



## NATIONAL PARKS AND WILDLIFE CONSERVATION ACT 1975

Reprinted as at 31 July 1982

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## NATIONAL PARKS AND WILDLIFE CONSERVATION ACT 1975

An Act to make provision for and in relation to the Establishment of National Parks and other Parks and Reserves and the Protection and Conservation of Wildlife

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *National Parks and Wildlife Conservation Act 1975*.<sup>1</sup>

#### Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup>

#### Interpretation

3. (1) In this Act, unless the contrary intention appears—

“Aboriginal” means a member of the Aboriginal race of Australia and includes a Torres Strait Islander;

“Aboriginal land” means land situated in the Region, being land in which an Aboriginal Land Trust established under the *Aboriginal Land Rights (Northern Territory) Act 1976* holds an estate in fee simple;

“agreement” includes a treaty or convention;

“aircraft” means a machine or apparatus that can derive support in the atmosphere from the reactions of the air or from buoyancy, but does not include a hovercraft;

“animal” means any member, alive or dead, of the animal kingdom (other than man), and includes—

- (a) eggs or parts of eggs; and
- (b) the skin, feathers, horns, shell or any other part of an animal;



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SCHEDULE

AGREEMENTS BETWEEN AUSTRALIA AND OTHER COUNTRIES

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S. 59 . . . . . am. No. 111, 1982  
S. 61 . . . . . am. No. 111, 1982  
S. 62 . . . . . am. No. 111, 1982  
S. 65 . . . . . am. No. 29, 1978  
S. 66 . . . . . rep. No. 29, 1978  
Ss. 70, 71 . . . . . am. No. 29, 1978

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Subsection 3(i)  
Paragraph 11(8)(c)  
Schedule  
S. 3 insert 120/92  
part IV add - title 120/92  
division 1. add - title 120/92  
S. 38A insert 120/92  
S. 39 O+S 120/92  
S. 40 to 44 Repealed 120/92  
division 2 inserted 120/92  
S. 71 O+S 120/92  
Ss. 21(1) O+1 - 130/92

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NOTES—continued

**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 3-7	am. No. 29, 1978
<b>S. 3</b>	am. No. 72, 1984; No. 94, 1985; Nos. 15 and 16, 1987
S. 3A	ad. No. 15, 1987
S. 7	am. No. 94, 1985; No. 38, 1988
S. 8	rs. No. 29, 1978 am. No. 10, 1984; No. 76, 1986
<del>S. 8A-8E</del>	ad. No. 29, 1978 am. No. 16, 1987; No. 21, 1989
<b>S. 8B</b>	ad. No. 29, 1978 am. Nos. 15 and 16, 1987
<b>S. 8C</b>	ad. No. 29, 1987
S. 8D	ad. No. 42, 1979
<b>S. 9</b>	am. No. 72, 1984; No. 16, 1987 am. No. 94, 1985
<del>S. 9A-D</del>	am. No. 29, 1978; No. 42, 1979; No. 38, 1988; No. 21, 1989
<b>S. 10</b>	am. No. 29, 1978; No. 42, 1979; No. 15, 1987
S. 11	am. No. 29, 1978; am. No. 72, 1984; No. 94, 1985
<del>S. 11A-15B</del>	ad. No. 94, 1985
S. 12	am. No. 94, 1985
S. 13	am. No. 94, 1985
S. 14	am. No. 29, 1978
<del>S. 14A-14K</del>	ad. No. 94, 1985
<b>S. 14C</b>	am. No. 76, 1986
Ss. 16, 17	am. No. 29, 1978
<b>S. 16</b>	am. No. 72, 1984
Ss. 17A-17F	ad. No. 29, 1978
<b>S. 17E</b>	am. No. 63, 1984
Ss. 18-20	am. No. 29, 1978;
<b>S. 21</b>	am. No. 29, 1978, No. 38, 1988
S. 30	am. No. 29, 1978
S. 31	Rep. No. 94, 1985
S. 32	rep. No. 29, 1978
<b>S. 34</b>	am. No. 63, 1984
S. 36	am. No. 29, 1978; No. 63, 1984,
S. 38	am. No. 155, 1979; No. 70, 1980
Ss. 41, 42	am. No. 29, 1978
S. 46	am. Nos. 29 and 36, 1978
S. 48	am. No. 29, 1978
S. 52	am. No. 36, 1978
S. 54	am. No. 29, 1978
<b>S. 67</b>	rep. No. 88, 1990

## NOTES

1. The *National Parks and Wildlife Conservation Act 1975* as shown in this reprint comprises Act No. 12, 1975 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>National Parks and Wildlife Conservation Act 1975</i>	12, 1975	13 Mar 1975	13 Mar 1975	
<i>National Parks and Wildlife Conservation Amendment Act 1978</i>	29, 1978	9 June 1978	9 June 1978	—
<i>Administrative Changes (Consequential Provisions) Act 1978</i>	36, 1978	12 June 1978	12 June 1978	S. 8
<i>National Parks and Wildlife Conservation Amendment Act 1979</i>	42, 1979	14 June 1979	14 June 1979	—
<i>Australian Federal Police (Consequential Amendments) Act 1979</i>	155, 1979	28 Nov 1979	19 Oct 1979 (secs. 2 and Gazette 1979, No. S206, p. 1)	—
<i>Australian Federal Police (Consequential Amendments) Act 1980</i>	70, 1980	28 May 1980	28 May 1980	—
Public Service Acts Amendment Act 1982	111, 1982	5 November 1982	5 November 1982	—
Australian Government Solicitor (Consequential Amendments) Act 1984	10, 1984	10 April 1984	(a)	S. 4
Public Service Reform Act 1984	63, 1984	25 June 1984	S.151(r): 1 July 1984	—
Statute Law (Miscellaneous Provisions) Act (No.1) 1984	72, 1984	25 June 1984	23 July 1984	—
<i>National Parks and Wildlife Conservation Amendment Act 1985</i>	94, 1985	2 Sept 1985	2 Sept 1985	S. 11
Statute Law (Miscellaneous Provisions) Act (No.1) 1986	76, 1986	24 June 1986	2 Sept. 1985 (b)	S. 9
<i>National Parks and Wildlife Conservation Amendment Act 1987</i>	15, 1987	18 May 1987	18 May 1987	S. 7
<i>National Parks and Wildlife Conservation Amendment Act (No.2) 1987</i>	16, 1987	18 May 1987	(c)	S. 7

