ii) the total quantity of water that may be taken under all licences relating to the subdivided or consolidated land would not increase if the application is granted.

60A Licence to take groundwater for hydraulic fracturing

(1) This section applies in relation to an application for a licence, or a licence proposed to be granted on the Controller's own initiative, to take water from a bore if:

(a) the proposed beneficial use of water under the licence is petroleum activity that includes hydraulic fracturing; and

(b) one or more designated bores are located within 1 km of the bore.

(2) The Controller must not grant the licence unless:

(a) the owner of each designated bore mentioned in subsection (1)(b) consents to the grant of the licence; or

(b) the Controller is satisfied that hydrogeological investigations and groundwater modelling indicate that the activities under the licence will not have any adverse effect on the supply of water to any designated bore mentioned in subsection (1)(b).

(3) In this section:

designated bore means any of the following:

(a) a bore used for rural stock and domestic beneficial use;

(b) a bore in relation to which a water extraction licence has been granted;

(ba) a bore in relation to which a licence was granted under Part 6B;

(c) a proposed bore in relation to which the Controller has received but not yet decided an application for a bore work permit under section 57(1) that is proposed to be used for:

(i) rural stock and domestic beneficial use; or

(ii) a use that requires the grant of a water extraction licence or a licence under Part 6B;

(d) a proposed bore in relation to which a bore work permit under section 57(1) is in force that is proposed to be used for:

(i) rural stock and domestic beneficial use; or

(ii) a use that requires the grant of a water extraction licence or a licence under Part 6B.

owner, of a designated bore, means:

(a) if a permit or licence under this Act is in force in relation to the bore – the holder of the permit or licence; or

(b) if the designated bore is a proposed bore in relation to which the Controller has received an application under section 57(1) – the person who has made the application to construct the bore; or

(c) if a bore exists but there is no permit or licence under this Act in force in relation to the bore – the person who uses or maintains the bore.

61 Breach of licence to take groundwater

(1) A person commits an offence if the person:

(a) holds a licence granted under section 60; and

(b) contravenes a term or condition of the licence.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Division 5 Waste disposal

62 Prohibition of unlicensed waste disposal

(1) A person shall not, unless authorised by or under this Act to do so, wilfully cause waste to be disposed of underground by means of a bore causing serious environmental harm.

(1A) An offence against subsection (1) is an environmental offence level 1.

(1B) A person shall not, unless authorised by or under this Act to do so, cause waste to be disposed of underground by means of a bore causing serious environmental harm.

(1C) An offence against subsection (1B) is an environmental offence level 2.

(1D) A person shall not, unless authorised by or under this Act to do so, cause waste to be disposed of underground by means of a bore causing material environmental harm.

(1E) An offence against subsection (1D) is an environmental offence level 3.

(1F) A person shall not, unless authorised by or under this Act to do so, cause waste to be disposed of underground by means of a bore.

(1G) An offence against subsection (1F) is an environmental offence level 4.

(2) In proceedings for an offence against this section, proof of the existence on land of a means whereby waste is capable of being disposed of underground by means of a bore is prima facie evidence that waste was disposed of underground by means of a bore in contravention of this section at the time those means are proved to have existed.

Maximum default penalty: 4 penalty units or, in the case of a body corporate, 20 penalty units.

63 Grant of underground waste disposal licence

(1) Subject to this Act, the Controller may, on the Controller's own initiative or on application in the prescribed manner and form, grant to a person a licence in the prescribed form to dispose of waste underground by means of a bore.

(2) A licence may be granted under subsection (1) subject to such terms and conditions, if any, as are specified in the licence document.

(3) A licence shall be granted for such period, not exceeding 12 months, as is specified in the licence document.

64 Breach of term or condition of licence

(1) The holder of a licence granted under section 63 shall not contravene or fail to comply with, or cause, suffer or permit a person to contravene or fail to comply with, a term or condition to which the licence is subject.

(2) An offence against subsection (1) is an environmental offence level 3.

Maximum default penalty: 4 penalty units or, in the case of a body corporate, 20 penalty units.

65 Change in use of bore

(1) Subject to subsection (2), a person shall not, without the consent in writing of the Controller, cause, suffer or permit:

(a) a bore that is not being used for or in connection with the disposal of waste to be used for or in connection with the disposal of waste;

(b) a bore that is being used for or in connection with the disposal of waste to be used for the taking of water; or

(c) any change in the use to occur in relation to a bore to which the Administrator has, by notice under section 47, declared that a provision of this Part does not apply, if that change will result in the provision then applying to the bore.

(2) The Controller may, on application, consent to a person doing a thing referred to in subsection (1) and the person may do that thing accordingly.

(3) A consent may be granted under subsection (2) subject to such terms and conditions, if any, as are specified in the consent document.

(4) A person to whom a consent is granted shall not contravene or fail to comply with, or cause, suffer or permit a person to contravene or fail to comply with, a term or condition to which the consent is subject.

(5) An offence against this section is an environmental offence level 3.

Maximum default penalty: 4 penalty units or, in the case of a body corporate, 20 penalty units.

Division 6 Recharge of aquifers

66 Recharging aquifer without authorisation

(1) A person commits an offence if the person:

(a) engages in conduct that results in the increase of the volume of water in an aquifer; and

(b) is not authorised under this Act to increase the volume of water in the aquifer.

Maximum penalty: 500 penalty units.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in the increase of the volume of water in an aquifer and the person is reckless in relation to the result; and

(c) the person is not authorised under this Act to increase the volume of water in the aquifer.

Maximum penalty: 1 000 penalty units or imprisonment for 2 years.

(3) Strict liability applies to subsections (1) and (2)(c).

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

(6) In a proceeding for an offence against this section, proof of the existence on land of a means by which the volume of water contained in an aquifer is capable of being increased is evidence that the volume of water contained in an aquifer was increased in contravention of this section at the time those means are proved to have existed.

67 Grant of recharge licence

(1) Subject to this Act, the Controller may, on the Controller's own initiative or on application in the prescribed manner and form, grant to a person a licence to increase the water contained in an aquifer.

(2) A licence may be granted under subsection (1) subject to such terms and conditions as are specified in the licence document.

(3) A licence shall be granted for such period, not exceeding 10 years, as is specified in the licence document.

(4) The Controller must not grant a licence that permits the increase of water contained in an aquifer with water that is or contains hydraulic fracturing waste.

68 Breach of recharge licence

(1) A person commits an offence if the person:

(a) holds a licence granted under section 67; and

(b) contravenes a term or condition of the licence.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

Division 7 General

70 Power to give directions

Despite any other provision of this Act, if the Controller is satisfied that an act or omission by a person in relation to a bore may result, directly or indirectly, in the pollution or deterioration, inequitable distribution, loss, wastage or undue depletion of water, the Controller may, by notice served on the owner or occupier of the land on which the bore is situated, direct that person, within the period specified in the notice, to do one or more of the following:

(a) close, and shut off the supply of groundwater from, the bore in the manner specified in the notice;

(b) restrict or limit the amount of water taken from the bore to the extent specified in the notice;

(c) install and maintain a suitable meter to record the amount of water taken or discharged from the bore;

(d) discontinue the use of the bore;

(e) disconnect all pipes or drainage works discharging into, or in the vicinity of, the bore and take such action as is specified in the notice to prevent waste from entering the bore;

(f) close, or partly or entirely plug, seal off or backfill the bore in the manner specified in the notice;

(g) treat waste in a manner specified in the notice before it is allowed to enter the bore;

(h) restrict, in the manner specified in the notice, the amount of waste entering the bore;

(j) use the water taken from the bore for such purposes as are specified in the notice.

71 Contravention of notice

(1) A person commits an offence if the person:

(a) is served with a notice under section 70; and

(b) contravenes a direction of the notice.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

(5) For subsection (1), it is immaterial if the contents of the notice are inconsistent with or contrary to a term or condition of a licence, permit or other authorisation granted under this Act or another Act.

Part 6AA Trading of water entitlements

71AA Transfer of entitlements to water

(1) The holder (the ***seller***) of a water extraction licence may apply to the Controller to approve a transfer of all or part of the holder's entitlement to water under the licence to one or more other holders (the ***buyer***) of a licence granted in respect of the same water resource.

Example for subsection (1)

A licence holder does not use the entire water entitlement under the licence and wishes to sell a portion of it to a farmer who holds a licence to extract water from the same water resource.

(2) The application must be in a form approved by the Controller.

(3) The Controller must approve or refuse to approve the transfer of water entitlement and give the seller and the buyer written notice of the decision.

(4) If the Controller approves the transfer of water entitlement, the transfer takes effect on the later of:

(a) the day after the approval is given; or

(b) the date of transfer specified in the application.

71AB Amendment of licences if transfer approved

(1) If the Controller approves an application made under section 71AA(1), the Controller must amend the licences to:

(a) reduce the seller's entitlement to water; and

(b) increase the buyer's entitlement to water by no more than the reduction in the seller's entitlement under paragraph (a).

(2) An amendment to a licence under subsection (1) is not a decision to which section 90 applies.

Part 6A Water extraction licence decisions

71A Water extraction licence decision and application of Part

(1) A ***water extraction licence decision*** is a decision about an application to which this Part applies.

(2) This Part applies to an application for either or both of the following:

(a) the grant of a water extraction licence;

(b) an amendment or modification of one or more water extraction licences involving an increase in the total quantity of water that may be taken under the licence or licences.

(2A) However, this Part does not apply to either of the following:

(a) the transfer of an entitlement to take water under a licence and related amendment of one or more licences under Part 6AA;

(b) an application made because of the subdivision or consolidation of land which is the subject of one or more water extraction licences if:

(i) a development permit for the subdivision or consolidation is in force under the *Planning Act 1999*; and

(ii) the total quantity of water that may be taken under all licences relating to the subdivided or consolidated land would not increase if the application is granted.

(3) This Part does not apply to an application for the renewal of a water extraction licence under section 93A.

71B Notice of intention to make water extraction licence decision

(1) Within 20 business days after lodgement of an application to which this Part applies, the Controller must give notice of the Controller's intention to make a water extraction licence decision.

(2) The Controller must publish the notice in the manner the Controller considers appropriate.

(3) The notice must include the following information:

(a) whether the application is for the grant, amendment or modification of a water extraction licence;

(b) if the application is for the grant of a water extraction licence – the following details:

(i) whether the applicant proposes to take the water by means of extraction, diversion or instream use;

(ii) the name of the waterway from which the water will be taken;

(iii) the point of the waterway, or the bore, from which the water will be taken;

(iv) a description of the areas of land on which the waterway or bore is located and on which the water will be used;

(v) the proposed beneficial uses of the water;

(vi) the maximum quantity of water in megalitres proposed to be taken annually for each beneficial use;

(c) if the application is for the amendment or modification of a water extraction licence – the details of the proposed changes to the licence in relation to any of the matters mentioned in paragraph (b)(i) to (vi);

(d) any other information, available to the Controller about the relevant water resource, that the Controller considers relevant to the application, including the following:

(i) the total quantity of water that currently may be taken from the water resource under water extraction licences;

(ii) the total quantity of water that currently is taken from the water resource under water extraction licences;

(iii) the estimated total sustainable yield of water of the water resource.

(4) The notice must include an invitation to make written comments about the application to the Controller, at a specified address, within 20 business days after publication of the notice.

(5) The applicant for the water extraction licence decision must pay the costs of publishing the notice.

(6) The Controller must give a copy of the notice to the owners of land immediately adjacent to:

(a) the land from which the water will be taken; and

(b) the land on which the water will be used.

(7) In addition, the Controller must:

(a) use reasonable efforts to identify any occupiers of land immediately adjacent to the land mentioned in subsection (6)(a) and (b); and

(b) give a copy of the notice to the identified occupiers.

71BA Agreement required before water extraction licence given in respect of Aboriginal water reserve

The Controller must not grant a water extraction licence in relation to an Aboriginal water reserve unless the Controller is satisfied that:

(a) the applicant for the licence is an eligible Aboriginal person for the eligible land in respect of which the Aboriginal water reserve applies; or

(b) the applicant for the licence has obtained the agreement of the eligible Aboriginal people for the eligible land in respect of which the Aboriginal water reserve applies to apply for the licence.

71C Making water extraction licence decision

(1) The Controller must make a water extraction licence decision for an application as soon as practicable after the end of the period allowed for comments (if possible, within 20 business days after the end of that period).

(2) In making the decision, the Controller must take into account all the comments about the application made in accordance with section 71B(4).

(3) A copy of the full decision must be available to the public and must include the reasons for the decision and the way in which the Controller has taken into account:

(a) the comments mentioned in subsection (2); and

(b) any relevant factors mentioned in section 90(1).

71D Notice of water extraction licence decision

(1) Within 20 business days after making a water extraction licence decision, the Controller must:

(a) give a notice of the decision to the applicant and, if applicable, grant, amend or modify the licence under section 45 or 60; and

(b) publish a notice of the decision in the same manner the notice of the relevant application was published.

(2) A notice given or published under subsection (1) must include a brief statement:

(a) of the reasons for the water extraction licence decision; and

(b) advising where a person may read or obtain a copy of the full decision; and

(c) of any rights to apply to NTCAT for a review of the decision under section 105D.

Part 6B Development of land for subsequent licences

71F Application by developer

(1) A person (the ***developer***) may apply for a licence under this Part if the developer proposes to do all of the following:

(a) develop land (the ***development***) that would use water for one or more beneficial uses, other than mining activity and petroleum activity;

(b) transfer or lease areas of the land to other persons participating in the development;

(c) transfer the entitlement to water under the licence to those other persons to use for those beneficial uses.

(2) The application for the licence must be in a form approved by the Controller and include the details of the proposed development, including the following:

(a) the areas of land expected to be transferred or leased to other persons participating in the development;

(b) the volumes of water expected to be taken from those other areas.

(3) The Controller must not accept an application for a licence to take water in respect of a development on land in a Restricted Water Extraction Area, other than an application in relation to Crown land that is leased from the Crown under the *Crown Lands Act 1992* or the *Special Purposes Leases Act 1953.*

71G Granting licence to developer

(1) The Controller may, on application under section 71F, grant to a developer a licence to take water in respect of the development.

(2) To avoid doubt, the decision to grant a licence under this section is:

(a) a water extraction licence decision; and

(b) a decision to which Part 6A and section 90 apply.

(3) The licence must be in a form approved by the Controller.

(4) In addition to any other conditions the Controller considers appropriate, the Controller must impose conditions on the licence to ensure the following:

(a) that the entitlement to water under the licence is used by the developer or transferred to other persons participating in the development;

(b) that the water is taken and used for the beneficial uses specified in the licence.

71H Granting subsequent licences

(1) If a licence is granted to a developer under this Part, the Controller may subsequently grant a licence to take water to any applicant who wishes to participate in the development.

(2) The application for the licence must be in a form approved by the Controller.

(3) A licence must not be granted under this section unless:

(a) the application is consistent with the development and the conditions of the developer's licence; and

(b) the water will be used only for the beneficial uses authorised in the developer's licence; and

(c) the applicant's entitlement to water will come by transfer from the developer's licence or another licence granted in respect of the same development.

(4) If a licence is to be granted under this section, the Controller must amend the licence from which the entitlement to water is being transferred to reduce its entitlement to water.

(5) A decision about a licence under this section is:

(a) not a water extraction licence decision; and

(b) not a decision to which Part 6A and section 90 apply.

71K Transfer of land

(1) Section 92 does not apply in relation to a transfer of an interest in land in the development by the developer to the holder of a licence granted under section 71H in the same development.

(2) To avoid doubt, section 92 applies to the following transfers:

(a) a transfer of all the interests in land in the development held by the developer to another person;

(b) a transfer of all interests in land in the development held by the holder of a licence granted under section 71H to another person.

71L Breach of licence

(1) A person commits an offence if the person:

(a) holds a licence granted under this Part; and

(b) contravenes a term or condition of the licence.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

Note for subsection (3)

The defendant has a legal burden of proof in relation to a matter mentioned in this subsection.

Part 6C Revoked exemption licence decisions

Division 1 Licence to take water for exempt activity

71M Licence to take water for exempt activity

(1) This section applies in relation to an application under section 45(1) or 60(1) for a licence to take water:

(a) that relates to an activity that was the subject of an exemption declared under section 44(8) or 47(1) that is revoked or otherwise no longer applies; and

(b) to which the circumstances prescribed by regulation apply.

(2) The Controller may grant the licence on the application if the Controller is satisfied the requirements prescribed by regulation are met.

(3) The Controller must decide the application in accordance with the procedure prescribed by regulation.

(4) A decision on the application is not a decision to which Part 6A and section 90 apply.

(5) Despite subsection (4), in making a decision on the application the Controller may have regard to the factors mentioned in section 90(1).

Note for section 71M

An exemption declared under section 44(8) includes exemptions continued in force by section 116.

Division 2 Mining and petroleum activities

71N Definition

In this Division:

commencement means the commencement of Part 2 of the *Water Legislation Amendment Act 2023*.

71P Application of saving provision to mining and petroleum activity

(1) On the commencement, section 113 ceases to apply in relation to a mining activity or petroleum activity.

(2) On the commencement, section 114(1) ceases to apply in relation to a mining activity or petroleum activity.

71Q Termination of unlicensed water access for mining or petroleum activity

(1) Subsection (2) applies to a person who, on the commencement, carries out a mining activity or petroleum activity without a licence.

(2) The person has no authorisation to take water for the mining activity or petroleum activity if, on the expiry of a period of 2 years from the commencement, the person does not hold:

(a) a licence granted under section 45(1) in accordance with section 71R; or

(b) a licence granted under section 60(1) in accordance with section 71R.

71R Licence to take water for mining or petroleum activity

(1) This section applies in relation to an application under section 45(1) or 60(1) for a licence to take water for a mining activity or petroleum activity if:

(a) immediately before 1 July 2019 the person applying for the licence to take water was:

(i) carrying out a mining activity or petroleum activity reliant on water on the land from which the person proposes to take water; and

(ii) routinely taking surface water or water from a bore on the land for the mining activity or petroleum activity; and

(b) from 1 July 2019 until the making of the application, the person applying for the licence to take water:

(i) continued to carry out the mining activity or petroleum activity mentioned in paragraph (a)(i); and

(ii) routinely took surface water or water from a bore on the land for the mining activity or petroleum activity; and

(c) in the case of an application in relation to a petroleum activity:

(i) the petroleum activity is not related to hydraulic fracturing; and

(ii) the petroleum activity is carried out in accordance with an environment management plan approved under the *Petroleum Act 1984*; and

(d) in the case of an application in relation to a mining activity, the mining activity is carried out in accordance with:

(i) until the commencement of the *Environment Protection Legislation Amendment Act 2023*, Part 4, a mining management plan approved under the *Mining Management Act 2001*; and

(ii) on and after the commencement of the *Environment Protection Legislation Amendment Act 2023*, Part 4, a mining management plan forming part of a deemed mining licence as defined in section 303 of the *Environment Protection Act 2019*; and

(e) the application is made within 2 years of the commencement.

(2) The Controller may grant the licence on the application if is satisfied the requirements prescribed by regulation are met.

(3) The Controller must decide the application in accordance with the procedure prescribed by regulation.

(4) A decision on the application is not a decision to which Part 6A and section 90 apply.

(5) Despite subsection (4), in making a decision on the application the Controller may have regard to the factors mentioned in section 90(1).

71S Water extraction licence to prevail in event of inconsistency

(1) If there is an inconsistency between a water extraction licence and a mining management plan approved under the *Mining Management Act 2001* or a mining management plan forming part of a deemed mining licence as defined in section 303 of the *Environment Protection Act 2019* in relation to the amount of water that may be extracted for a mining activity, the water extraction licence prevails to the extent of the inconsistency.

(2) If there is an inconsistency between a water extraction licence and an environment management plan approved under the *Petroleum Act 1984* in relation to the amount of water that may be extracted for a petroleum activity, the water extraction licence prevails to the extent of the inconsistency.

Part 7 Water quality

72 Definition

In this Part:

water means:

(a) water flowing or contained in a waterway; or

(b) groundwater; or

(c) tidal water.

73 Water quality standards

(1) The Administrator may, by notice in the *Gazette*, declare, either generally or for an area specified in the notice, the beneficial uses, quality standards, criteria or objectives which apply to or in relation to any:

(a) waste or class of waste; or

(b) water or class of water.

(2) Subject to subsection (3), where a notice under subsection (1) is in force, every licence, permit or consent granted under this Act before or after the publication of the notice is, except to the extent that the licence, permit or consent otherwise provides, subject to the condition that nothing is to be done or suffered or permitted to be done under the licence, permit or consent which prejudices the beneficial use, quality, standard, criteria or objective specified in the notice in the area to which it applies.

(3) Where immediately before the date of a notice under subsection (1) a person was, in accordance with this or any other Act, causing, suffering or permitting:

(a) waste to come into contact with water; or

(b) water to be otherwise polluted,

in a manner that would, but for this section, be an offence for breach of a condition referred to in subsection (2) or otherwise under this Act, the person may continue to do so for:

(c) 3 months after that date;

(d) such longer period as the Controller from time to time, in writing, allows; or

(e) subject to subsection (4), until the Controller determines an application referred to in that subsection,

whichever is the longer period, but subject to any directions the Controller gives.

(4) Where within a period referred to in subsection (3)(c) or (d) a person referred to in subsection (3) makes an application under section 74 in relation to waste or pollution and the Controller refuses to grant the licence, the person may continue to do or suffer the thing the subject of the application to be done in that manner for 3 months after the Controller's refusal, but subject to any directions the Controller gives.

74 Grant of waste discharge licence

(1) Subject to this Act, the Controller may, on the Controller's own initiative or on application in the prescribed manner and form, grant to a person a licence (a ***waste discharge licence***) to carry out an action that would otherwise be an offence against this Act whether by virtue of section 73 or because the action is not and cannot be (but for this section) authorised by or under this Act.

(2) A licence may be granted under subsection (1) subject to such terms and conditions, if any, as are specified in the licence document.

(3) Subject to subsection (4), a licence is to be granted for such period, not exceeding 10 years, as is specified in the licence document.

(4) The Controller may grant a licence for a period exceeding 10 years if:

(a) the licence is of a type, or meets criteria, that the Minister, by *Gazette* notice, specifies as justifying a longer period; or

(b) the Controller is satisfied that special circumstances justify the longer period.

74A Actions may be carried out under *Waste Management and Pollution Control Act 1998*

An action carried out under an environment protection approval, environment protection licence or best practice licence as defined in section 4(1) of the *Waste Management and Pollution Control Act 1998* does not constitute an offence against this Act by virtue of section 73.

75 Further information

The Controller may, by written notice given to an applicant for a waste discharge licence, require the applicant to furnish to the Controller, within the time specified in the notice, such information and such reports, plans and specifications as the Controller considers necessary and relevant to the application and specifies in the notice.

76 Breach of terms or conditions of licence

(1) The holder of a waste discharge licence must not contravene or cause, suffer or permit a person to contravene a term or condition to which the licence is subject.

(2) An offence against this section is an environmental offence level 3.

Maximum default penalty: 4 penalty units or, in the case of a body corporate, 20 penalty units.

77 Monitoring

(1) Without limiting section 74(2), a waste discharge licence may be subject to a condition that the licensee must, at the licensee's own expense, conduct a monitoring program designed to provide information about the characteristics, volume and effects of any waste or water in respect of which the licence is issued.

(2) All data and information recorded in a program referred to in subsection (1) must be supplied at such times and in such form, and after such analysis, if any, as is prescribed or is specified in the licence document.

Part 8 Water resource development

Division 1 Preliminary

78 Definition

In this Part ***water*** means:

(a) the water flowing or contained in a waterway; or

(b) groundwater.

Division 2 Development works

79 Power to construct works

(1) The Minister may arrange for the acquisition or construction, maintenance, repair, alteration, operation or removal of such works as the Minister thinks fit:

(a) for investigating, observing, measuring or assessing waste or water;

(b) for conserving water or protecting or enhancing its quality;

(c) for irrigating or draining land;

(d) for the use of water for recreation purposes;

(e) for controlling flooding; or

(f) in connection with the administration of this Act.

(2) The Minister may authorise a person to construct, maintain, repair, alter, operate or remove works for a purpose described in subsection (1) on such terms and conditions, if any, as are specified in the instrument of authorisation.

(3) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in the construction, maintenance, repair, alteration, operation or removal of works for a purpose mentioned in subsection (1) and the person is reckless in relation to the result; and

(c) the person is not authorised to engage in the conduct.

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

(3A) Strict liability applies to subsection (3)(c).

80 Information and advice

(1) The Minister may provide information or advice to a person on a matter concerning the development or improvement of water supplies or drainage for land, subject to such terms and conditions, if any, as are agreed between the Minister and that person or are prescribed.

(2) The Minister may impose such charges for the provision of the information or advice under subsection (1) as are prescribed.

Division 3 General

81 Use of bore where costs borne by Territory

(1) A person commits an offence if:

(a) the person uses a bore; and

(b) the costs of the bore have been borne by the Territory, whether before or after the commencement of this Act, and the person is reckless in relation to that circumstance; and

(c) the person is not authorised under this Act to use the bore.

Maximum penalty: 50 penalty units.

(1A) Strict liability applies to subsection (1)(a) and (c).

(2) Subject to this Act, the Minister may approve the use of a bore the costs of which have been borne by the Territory, either absolutely or subject to such conditions, if any, relating to payment or otherwise as the Minister thinks fit.

82 No liability for information or advice

No liability shall attach to, and no costs shall be borne by, the Controller, the Territory or an authorised officer in respect of any loss caused by or resulting from information or advice under Division 2.

83 Duty to comply with Act and directions

Nothing in this Part shall be construed as permitting a person to construct or use works otherwise than in accordance with such:

(a) licences, permits or consents as are required under this Act for the construction or use of those works; or

(b) lawful directions, if any, as are given by the Minister or Controller in relation to such works.

Part 9 Fees and charges

84 Recovery of unpaid fees and charges

A fee or charge imposed under this Act that remains unpaid for 30 days after the date on which payment is due is a debt due and payable to the Territory and may be recovered in a court of competent jurisdiction.

84A Actions that may be taken if fee or charge unpaid

If a fee or charge imposed under this Act remains unpaid for more than 30 days after the date on which payment is due, any one or more of the following actions may be taken until the full amount of the fee or charge is paid or recovered:

(a) the Controller may suspend a permit or licence granted under this Act, other than a permit granted under section 36;

(b) the Minister may suspend a permit granted under section 36;

(c) the Controller or Minister may:

(i) cease to provide a service to which the unpaid fee or charge relates; or

(ii) cease or refuse to provide any other service under this Act to a person to whom, or to any land in respect of which, the fee or charge relates.

Part 10 General provisions

Division 1 General

86 Interpretation

In this Part ***licence*** means a licence, permit or consent.

87 Compensation and liability

(1) If in the performance of the Minister's duty under section 34 damage is caused to land, the Territory must pay to the owner or the occupier of the land, as the case requires, such amount, if any, as is determined by the Minister to be the amount of the damage.

(2) Except as provided by subsection (1), but subject to section 107, the Territory shall not be liable to pay compensation to a person as a result of the operation of, or of the due exercise of a power, function, authority or discretion conferred by, this Act.

(3) Where in the exercise of a power conferred by a permit granted under section 36 damage is caused to land, the holder of the permit is liable to pay compensation for the damage to the owner or occupier of the land, as the case requires.

(4) For the purpose of this section, damage to land includes loss suffered as a result of:

(a) deprivation of the possession of the surface of the land;

(b) damage to the surface of the land or to improvements on the land;

(c) damage to a crop on the land;

(d) damage to stock on the land; and

(e) all consequential damage.

88 Minister's power to require things to be done in relation to water or waste

(1) The Minister may, by *Gazette* notice or written notice served on a person, require persons of a class specified in the notice, or the person on whom the notice is served, to do the following things as specified in the notice:

(a) in relation to the investigation, use, control, protection, management or administration of water or in relation to waste:

(i) keep and maintain records; and

(ii) install, operate and maintain equipment; and

(iii) provide information to a person;

(b) take or dispose of samples of water or waste;

(c) submit samples of water or waste to a person or member of a class of persons for analysis.

(2) Anything required to be done under subsection (1) is done at the expense of the person to whom the notice applies unless the Minister otherwise directs.

(3) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct contravenes a requirement of a notice under subsection (1).

Maximum penalty: 50 penalty units.

(4) Strict liability applies to subsection (3)(b).

88A Minister may issue action notice

(1) The Minister may issue a notice (an ***action notice***) to an owner or occupier of land if the Minister believes on reasonable grounds that it is reasonably necessary or expedient for the owner or occupier to take an action mentioned in subsection (2) to enable any of the following:

(a) the performance of the Minister's functions in relation to the investigation, use, control, protection or management of water on, under or adjacent to the land specified in the notice;

(b) the administration of the rights of the Territory under section 9 in relation to water on, under or adjacent to the land specified in the notice.

(2) An action notice may require the owner or occupier of land to do any of the following:

(a) carry out or stop carrying out an activity on the land specified in the notice;

(b) construct or remove works on the land specified in the notice;

(c) take any other reasonable action in relation to the land that is required for the purpose for which the action notice is issued.

(3) An action notice must:

(a) be in writing; and

(b) specify the action the Minister requires the owner or occupier to take; and

(c) specify the time within which the owner or occupier must take the action, which must be reasonable.

88B Failure to comply with action notice

(1) A person commits an offence if the person:

(a) is issued an action notice; and

(b) fails to comply with the notice.

Maximum penalty: 30 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

88C Minister may take action and recover costs

(1) If a person to whom an action notice is issued fails to comply with the notice, the Minister may take the action required by the notice and any reasonable expenses incurred are payable by the person as a debt due to the Territory.

(2) The Minister must give the person a notice stating the amount of the reasonable expenses incurred.

88D Controller's power to require things to be done in relation to water or waste

(1) The Controller may, in connection with the performance of the Controller's functions under this Act, by written notice served on a person, require the person to do any of the following things as specified in the notice:

(a) in relation to the investigation, use, control, protection, management or administration of water or in relation to waste:

(i) keep and maintain records; and

(ii) install, operate and maintain equipment; and

(iii) provide information to a person;

(b) take or dispose of samples of water or waste;

(c) submit samples of water or waste to a person or member of a class of persons for analysis.

(2) Anything required to be done under subsection (1) is done at the expense of the person on whom the notice is issued unless the Controller otherwise directs.

(3) A requirement in a notice under subsection (1) must not be inconsistent with a notice applying to the person under section 88 and, to the extent of any inconsistency, the requirements in a notice under section 88 prevail.

(4) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct contravenes a requirement in a notice under subsection (1).

Maximum penalty: 50 penalty units.

(5) Strict liability applies to subsection (4)(b).

89 Misleading information

(1) A person commits an offence if:

(a) the person intentionally gives information to another person (the ***recipient***); and

(b) the information is misleading and the person has knowledge of that circumstance; and

(c) the recipient is acting in an official capacity and the person has knowledge of that circumstance.

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

(2) A person commits an offence if:

(a) the person intentionally gives a document to the recipient; and

(b) the document contains misleading information and the person has knowledge of that circumstance; and

(c) the recipient is acting in an official capacity and the person has knowledge of that circumstance.

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

(3) It is a defence to a prosecution for an offence against subsection (2) if the person, when giving the document:

(a) draws the misleading aspect of the document to the recipient's attention; and

(b) to the extent to which the person can reasonably do so – gives the recipient the information necessary to remedy the misleading aspect of the document.

(4) In this section:

acting in an official capacity, in relation to a recipient, means the recipient is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

Division 2 Powers concerning licences and rights of use

90 Factors to be considered

(1AA) This section applies in relation to the following decisions of the Controller:

(a) a decision to grant, amend or modify a permit, licence or consent under section 41, 57, 63, 65, 67, 74 or 93(1), other than an amendment or modification to a permit, licence or consent that is an administrative amendment;

(b) a decision to renew a permit or licence under section 93A(4);

(c) a water extraction licence decision;

(d) a decision to approve the transfer of an entitlement to take water under a licence.

(1) In making a decision to which this section applies, the Controller must take into account any of the following factors that are relevant to the decision:

(a) the availability of water in the area in question;

(ab) any water allocation plan applying to the area in question;

(b) the existing and likely future demand for water for domestic purposes in the area in question;

(c) any adverse effects likely to be created as a result of activities under the permit, licence or consent on the supply of water to which any person other than the applicant is entitled under this Act;

(d) the quantity or quality of water to which the applicant is or may be entitled from other sources;

(e) the designated beneficial uses of the water and the quality criteria pertaining to the beneficial uses;

(f) the provisions of any agreement made by or on behalf of the Territory with a State of the Commonwealth concerning the sharing of water;

(g) existing or proposed facilities on, or in the area of, the land in question for the retention, recovery or release of drainage water, whether surface or sub-surface drainage water;

(h) the adverse effects, if any, likely to be created by such drainage water resulting from activities under the licence on the quality of any other water or on the use or potential use of any other land;

(j) the provisions under the *Planning Act 1999* relating to the development or use of land in the area in question;

(k) other factors the Controller considers should be taken into account or that the Controller is required to take into account under any other law in force in the Territory.

(2) In this section:

applicant includes the person to whom a permit, licence or consent is or is to be granted when the Controller acts on the Controller's own initiative without an application having been made.

91 Agreement with State

A licence must not be granted under this Act if the grant would be contrary to an agreement made by or on behalf of the Territory with a State of the Commonwealth concerning the sharing of water.

92 Transfer of permit or licence

If a permit or licence is granted to a person in relation to the person's interest in land and that interest is transferred to another person during the period of the permit or licence, the permit or licence:

(a) is taken to have been transferred to the other person when the interest in the land is transferred; and

(b) continues in effect as if it had originally been granted to the other person.

93 Power to amend, modify or revoke permit or licence

(1) Subject to subsections (3) and (4), the Controller may, during the currency of a permit or licence, by notice served on the holder of the permit or licence, amend or modify its terms and conditions in such manner as is specified in the notice.

(2) Without limiting the Controller's powers under subsection (1), but subject to subsection (3), where the Controller is satisfied that the holder of the permit or licence has contravened or failed to comply with a term or condition of the permit or licence or of any other permit or licence previously held by the person for a similar purpose during the 12 months immediately preceding the grant of the first-mentioned permit or licence, the Controller may, by notice served on the holder of the permit or licence:

(a) revoke the permit or licence; or

(b) suspend the permit or licence for such period as is specified in the notice.

(3) Where an order is made by the Supreme Court under section 5 of the *Environment Protection (Northern Territory Supreme Court) Act 1978* of the Commonwealth, the Controller shall revoke, suspend, modify or alter the permit or licence of the holder affected by the order in such manner as is necessary to give effect to the order.

(4) The Controller must not amend the terms and conditions of a permit or licence under subsection (1) in a manner that will result in an increase in the total quantity of water permitted to be taken.

(5) This section does not apply in relation to an amendment to one or more water licences under section 71AB.

93A Renewal of permit or licence

(1) The holder of a permit or licence may apply to the Controller for renewal of the permit or licence.

(2) The application must be made in accordance with the regulations.

(3) The Controller must renew the permit or licence if the Controller is satisfied:

(a) there has been no material change to the circumstances on which the permit or licence was originally granted; and

(b) the holder of the permit or licence has substantially complied with the terms of the permit or licence.

(4) If subsection (3) does not apply to a permit or licence, the Controller may renew the permit or licence or refuse to renew the permit or licence.

(5) The renewal of a permit or licence under this section:

(a) is to be for a further period as permitted under this Act and that is specified in the renewal of the permit or licence; and

(b) is otherwise on the same terms and conditions as the original permit or licence.

94 Power to surrender licence

The holder of a licence may, at any time, surrender the licence.

95 Registers

(1) The Controller must keep one or more registers of licenses granted under this Act.

(2) Each register must:

(a) be publicly available on the Agency's website; and

(b) contain any information required by the Regulations.

(3) The Controller may keep information about a licence in the register from being publicly available if satisfied, on application by the holder of the licence, that it is justified on the grounds of commercial confidentiality.

96 Emergency powers to limit rights to take water

(1) If water is taken or available to be taken under section 10, 11 or 14, the Minister may, by notice, do any of the following as the Minister considers appropriate:

(a) specify the places from which, the manner in which and the times at which water may or may not be taken;

(b) in times of actual or likely shortage of water – fix the amount of water which may be taken and the purposes for which water may be taken;

(c) temporarily or permanently prohibit taking water from a source when, in the opinion of the Minister, taking water would be dangerous to health.

(2) Despite anything in this Act or any other law of the Territory, the Minister may, by notice, do any of the following as the Minister considers appropriate:

(a) in times of actual or likely shortage of water – regulate, restrict or prohibit the doing of an act under a licence;

(b) temporarily or permanently prohibit the doing of an act under a licence if, in the opinion of the Minister, the doing of the act would be dangerous to health.

(3) A person commits an offence if the person contravenes a notice made under subsection (1) or (2).

Maximum penalty: 50 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) For subsection (3), it is immaterial if the contents of the notice are inconsistent with or contrary to a term or condition of a licence, permit or other authorisation granted under this or another Act.

(6) It is a defence to a prosecution for an offence against subsection (3) if the defendant contravened a notice for the reasonable protection of life or property.

(7) It is also a defence to a prosecution for an offence against subsection (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(8) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (6) or (7).

(9) In this section:

by notice means any of the following:

(a) by *Gazette* notice;

(b) by notice in a newspaper circulating in the area to which the notice relates;

(c) by notice by radio or television;

(d) by notice served on the owner or occupier of land to which the notice relates.

97 Emergency powers to control pollution

(1) Notwithstanding anything in this Act or any other law in force in the Territory, the Minister may, in circumstances which the Minister considers to constitute an emergency, by notice in writing served on a person and in relation to the period specified in the notice:

(a) authorise the person, subject to such conditions, if any, as are specified in the notice, to discharge into water, or to place in or on land, such waste as is specified in the notice; or

(b) prohibit the person from discharging into water, or from placing on land, such waste as is specified in the notice either absolutely or otherwise than in accordance with the conditions, if any, specified in the notice.

(2) A person who discharges waste into water or places waste on land in accordance with a notice under subsection (1) is not guilty of an offence against this Act by reason only of so doing.

(3) A person who discharges waste into water or places waste on land in contravention of a notice under subsection (1) is guilty of an offence notwithstanding that the contents of the notice differ from, are inconsistent with or are contrary to a term or condition to which a licence granted, consent issued, or an agreement made, under this or any other Act is subject.

(3A) An offence against subsection (3) is an environmental offence level 3.

Maximum default penalty: 4 penalty units or, in the case of a body corporate, 20 penalty units.

(4) The Minister may, in circumstances the Minister considers constitute an emergency, take the action that the Minister considers necessary for the prevention, abatement or mitigation of water

pollution and may recover the reasonable cost of so doing as a debt due and payable to the Territory by the person whose action or omission caused, or was one of the causes of, that pollution.

Division 3 Offences and penalties

98 Destruction of works

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in:

(i) works constructed or used, under a licence granted or power given under this Act, being damaged or destroyed; or

(ii) benefits required or derived from those works being diminished.

Maximum penalty: 100 penalty units.

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

99 Interference with rights

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in materially diminishing another person's enjoyment of:

(i) a right mentioned in section 10, 11 or 14; or

(ii) a licence granted, power given or arrangement made under this Act; and

(c) the person is reckless in relation to the result mentioned in paragraph (b).

Maximum penalty: 100 penalty units.

(2) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in interference with the performance of an act authorised under section 97; and

(c) the person is reckless in relation to the result mentioned in paragraph (b).

Maximum penalty: 100 penalty units.

100 Wasting water

(1) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct results in:

(i) more water being used than is reasonably necessary for the immediate purpose for which the water is taken; or

(ii) an unnecessary or excessive flow or flood of water; or

(iii) water being taken without adequate control or supervision of its taking.

Maximum penalty: 50 penalty units.

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

101 Obstruction of authorised officer

(1) A person commits an offence if:

(a) the person intentionally obstructs another person; and

(b) the other person is an authorised officer; and

(c) the authorised officer is acting in an official capacity and the person has knowledge of that circumstance.

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

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

(3) In this section:

acting in an official capacity, in relation to an authorised officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

obstruct includes hinder, resist, delay and threaten.

Division 4 Criminal liability for offences

102 Liability of occupier

(1) An occupier of land must take reasonable steps and exercise due diligence, having regard to the nature and extent of the occupation, to prevent an offence under this Act occurring on the land.

(2) An occupier of land is taken to have committed a relevant offence if:

(a) a person (the ***offender***) commits a relevant offence; and

(b) the offence occurs wholly or partly:

(i) on or below the surface of the land or part of the land; or

(ii) on or in a waterway that is immediately adjacent to the land; or

(iii) on or in the bed or banks of a waterway that is immediately adjacent to the land.

(3) It is a defence to a prosecution for an offence taken to have been committed under subsection (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

(5) This section does not affect the liability of the offender.

(6) This section applies whether or not the offender is prosecuted for, or found guilty of, the relevant offence.

(7) In this section:

relevant offence means an offence against section 40(1), 42(1), 44(1), 46(1), 56(1), 58(1), 59(1), 61(1), 66(1) or 68(1).

102A Liability of owner

(1) For section 102, an owner of land is taken to be an occupier of the land unless the owner proves that at the time the offence was committed:

(a) the owner was not an occupier of the land; and

(b) the occupier was not an associated person of the owner.

(2) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (1).

(3) In this section:

associated person means an employee, agent, licensee, contractor or subcontractor.

102B Criminal liability of executive officer of body corporate

(1) An executive officer of a body corporate commits an offence if:

(a) the body corporate commits an offence by contravening a declared provision (a ***relevant offence***) and the officer was reckless about whether the contravention would happen; and

(b) the officer was in a position to influence the conduct of the body corporate in relation to the contravention; and

(c) the officer recklessly failed to take reasonable steps to prevent the contravention.

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

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

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

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

(4) Subsection (3) does not limit the matters the court may consider.

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

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

(7) In this section:

declared provision means:

(a) section 40(1), 42(1), 44(1), 46(1), 56(1), 58(1), 59(1), 61(1), 66(1) or 68(1); 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.

102C Criminal liability of executive officer of body corporate – legal burden of proof on defence

(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 an offence of absolute liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if 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.

(4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

(5) 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.

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

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

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

(9) In this section:

declared provision means:

(a) section 40(3), 44(2), 56(2), 59(2) or 66(2); 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.

102D Liability of joint approval holder

(1) If a joint holder of an approval commits an offence against this Act involving contravention of the approval, each other joint holder of the approval is taken to have committed the offence.

(2) It is a defence to a prosecution for an offence taken to have been committed under subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

(3) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (2).

(4) In this section:

approval means a licence, permit or other authorisation granted under this Act.

103 Evidentiary

(1) In a proceeding for an offence against this Act, an allegation in a complaint that:

(a) a person is an authorised officer;

(b) a person is the owner or occupier of land specified in the complaint; or

(c) a person is or at a particular time was, or was not, the holder of a permit, licence or consent,

is prima facie evidence of that fact.

(2) A document purporting to be, or to set out the contents of, a permit, licence, consent or notice under this Act and purporting to be signed by the Minister, the Controller or an authorised officer is admissible and is prima facie evidence of the contents of the permit, licence, consent or notice.

(3) In an action brought to recover a fee or charge payable under this Act, a certificate purporting to be signed by the Minister, the Controller or an authorised officer to the effect that the amount of the fee or charge is due and payable is prima facie evidence of that fact.

(4) In a proceeding for an offence against this Act, an averment in the complaint that the defendant was, at the relevant time, the employee or agent, or an officer (within the meaning of section 101), of a body corporate is prima facie evidence that the defendant held at that time that office or status.

104 Definition of *maximum default penalty*

(1) Where in, or at the foot of, a section or part of a section there appears the expression ***maximum default penalty***, it signifies that

a person who is found guilty of an offence against this Act in relation to that section or part is guilty of a further offence against this Act if the offence continues after a complaint alleging the commission of that offence has been issued and is liable to an additional penalty for each day during which the offence so continues of not more than the amount expressed in the section or part as the amount of the maximum default penalty.

(2) Where an offence is committed by a person by reason of the person's failure to comply with a provision of this Act by or under which the person is required or directed to do something within a particular period or by a particular time, that offence, for the purposes of subsection (1), shall be deemed to continue so long as the thing so required or directed to be done by the person remains undone, notwithstanding that the period has elapsed or time has passed.

Division 5 Legal proceedings

104A Continuing offence

(1) This section applies if a court has found a person guilty of an offence against this Act.

(2) The court may, in addition to any penalty imposed for the offence, impose a penalty not more than one-tenth of the maximum penalty prescribed for that offence for each day during which the offence continues after the day the offence is charged.

(3) If the offence continues after the person is found guilty, the court may:

(a) find the person guilty of a further offence; and

(b) in addition to any penalty imposed for the further offence – impose a penalty not more than one-tenth of the maximum penalty prescribed for that offence for each day during which the offence continues after the day the person was first found guilty.

(4) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains undone after the end of the period for compliance with the requirement.

105 Proceedings for offences

(1) A prosecution for an offence against this Act must be commenced within 12 months after the later of:

(a) the date on which the offence was committed; or

(b) the date on which evidence of the offence first came to the attention of the Controller or an authorised officer.

(1A) Proceedings for an offence against section 40, 42, 44, 46, 48, 50, 53, 55, 56, 58, 59, 61, 62, 64, 65, 66, 68, 71, 71L, 76 or 88D must not be commenced without the approval of the Controller.

(2) A document purporting to record the consent of the Controller to proceedings for an offence against this Act and to be signed by the Controller is admissible and is prima facie evidence of the Controller's consent to the commencement of the proceedings.

105A Alternative verdicts

(1) In a proceeding for an environmental offence level 1 against a section of this Act, the person charged with the offence may be found guilty alternatively of an environmental offence level 2, or an environmental offence level 3, that is an offence against that same section.

(2) In a proceeding for an environmental offence level 2 against a section of this Act, the person charged with the offence may be found guilty alternatively of an environmental offence level 3 that is an offence against that same section.

(3) In a proceeding for an environmental offence level 3 against a section of this Act, the person charged with the offence may be found guilty alternatively of an environmental offence level 4 that is an offence against that same section.

105B Additional orders on finding of guilt

If a person is found guilty of an offence against this Act, the court may, in addition to any penalty that it may impose, and to any other order that it may make under this or another Act, make any of the following orders:

(a) an order requiring the person to take an action to rectify or mitigate the consequences of the offence;

(b) an order requiring the person to take an action or to cease taking action that is continuing the offence or exacerbating the consequences of the offence;

(c) an order that the person pay to the Territory an amount determined by the court to be equal to a fair assessment or estimate of the financial benefit that the person, or an associate of the person, has gained, or can reasonably be expected to gain, as a result of the commission of an offence against this Act.

105C Sentencing matters

(1) When imposing a penalty on a person for an offence against this Act, the court must have regard to the following to the extent that they are relevant:

(a) the impact of the offence on other persons' rights under this Act;

(b) the market value of any water that has been lost, misused or unlawfully taken because of the commission of the offence;

(c) the extent of the harm caused or likely to be caused to the environment by the commission of the offence;

(d) the practical measures that may be taken to prevent, control, abate or mitigate that harm;

(e) the extent to which the person could reasonably have foreseen the harm caused or likely to be caused to the environment by the commission of the offence;

(f) the extent to which the person had control over the causes of the offence;

(g) the person's intentions in committing the offence;

(h) whether, in committing the offence, the person was complying with orders from an employer or supervising employee.

(2) Subsection (1) does not limit the matters the court may consider.

Part 10A Review of decisions

105D Review by NTCAT

(1) NTCAT has jurisdiction to review a decision (a ***reviewable decision***) specified in Schedule 2.

(2) An ***affected person***, for a reviewable decision, is a person specified in Schedule 2 for the decision.

(3) An affected person for a reviewable decision may apply to NTCAT for review of the decision.

Note for section 105D

The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to NTCAT for review and other relevant matters in relation to reviews.

Part 11 Miscellaneous

106 Service of document

(1) Where an application, notice or other document is permitted or required by this Act to be served on the owner or occupier of land held by an Aboriginal Land Trust for an estate in fee simple pursuant to the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, service may be effected by serving the application, notice or other document on the Aboriginal Land Trust and a copy thereof on the Aboriginal Land Council for the area in which the land is situated.

(2) An application, notice or other document permitted or required by this Act to be given or served on a person may be given or served by:

(a) delivering it to that person; or

(b) leaving it at the person's usual or last-known place of residence or business with some person who has apparently attained the age of 16 years; or

(c) sending it by registered mail addressed to the person at the person's usual or last-known place of residence or business or postal address; or

(d) sending it by email to an email address notified to the sender by the person as an address at which service of documents under this Act will be accepted.

(3) An application, notice or other document permitted or required by this Act to be given to or served on a person may, in addition to any other method provided by the Corporations Act 2001, if the person is a body corporate, be given or served by:

(a) delivering it to the manager or secretary of the body corporate; or

(b) leaving it at the office or place of business of the body corporate with some person who has apparently attained the age of 16 years; or

(c) sending it by registered mail to the body corporate at its office or place of business or postal address; or

(d) sending it by email to an email address notified to the sender by the person as an address at which service of documents under this Act will be accepted.

(4) Where an application, notice or other document is permitted or required by this Act to be given to or served on a person whose address is unknown, it may be given or served by publishing it, or a notice substantially to the same effect, in the *Gazette*.

107 Just compensation to be paid

To the extent that the operation of this Act or the due exercise or performance of a power, function, authority or discretion conferred by 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 shall be acquired on just terms.

108 Regulations

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:

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

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

(2) Without limiting the generality of subsection (1), the Regulations may:

(a) prescribe forms or provide for them to be approved by the Minister or the Controller; and

(b) prescribe charges or fees in connection with the issuing of a permit, licence or consent or the supply of water or the provision of a service, including charges by way of contribution to the capital costs of works associated with the supply of water or provision of services, and provide for the recovery of those charges or fees; and

(c) prescribe and provide for charges for taking a quantity of water exceeding that specified in the terms or conditions of a licence, and the recovery of those charges; and

(d) prescribe and provide for the classification of water by reference to its quantity, quality or possible use; and

(e) provide for the prevention of the propagation of, or the eradication or control of, a plant likely to obstruct a waterway or otherwise injuriously affect water; and

(f) regulate or prohibit a matter or thing in connection with the collection, storage, disposal, dispersion or discharge of water or waste; and

(g) prohibit, regulate or control access to, along or over, or the use of, water or water of a class of water for recreational purposes and impose fees or charges relating thereto; and

(h) prescribe the powers and functions of an Advisory Committee, either generally or in a particular area or in relation to a particular purpose; and

(j) prescribe different types of licences which may be granted under section 49 and the qualifications which applicants for each type of licence must possess; and

(k) prescribe the permits, licences (except a water extraction licence or a licence under Part 6B) or consents the applications for which must be advertised or notified and the manner in which they should be advertised, the information to be provided in the advertisement and the person on whom particular notice should be served; and

(m) prescribe those permits, licences (except a water extraction licence or a licence under Part 6B) or consents against the proposed granting or granting of which objections may be lodged and the persons or classes of persons who may lodge such objections, and the manner in which, and persons by whom, such objections shall be heard, otherwise considered or dealt with; and

(ma) prescribe the circumstances, procedure and requirements for licence applications to which section 71M applies; and

(mb) prescribe the procedure and requirements for licence applications to which section 71R applies; and

(q) provide for the granting of:

(i) a permit under section 41 or 57;

(ii) a licence under section 45, 60, 63, 67 or 74; or

(iii) a consent under section 65,

to more than one person jointly; and

(r) provide for the manner of making, and the consideration of, joint applications and of objections to joint applications; and

(s) prescribe terms and conditions which govern the rights and duties of joint applicants between themselves; and

(t) prescribe terms and conditions to which interests granted jointly are subject; and

(u) provide for the consequences of a failure by one or more joint holders to comply with a term or condition to which an interest granted jointly is subject or with this Act; and

(v) prescribe maximum penalties of 15 penalty units and maximum default penalties of 2 penalty units for a contravention of the Regulations; and

(w) confer a function on Aboriginal Land Councils in relation to Aboriginal water reserves.

Part 12 Transitional matters for Statute Law Revision Act (No. 2) 1993, Water Amendment Act 2003 and Mineral Titles (Consequential Amendments) Act 2010

109 Transitional matters for *Statute Law Revision Act (No. 2) 1993*, *Water Amendment Act 2003* and *Mineral Titles (Consequential Amendments) Act 2010*

(1) Except as provided in this section, a licence issued under the *Control of Waters Act 1938* and in force immediately before the commencement of the relevant Part of this Act shall, on and from that commencement and during the currency of that licence, have effect in all respects as if it were a licence for a like purpose granted pursuant to that Part, and this Act, with the necessary changes, applies and has effect accordingly.

(2) A person who immediately before the commencement of Part 7 was subject to the requirements of a notice given pursuant to section 16M of the *Control of Waters Act 1938* shall, on and from that commencement and during any period specified in the notice or, if no such period is specified, during a period of 12 months from that commencement, be deemed to be the holder of a licence

granted pursuant to that Part subject to the terms and conditions specified in the notice, and this Act, with the necessary changes, applies and has effect accordingly.

(3) Notwithstanding subsections (1) and (2), the Controller may at any time, of his or her own motion, cancel and replace a licence or notice issued, or permission granted, under the Control of Waters Act with a licence issued under this Act.

(4) A person whose rights are continued by subsection (1) or (2) may at any time apply for a licence for a like purpose under this Act and on and from the grant of any such licence the rights so continued shall cease to exist.

(6) Where immediately before the commencement of Part 8 a person had, in pursuance of the *Water Supplies Development Act 1960* as then in force or under the conditions to which an advance or advice under that Act was subject, the right to drill a bore within any period extending beyond 30 June 1992, that right shall be deemed to extend only to 30 June 1992 and any documentation evincing the conditions shall be construed accordingly.

(7) A certificate of registration granted under section 16H of the *Control of Waters Act 1938* and in force immediately before the commencement of Part 6 shall, on and from that commencement and, notwithstanding the period of the certificate, until 31 December 1994, have effect as if it were a drilling licence granted under section 49 of this Act and this Act, with the necessary changes, applies and has effect accordingly.

(8) For the purposes of section 48, a certificate of registration granted under section 16H of the *Control of Waters Act 1938* to a body corporate by whom a person is employed and in force immediately before the commencement of Part 6 shall, on and from that commencement and for the period of the certificate or for 12 months after that commencement, whichever is the greater, or until that person sooner ceases to be employed by that body corporate, be deemed to be the drilling licence of that person and, subject to subsection (9), this Act, with the necessary changes, applies and has effect accordingly.

(9) This Act applies to both the person and the body corporate referred to in subsection (8) and any act or omission by the person shall, for the purposes of this Act, be deemed to be the act or omission of the body corporate and vice versa.

(10) A person who, immediately before the prescription of any works pursuant to section 40, was the owner or occupier of land affected

by such prescription on which prescribed works are situated and in relation to which permission has been granted under section 12 of the *Control of Waters Act 1938* as in force at the time the permission was granted shall, on and from the date of such prescription, be deemed to have constructed such works in pursuance of a permit granted under section 41 and this Act, with the necessary changes, applies and has effect accordingly.

(11) A reference in any law of the Territory to the *Control of Waters Act 1938* or in any licence, permit, advice, authorisation or other document relating to powers, functions, authorities, discretions or duties conferred by or arising under that law shall, from the commencement of this Act, be deemed to be a reference to this Act and this Act, with the necessary changes, applies and has effect accordingly.

(12) A reference in a licence, permit, consent, declaration, agreement or other instrument granted, issued or made under this Act, as in force immediately before the commencement of the *Water Amendment Act 2003*, to the beneficial use of ***manufacturing industry*** or ***riparian*** is taken to be a reference to the beneficial use of ***industry*** or ***rural stock and domestic*** respectively specified in section 4(3)(f) or (g).

Part 13 Transitional matters for Water Amendment Act 2007

110 Existing water extraction licence application

(1) This section applies in relation to an application for the grant, amendment or modification of a water extraction licence that is lodged with the Controller but not decided before the commencement day (an ***existing application***).

(2) Subject to this section, Part 6A applies in relation to a decision of the Controller about an existing application.

(3) The Controller must publish a notice under section 71B about an existing application within 7 days after the commencement day.

(4) The Controller may publish a single notice under section 71B that relates to more than one existing application and, if the Controller does so, the Agency must pay the costs of publication.

(5) In this section:

commencement day means the day on which the *Water Amendment Act 2007* commences.

Part 14 Transitional matters for Water Amendment Act 2010

111 Validation for actions before *Water Amendment Act 2010*

(1) This section applies to a document (a ***purported licence***) granted before the commencement of this section that purports to be a licence granted under section 74(1) to the extent the document is not a licence validly granted to carry out an action which would otherwise be an offence against this Act by virtue of section 73.

(2) Each of the following is declared for this Act and any other Act in relation to a purported licence:

(a) the grant of the purported licence is, and is taken to have always been, a valid exercise of power by the Controller under section 74(1);

(b) if the period specified in the purported licence:

(i) has not ended – the purported licence is a valid waste discharge licence and is subject to the conditions purportedly applying to it immediately before the commencement; or

(ii) has ended – the purported licence was a valid licence under section 74 and was subject to the conditions that applied to it from time to time.

(3) In this section:

granted includes amended and modified.

Part 15 Transitional matters for Water Legislation Amendment Act 2018

112 Definitions

In this Part:

commencement means the commencement of the *Water Legislation Amendment Act 2018*.

former Act means this Act as in force immediately before the commencement.

hydraulic fracturing means the underground gas and oil extraction process involving the injection of fluids at high pressure into a geological formation to induce fractures that conduct hydrocarbons for extraction.

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

transition period means the period of 6 months on and from the commencement.

113 Application to mining and petroleum activity

The former Act continues to apply in relation to a mining activity or petroleum activity if:

(a) the activity is not related to hydraulic fracturing; and

(b) the activity involves interfering with a waterway, taking surface water, taking groundwater, bore work or recharging an aquifer; and

(c) the activity is conducted in accordance with:

(i) a mining management plan approved under the *Mining Management Act 2001*; or

(ii) an environment management plan approved under the *Petroleum Act 1984*; and

(d) the activity started:

(i) before the end of the transition period; or

(ii) after the transition period, but the application for the management plan was made before the end of the transition period and was approved without change.

114 Licences, permits and other authorisations

(1) A licence, permit or other authorisation granted before the commencement continues in force until it expires or is surrendered or revoked.

(2) A construction permit granted under section 41 of the former Act continues in force and is taken to be a permit to interfere with a waterway mentioned in section 41.

(3) A bore construction permit granted under section 57 of the former Act continues in force and is taken to be a permit to carry out bore work mentioned in section 57.

Note for section 114

No licences, permits or authorisations were granted for petroleum activity under the former Act.

115 Offence provisions – before and after commencement

(1) The offence provisions, as amended by the *Water Legislation Amendment Act 2018*, apply only in relation to offences committed after the commencement.

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

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

116 Saving of exemption and declaration

(1) The exemption made under section 15(6) of the former Act and published in *Gazette* No. S35 of 30 June 1992 continues in force as if it had been made and published in the *Gazette* under section 40(10).

(2) The declaration made under section 44(3) of the former Act and published in *Gazette* No. S63 of 6 July 2016 continues in force as if it had been made and published in the *Gazette* under section 44(8).

Part 16 Transitional matters for Water Amendment Act 2019

117 Application of section 60A

Section 60A applies in relation to an application under section 60(1) that was made but not decided by the Controller before the commencement of section 9 of the *Water Amendment Act 2019*.

Part 17 Transitional matters for Water Legislation Miscellaneous Amendments Act 2019

118 Application of sections 71A and 71B

(1) Sections 71A and 71B as in force immediately before the commencement continue to apply in relation to an application for the grant of a water extraction licence made before the commencement.

(2) In this section:

commencement means the day on which Part 2 of the *Water Legislation Miscellaneous Amendments Act 2019* commences.

Part 18 Transitional matters for Water Further Amendment Act 2019

119 Saving of beneficial uses declarations

A declaration under section 22A in force immediately before the commencement of section 6 of the *Water Further Amendment Act 2019* continues in force after that commencement, subject to any amendment or revocation.

120 Aboriginal water reserve not to apply to allocations made before commencement

Section 22B(7) does not apply to a water allocation plan that was in force before the commencement of that subsection.

Part 19 Transitional matters for Environment Protection Legislation Amendment Act 2023

121 Application of Act to mining activities

(1) Section 7 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 9 of the amending Act commences.

deemed mining licence, see section 303 of the *Environment Protection Act 2019*.

Part 20 Transitional matters for Parks and Water Legislation Amendment Act 2024

122 Definitions

In this Part:

amending Act means the *Parks and Water Legislation Amendment Act 2024*.

commencement means the commencement of section 33 of the amending Act.

123 Directions to statutory authorities

A direction given by the Controller under section 8 as in force before the commencement is taken to be a direction of the Minister given under section 8 as in force after the commencement.

124 Controller of Water Resources

The person holding office as the Controller immediately before the commencement continues to hold office under section 18 as in force after the commencement.

125 Authorised officers

A person holding office as an authorised officer immediately before the commencement is taken to have been appointed under section 24 as in force after the commencement.

126 Water investigation permits

A water investigation permit that is in effect immediately before the commencement is taken to be a water investigation permit granted by the Minister under section 36 as in force after the commencement.

127 Approvals to use Territory bores

An approval under section 81 that is in effect immediately before the commencement is taken to be an approval given by the Minister under section 81 as in force after the commencement.

128 Notices issued under section 88

A notice issued under section 88 that is in effect immediately before the commencement is taken to be a notice issued by the Minister under section 88 as in force after the commencement.

129 Emergency actions taken to control pollution

On the commencement, the cost of an action taken under section 97(4) before the commencement may be recovered by the Minister under section 97(4) as in force after the commencement as if the action to which the cost relates had been taken by the Minister.

130 NTCAT review for decisions made after commencement

Section 105D applies in relation to a reviewable decision that is made after the commencement.

131 Review of decisions made before commencement

(1) This section applies to a person if, immediately before the commencement, the person:

(a) was entitled to apply to the Minister for a review of an action or decision (a ***reviewable decision or action***) under section 30 as in force before the commencement; and

(b) had not yet made an application for the review.

(2) The person cannot make an application to the Minister for a review of the reviewable decision or action, but the person may apply to NTCAT for review of the reviewable decision or action.

(3) NTCAT has jurisdiction to review a reviewable decision or action on an application made by the person under subsection (2).

(4) An application under subsection (2) must be made:

(a) if the reviewable decision or action is a decision to give a remediation notice – within 10 business days after the day the notice was given; or

(b) if the reviewable decision or action is a water extraction licence decision:

(i) if the aggrieved person is a person who was given a notice under section 71D(1)(a) – within 20 business days after the day the person was given the notice; or

(ii) if the aggrieved person is not a person mentioned in subparagraph (i) – within 20 business days after notice of the decision was published under section 71D(1)(b); or

(c) if the reviewable decision or action is any other decision or action – within 20 business days after the day the decision was made or the action was taken.

132 Pending review before Minister

(1) This section applies in relation to an application for review of a decision or action that:

(a) was made under section 30 as in force before the commencement; and

(b) had not been determined by the Minister before the commencement, whether or not the matter had been referred to the Review Panel.

(2) Despite the repeal of Part 3, Divisions 2 and 3 effected by section 41 of the amending Act:

(a) the Minister must determine the pending application in accordance with this Act as in force before the commencement; and

(b) the Review Panel continues in existence for the purpose of dealing with a matter referred to it under section 30(3)(b); and

(c) a person who was the Chairperson of the Review Panel continues to hold office as the Chairperson for the purpose of enabling the Panel to consider a matter referred to it under section 30(3)(b); and

(d) Part 3, Divisions 2 and 3 of this Act as in force before the commencement continue to apply after the commencement in relation to the pending application.

Part 21 Transitional matters for Petroleum, Planning and Water Legislation Amendment Act 2025

133 Decisions made before commencement

(1) Schedule 2 as in force immediately before the commencement continues to apply in relation to a decision or determination made under section 36(1), 41(1), 45(1), 57(1), 60(1), 63(1), 67(1), 71G(1) or 74(1) before the commencement.

(2) In this section:

commencement means the commencement of Part 4 of the *Petroleum, Planning and Water Legislation Amendment Act 2025*.

Schedule 1 Repealed Acts

section 3

Part A – Acts of South Australia Repealed

The Water Conservation Amendment Act, 1889	No. 463, 1889
The South-Eastern Drainage Act Amendment Act, 1895	No. 629, 1895
The Water Conservation Amendment Act, 1900	No. 736, 1900
The Irrigation and Reclaimed Lands Act, 1908	No. 953, 1908
The Irrigation and Reclaimed Lands Act Amendment Act, 1909	No. 979, 1909
The Irrigation and Reclaimed Land Act Further Amendments Act, 1910	No. 1022, 1910

Part B – Acts and Ordinances Repealed

Control of Waters Ordinance 1938	(No. 13 of 1938)
Control of Waters Ordinance 1955	(No. 8 of 1955)
Control of Waters Ordinance 1959	(No. 18 of 1959)
Water Supplies Development Ordinance 1960	(No. 14 of 1961)
Control of Waters Ordinance 1961	(No. 6 of 1962)
Control of Waters Ordinance 1962	(No. 24 of 1963)
Water Supplies Development Ordinance 1963	(No. 50 of 1963)
Control of Waters Ordinance 1965	(No. 17 of 1965)
Water Supplies Development Ordinance 1967	(No. 22 of 1967)
Control of Waters Ordinance 1968	(No. 33 of 1968)
Water Supplies Development Ordinance 1968	(No. 34 of 1968)
Control of Waters Ordinance (No. 2) 1968	(No. 55 of 1968)
Water Supplies Development Ordinance (No. 2) 1968	(No. 64 of 1968)

Water Supplies Development Ordinance 1971	(No. 14 of 1971)
Control of Waters Ordinance 1971	(No. 28 of 1971)
Water Supplies Development Ordinance 1973	(No. 11 of 1973)
Control of Waters Act 1978	(No. 12 of 1979)

Schedule 2 Reviewable decisions

section 105D

Item	Reviewable decision	Affected person
1	A decision of the Controller under section 33A(2) to give a remediation notice	The person given the remediation notice
3	A decision of the Minister under section 36(1) to refuse to grant a permit to explore for water	The person who applied for the permit
5	A decision of the Controller under section 41(1) to refuse to grant a permit to interfere with a waterway	The person who applied for the permit
7	A decision of the Controller under section 45(1) to grant a licence to take water, if the application for the licence was an application in relation to which section 71M or 71R applied	The person who applied for the licence
8	A decision of the Controller under section 45(1) to refuse to grant a licence to take water *Note for item 8* *A decision mentioned in this item includes a decision made on an application to which section 71M or 71R applies.*	The person who applied for the licence
9	A decision of the Controller under section 49(1) to refuse to grant a drilling licence	The person who applied for the licence
11	A decision of the Controller under section 57(1) to refuse to grant a permit to carry out bore work	The person who applied for the grant of the permit
13	A decision of the Controller under section 60(1) to grant a licence to take water from a bore, if the application for the licence was an application in relation to which section 71M or 71R applied	The person who applied for the licence

Item	Reviewable decision	Affected person
14	A decision of the Controller under section 60(1) to refuse to grant a licence to take water from a bore *Note for item 14* *A decision mentioned in this item includes a decision made on an application to which section 71M or 71R applies.*	The person who applied for the licence
16	A decision of the Controller under section 63(1) to refuse to grant a licence to dispose of waste underground by means of a bore	The person who applied for the grant of the licence
17	A decision of the Controller under section 65(2) to refuse to consent to a change in use of a bore	The person who applied for the consent
19	A decision of the Controller under section 67(1) to refuse to grant a licence to increase the water contained in an aquifer	The person who applied for the licence
20	A decision of the Controller under section 70 to give a direction	The person to whom the direction is given
21	A decision of the Controller under section 71AA to refuse to approve the transfer of an entitlement to water	The holder of the licence who applied for the transfer of water entitlement
22	A decision of the Controller under section 71G(1) to refuse to grant a licence to take water in respect of a development	The person who applied for the licence
23	A decision of the Controller under section 71H to grant a licence to take water	The person who applied for the licence
24	A decision of the Controller under section 71H to refuse to grant a licence to take water	The person who applied for the licence
27	A decision of the Controller under section 74(1) to refuse to grant a waste discharge licence	The person who applied for the licence

Item	Reviewable decision	Affected person
28	A decision of the Minister under section 88A(1) to issue an action notice	The person to whom the notice is issued
29	A decision of the Controller under section 93(1) to amend or modify the terms or conditions of a licence	The holder of the licence
30	A decision of the Controller under section 93(2) to revoke or suspend a licence	The holder or former holder of the licence
31	A decision of the Controller under section 93A(4) to refuse to renew a permit or licence	The holder of the permit or licence

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

***Water Act 1992* (Act No. 19, 1992)**
Assent date 30 April 1992
Commenced 1 July 1992 (*Gaz* S35, 30 June 1992)

***Statute Law Revision Act 1993* (Act No. 6, 1993)**
Assent date 18 March 1993
Commenced 18 March 1993

***Statute Law Revision Act (No. 2) 1993* (Act No. 70, 1993)**
Assent date 9 November 1993
Commenced 9 November 1993

***Local Government (Consequential Amendments) Act 1993* (Act No. 84, 1993)**
Assent date 31 December 1993
Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz* S35, 20 May 1994)

***Statute Law Revision Act 1994* (Act No. 50, 1994)**
Assent date 20 September 1994
Commenced 20 September 1994

***Financial Management (Consequential Amendments) Act 1995* (Act No. 5, 1995)**
Assent date 21 March 1995
Commenced 1 April 1995 (s 2, s 2 *Financial Management Act 1992* (Act No. 4, 1995) and *Gaz* S13, 31 March 1995)

***Sentencing (Consequential Amendments) Act 1996* (Act No. 17, 1996)**
Assent date 19 April 1996
Commenced s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

Water Amendment Act 1996 **(Act No. 66, 1996)**

Assent date	31 December 1996
Commenced	19 February 1997 (s 2, s 2 *Environmental Offences and Penalties Act 1996* (Act No. 60, 1996) and *Gaz* G7, 19 February 1997, p 2)

Water Amendment Act 1998 **(Act No. 61, 1998)**

Assent date	3 September 1998
Commenced	3 September 1998

Waste Management and Pollution Control (Consequential Amendments) Act 1999 **(Act No. 72, 1998)**

Assent date	28 September 1998
Commenced	9 June 1999 (*Gaz* G22, 9 June 1999, p 7)

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)

Water Amendment Act 2000 **(Act No. 20, 2000)**

Assent date	6 June 2000
Commenced	6 June 2000

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)

Water Amendment Act 2003 **(Act No. 57, 2003)**

Assent date	22 October 2003
Commenced	14 January 2004 (*Gaz* G2, 14 January 2004, p 2)

Water Amendment Act 2007 **(Act No. 33, 2007)**

Assent date	12 December 2007
Commenced	26 November 2008 (*Gaz* G47, 26 November 2008, p 6)

Local Government (Consequential Amendments) Act 2008 **(Act No. 28, 2008)**

Assent date	14 November 2008
Commenced	1 July 2008 (s 2)

Statute Law Revision Act 2009 **(Act No. 25, 2009)**

Assent date	1 September 2009
Commenced	16 September 2009 (*Gaz* G37, 16 September 2009, p 3)

Mineral Titles (Consequential Amendments) Act 2010 **(Act No. 37, 2010)**

Assent date	18 November 2010
Commenced	7 November 2011 (*Gaz* G41, 12 October 2011, p 5)

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 **(Act No. 40, 2010)**

Assent date 18 November 2010
Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

Water Amendment Act 2010 **(Act No. 48, 2010)**

Assent date 13 December 2010
Commenced 13 December 2010

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

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

Red Tape Reduction (Miscellaneous Amendments) Act 2016 **(Act No. 12, 2016)**

Assent date 10 May 2016
Commenced 1 July 2016 (*Gaz* G26, 29 June 2016, p 2)

Water Legislation Amendment Act 2018 **(Act No. 29, 2018)**

Assent date 4 December 2018
Commenced 31 December 2018 (*Gaz* S107, 17 December 2018)

Water Amendment Act 2019 **(Act No. 19, 2019)**

Assent date 30 May 2019
Commenced 19 June 2019 (*Gaz* S44, 19 June 2019)

Water Legislation Miscellaneous Amendment Act 2019 **(Act No. 26, 2019)**

Assent date 2 September 2019
Commenced 25 September 2019 (*Gaz* G39, 25 September 2019, p 2)

Water Further Amendment Act 2019 **(Act No. 36, 2019)**

Assent date 6 November 2019
Commenced 8 July 2020 (*Gaz* G27, 8 July 2020, p 2)

Local Government Act 2019 **(Act No. 39, 2019)**

Assent date 13 December 2019
Commenced pt 8.6: 1 July 2022; rem: 1 July 2021 (*Gaz* S27, 30 June 2021)

Amending Legislation

Statute Law Revision Act 2020 **(Act No. 26, 2020)**

Assent date 19 November 2020
Commenced 20 November 2020 (s 2)

Local Government Amendment Act 2021 **(Act No. 15, 2021)**

Assent date 25 May 2021
Commenced 26 May 2021 (s 2)

Statute Law Revision Act 2020 **(Act No. 26, 2020)**

Assent date 19 November 2020
Commenced 20 November 2020 (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)

Statute Law Revision Act 2023 **(Act No. 4, 2023)**

Assent date	2 March 2023
Commenced	3 March 2023 (s 2)

Water Legislation Amendment Act 2023 **(Act No. 13, 2023)**

Assent date	31 May 2023
Commenced	1 August 2023 (*Gaz* G14, 6 July 2023, 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)

Parks and Water Legislation Amendment Act 2024 **(Act No. 13, 2024)**

Assent date	11 June 2024
Commenced	pt 3: 2 July 2024 (s 2(2)); rem: 12 June 2024 (s 2(1))

Petroleum, Planning and Water Legislation Amendment Act 2025 **(Act No. 7, 2025)**

Assent date	7 April 2025
Commenced	8 April 2025 (s 2)

Water Amendment (Aboriginal Water Reserves) Act 2025 **(Act No. 13, 2025)**

Assent date	6 June 2025
Commenced	7 June 2025 (s 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, 12, 13, 15, 39, 74A, 90, 109 and 113.

4 LIST OF AMENDMENTS

lt	amd No. 20, 2000, s 3
s 3	amd No. 13, 2024, s 34
s 4	amd No. 6, 1993, ss 6 and 8; No. 84, 1993, s 6; No. 66, 1996, s 4; No. 61, 1998, s 2; No. 20, 2000, s 4; No. 57, 2003, s 4; No. 33, 2007, s 4; No. 28, 2008, s 20; No. 48, 2010, s 3; No. 29, 2018, s 4; No. 19, 2019, s 4; No. 26, 2019, s 10; No. 36, 2019, s 4; No. 26, 2020, s 3; No. 39, 2019, s 370; No. 19, 2021, s 111; No. 13, 2023, s 4; No. 34, 2023, s 229; No. 13, 2024, s 35; No. 25, 2025, s 96
s 4A	ins No. 19, 2019, s 5
s 4B	ins No. 36, 2019, s 5
s 5	amd No. 6, 1993, s 8; No. 26, 2020, s 3; No. 19, 2021, s 112
s 7	sub No. 57, 2003, s 5 amd No. 29, 2018, s 5 sub No. 34, 2023, s 230
s 8	amd No. 84, 1993, s 6; No. 50, 1994, s 16 sub No. 28, 2008, s 21 amd No. 13, 2024, s 36
s 8A	ins No. 29, 2018, s 6
pt 2 hdg	amd No. 19, 2019, s 6; No. 26, 2020, s 3
pt 2 div 1 hdg	amd No. 26, 2020, s 3
s 11	amd No. 13, 2023, s 5
s 12	amd No. 45, 2000, s 11
s 13	amd No. 25, 2009, s 10; No. 26, 2020, s 3
s 14	amd No. 26, 2019, s 10; No. 13, 2023, s 6
ss 14A – 14E	ins No. 13, 2023, s 7
s 15	amd No. 23, 2013, s 14 sub No. 29, 2018, s 7
s 16	amd No. 66, 1996, s 5; No. 23, 2013, s 14; No. 26, 2019, s 10; No. 13, 2024, s 37
pt 2 div 3 hdg	ins No. 19, 2019, s 7
s 17A	ins No. 19, 2019, s 7 amd No. 26, 2019, s 10
ss 17B – 17C	ins No. 19, 2019, s 7
s 18	sub No. 13, 2024, s 38
ss 18A – 18B	ins No. 13, 2024, s 38
s 19	amd No. 13, 2023, s 8
s 20	amd No. 29, 2018, s 45; No. 26, 2020, s 3; No. 19, 2021, s 113 rep No. 13, 2024, s 39
s 21	amd No. 26, 2020, s 3 rep No. 13, 2024, s 39
s 22	amd No. 6, 1993, s 8
s 22A	ins No. 20, 2000, s 5 amd No. 36, 2019, s 6
s 22B	ins No. 20, 2000, s 5 amd No. 57, 2003, s 6; No. 36, 2019, s 7; No. 26, 2020, s 3; No. 4, 2023, s 22; No. 25, 2025, s 97
s 22C	ins No. 36, 2019, s 8 amd No. 13, 2025, s 4
s 23	amd No. 20, 2000, s 6; No. 26, 2020, s 3; No. 13, 2024, s 40
pt 3 div 2 hdg	sub No. 13, 2024, s 41
s 24	amd No. 70, 1993, s 8; No. 29, 2018, s 8 sub No. 13, 2024, s 41

ss 25 – 26	amd No. 29, 2018, s 45 sub No. 13, 2024, s 41
s 27	amd No. 23, 2013, s 14 sub No. 29, 2018, s 9; No. 13, 2024, s 41
ss 28 – 29	amd No. 29, 2018, s 45 sub No. 13, 2024, s 41
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s 30	amd No. 6, 1993, s 8; No. 26, 2020, s 3 sub No. 13, 2024, s 41
s 31	amd No. 40, 2010, s 118; No. 23, 2013, s 14 sub No. 29, 2018, s 10 sub No. 13, 2024, s 41
s 32	sub No. 13, 2024, s 41
s 32A	ins No. 13, 2024, s 41
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div 4 hdg	amd No. 26, 2020, s 3
s 33	sub No. 29, 2018, s 11
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div 5 hdg	ins No. 29, 2018, s 11
s 33A	ins No. 29, 2018, s 11
s 33B	ins No. 29, 2018, s 11 amd No. 19, 2021, s 114; No. 13, 2024, s 42
s 33C	ins No. 29, 2018, s 11
s 33D	ins No. 29, 2018, s 11 sub No. 13, 2024, s 43
s 34	amd No. 29, 2018, s 45; No. 13, 2024, s 44
s 35	amd No. 26, 2020, s 3; No. 13, 2024, s 45
s 36	amd No. 29, 2018, s 45; No. 13, 2024, s 46
s 37	amd No. 23, 2013, s 14 sub No. 29, 2018, s 12
s 38	amd No. 26, 2020, s 3; No. 19, 2021, s 115
s 39	sub No. 37, 2010, s 12 amd No. 23, 2013, s 14; No. 29, 2018, s 13; No. 13, 2024, s 47
s 40	amd No. 25, 2009, s 10; No. 23, 2013, s 14 sub No. 29, 2018, s 14
s 41	amd No. 29, 2018, s 15
s 42	amd No. 23, 2013, s 14 sub No. 29, 2018, s 16
s 44	amd No. 20, 2000, s 7; No. 23, 2013, s 14 sub No. 29, 2018, s 17
s 45	amd No. 20, 2000, s 8; No. 29, 2018, s 45; No. 19, 2021, s 116; No. 13, 2023, s 9; No. 25, 2025, s 98
s 45A	ins No. 19, 2019, s 8
s 46	amd No. 23, 2013, s 14 sub No. 29, 2018, s 18
pt 6 hdg	amd No. 26, 2019, s 10
s 47	amd No. 19, 2019, s 9
s 48	amd No. 23, 2013, s 14 sub No. 29, 2018, s 19
s 49	amd No. 29, 2018, s 45
s 50	amd No. 23, 2013, s 14 sub No. 29, 2018, s 20
s 51	amd No. 29, 2018, s 45; No. 19, 2021, s 117
s 52	amd No. 29, 2018, s 45; No. 13, 2024, s 48
s 53	amd No. 23, 2013, s 14 sub No. 29, 2018, s 21

s 54	amd No. 29, 2018, s 45
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div 3 hdg	amd No. 29, 2018, s 22
ss 55 – 56	amd No. 23, 2013, s 14
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s 57	amd No. 12, 2016, s 30
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s 58	amd No. 23, 2013, s 14
	sub No. 29, 2018, s 25
pt 6	
div 4 hdg	amd No. 26, 2019, s 10
s 59	amd No. 23, 2013, s 14
	sub No. 29, 2018, s 26
	amd No. 26, 2019, s 10
s 60	amd No. 20, 2000, s 9; No. 29, 2018, s 45; No. 26, 2019, s 10; No. 19, 2021, s 118; No. 13, 2023, s 10; No. 25, 2025, s 99
s 60A	ins No. 19, 2019, s 10
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s 61	amd No. 23, 2013, s 14
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	amd No. 26, 2019, s 10
s 62	amd No. 66, 1996, s 6; No. 23, 2013, s 14
s 63	amd No. 26, 2020, s 3
s 64	amd No. 66, 1996, s 7; No. 23, 2013, s 14
s 65	amd No. 66, 1996, s 8; No. 23, 2013, s 14
s 66	amd No. 23, 2013, s 14
	sub No. 29, 2018, s 28
s 67	amd No. 29, 2018, s 45; No. 19, 2019, s 11
s 68	amd No. 23, 2013, s 14
	sub No. 29, 2018, s 29
s 69	amd No. 23, 2013, s 14
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s 70	amd No. 26, 2019, s 10; No. 13, 2024, s 49
s 71	amd No. 23, 2013, s 14
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ss 71AA – 71AB	ins No. 25, 2025, s 100
pt 6A hdg	ins No. 33, 2007, s 6
s 71A	ins No. 33, 2007, s 6
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s 71B	ins No. 33, 2007, s 6
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s 71BA	ins No. 36, 2019, s 9
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s 71C	ins No. 33, 2007, s 6
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s 71D	ins No. 33, 2007, s 6
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s 71E	ins No. 33, 2007, s 6
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pt 6B hdg	ins No. 19, 2021, s 124
s 71F	ins No. 19, 2021, s 124
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s 71G	ins No. 19, 2021, s 124
s 71H	ins No. 19, 2021, s 124
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s 71J	ins No. 19, 2021, s 124 rep No. 25, 2025, s 105
ss 71K – 71L	ins No. 19, 2021, s 124
pt 6C hdg	ins No. 13, 2023, s 12
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div 1 hdg	ins No. 13, 2023, s 12
s 71M	ins No. 13, 2023, s 12 amd No. 13, 2024, s 53
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div 2 hdg	ins No. 13, 2023, s 12
ss 71N – 71Q	ins No. 13, 2023, s 12
s 71R	ins No. 13, 2023, s 12 amd No. 34, 2023, s 231; No. 13, 2024, s 54
s 71S	ins No. 13, 2023, s 12 amd No. 34, 2023, s 232
s 72	amd No. 48, 2010, s 6; No. 26, 2019, s 10
s 73	amd No. 6, 1993, s 8; No. 48, 2010, s 6
s 74	amd No. 48, 2010, s 4; No. 26, 2020, s 3; No. 19, 2021, s 125
s 74A	ins No. 72, 1998, s 4 amd No. 26, 2020, s 3
s 75	amd No. 48, 2010, s 6
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s 78	amd No. 26, 2019, s 10
s 79	amd No. 23, 2013, s 14; No. 29, 2018, s 32 No. 13, 2024, s 56
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s 81	amd No. 23, 2013, s 14; No. 29, 2018, s 33; No. 13, 2024, s 58
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s 84A	ins No. 13, 2024, s 59
s 85	rep No. 5, 1995, s 19
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s 88	amd No. 23, 2013, s 14 sub No. 29, 2018, s 34 amd No. 13, 2024, s 61
ss 88A – 88D	ins No. 13, 2024, s 62
s 89	amd No. 23, 2013, s 14 sub No. 29, 2018, s 34
s 90	amd No. 56, 1999, s 3; No. 20, 2000, s 10; No. 33, 2007, s 7; No. 26, 2020, s 3; No. 13, 2024, s 63; No. 25, 2025, s 106
s 91	amd No. 13, 2024, s 64
s 92	sub No. 25, 2025, s 107
s 93	amd No. 33, 2007, s 8; No. 26, 2019, s 6; No. 25, 2025, s 108
s 93A	ins No. 25, 2025, s 109
s 95	sub No. 33, 2007, s 9; No. 19, 2021, s 126
s 96	amd No. 37, 2010, s 12; No. 23, 2013, s 14 sub No. 29, 2018, s 35 amd No. 13, 2024, s 65
s 97	amd No. 66, 1996, s 10; No. 23, 2013, s 14; No. 26, 2020, s 3; No. 13, 2024, s 66
ss 98 – 100	amd No. 23, 2013, s 14 sub No. 29, 2018, s 36
s 101	amd No. 17, 1996, s 6; No. 23, 2013, s 14 sub No. 29, 2018, s 36
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div 4 hdg	ins No. 29, 2018, s 36
s 102	amd No. 17, 1996, s 6; No. 23, 2013, s 14 sub No. 29, 2018, s 36

ss 102A – 102D	ins No. 29, 2018, s 36
s 103	amd No. 13, 2024, s 67
s 104	amd No. 17, 1996, s 6; No. 23, 2013, s 14
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div 5 hdg	ins No. 29, 2018, s 37
s 104A	ins No. 29, 2018, s 37
s 105	amd No. 13, 2024, s 68
s 105A	ins No. 66, 1996, s 11
ss 105B – 105C	ins No. 29, 2018, s 38
pt 10A hdg	ins No. 13, 2024, s 69
s 105D	ins No. 13, 2024, s 69 amd No. 7, 2025, s 28
s 106	amd No. 17, 2001, s 21; No. 26, 2019, s 7; No. 26, 2020, s 3
s 108	amd No. 6, 1993, s 8; No. 33, 2007, s 10; No. 23, 2013, s 14; No. 26, 2019, s 8; No. 36, 2019, s 10; No. 19, 2021, s 127; No. 13, 2023, s 13; No. 13, 2024, s 70
pt 12 hdg	ins No. 29, 2018, s 39
s 109	amd No. 70, 1993, s 5; No. 57, 2003, s 7; No. 37, 2010, s 12; No. 29, 2018, s 40
pt 13 hdg	ins No. 29, 2018, s 41
s 110	ins No. 33, 2007, s 11 amd No. 29, 2018, s 42
pt 14 hdg	ins No. 29, 2018, s 43
s 111	ins No. 48, 2010, s 5
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s 112	ins No. 29, 2018, s 44
s 113	ins No. 29, 2018, s 44 amd No. 26, 2019, s 10
ss 114 – 116	ins No. 29, 2018, s 44
pt 16 hdg	ins No. 19, 2019, s 12
s 117	ins No. 19, 2019, s 12
pt 17 hdg	ins No. 26, 2019, s 9
s 118	ins No. 26, 2019, s 9
pt 18 hdg	ins No. 36, 2019, s 11
ss 119 – 120	ins No. 36, 2019, s 11
pt 19 hdg	ins No. 34, 2023, s 233
s 121	ins No. 34, 2023, s 233
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ss 122 – 132	ins No. 13, 2024, s 71
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s 133	ins No. 7, 2025, s 29
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