## National Parks and Wildlife Conservation Act 1975

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Statute Law (Miscellaneous Provisions) Act 1988	38, 1988	3 June 1988	3 June 1988	-
Lands Acquisition (Repeal and Consequential Provisions) Act 1989	21, 1989	20 April 1989	9 June 1989 (d)	-
Arts, Environment, Tourism and Territories Legislation Amendment Act 1990	88, 1990	20 November 1990	20 November 1990	-
Arts, Sports, Environment, Tourism & Territories Legislation Am. Act 1991	33, 1991	21 March 1991	21 March 1991	-
Arts, Sports Environment, Tourism & Territories Leg Amend (No 2)	179, 1991	25 Nov 1991	25 Nov 1991	-
Arts, Sports, Environment & Territories (Leg Am.)	21, 1992	10 April 1992	7 May 1992	-
National Parks & Wildlife Conservation Am. Act 1992	120/92	17/10/92	17/10/92	-
Arts, Environment & Territories Leg Am Act 1992	130/92	24 Oct 1992	24 Oct 1992	-



"article" includes a substance or a mixture of substances;

"Australia" includes the external Territories to which this Act extends;

"Australian coastal sea" means any sea or waters the sovereignty in respect of which is declared by the *Seas and Submerged Lands Act 1973* to be vested in the Crown in right of the Commonwealth, but does not include any waters referred to in section 14 of that Act;

"Conservation Commission" means the Conservation Commission of the Northern Territory established by the *Conservation Commission Act 1980* of the Northern Territory;

"conservation zone" means a conservation zone declared under section 8A;

"continental shelf of Australia" has the same meaning as in the *Seas and Submerged Lands Act 1973*;

"Director" means the Director of National Parks and Wildlife;

"Fund" means the Fund established by this Act;

"hovercraft" means a vehicle designed to be supported on a cushion of air;

"interest" means any legal or equitable interest, including any estate, right, title, claim, charge, encumbrance, power, privilege, authority, licence or permit;

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"Kakadu National Park" means the area for the time being declared under section 7 to be the park of that name;

"mineral" means a naturally occurring substance or mixture of substances;

~~"operations for the recovery of minerals" means any operations or activities for or in connexion with, or incidental to, the mining (whether by underground or surface working) or recovery of minerals or the production of material from minerals and, in particular, without limiting the generality of the foregoing, includes—~~

~~(a) prospecting and exploration for minerals, the milling, refining, treatment and processing of minerals and the handling, transportation, storage and disposal of minerals and of material produced from minerals; and~~

~~(b) the construction and use of towns, camps, dams, pipelines, power lines or other structures, and the performance of any other work, for the purposes of any such operations or activities;~~

"park" means a park declared under section 7;

"plan of management" means a plan of management in force under section 12;

"plant" means any member, alive or dead, of the plant kingdom or of the fungus kingdom, and includes seeds and parts of plants;

"prescribed park or reserve" means—

(a) the Uluru (Ayers Rock–Mt. Olga) National Park; and

(b) any other park or reserve declared by the regulations to be a prescribed park or reserve for the purposes of this definition;

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"ranger" means a person appointed as a ranger under section 37;

~~"Region" means so much of the Alligator Rivers Region, within the meaning of the definition of that Region in the *Environment Protection (Alligator Rivers Region) Act 1978*, as does not include—~~

- ~~(a) the area shown as the Arnhem Land Aboriginal Reserve on the map referred to in that definition; and~~
- ~~(b) the areas (being pastoral leases) described on that map as Mount Bunday, Goodparla, Gimbat and Eva Valley;~~

"Region" means—

- (a) so much of the Alligator Rivers Region, within the meaning of the definition of that Region in the *Environment Protection (Alligator Rivers Region) Act 1978*, as does not include—
  - (i) the area shown as the Arnhem Land Aboriginal Reserve on the map referred to in that definition; and
  - (ii) the areas (being pastoral leases) described on that map as Mount Bunday, Goodparla, Gimbat and Eva Valley; and
- (b) the area of land described under the heading 'Uluru' in Schedule 1 to the *Aboriginal Land Rights (Northern Territory) Act 1976*;

"reserve" means a reserve declared under section 7;

"botanic garden" means a scientific and educational institution the purpose of which is the advancement and dissemination of knowledge and appreciation of plants by:

- (a) growing them in a horticultural setting; and
- (b) establishing herbarium collections; and
- (c) conducting research; and
- (d) providing displays and interpretative services;

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"right" does not include sovereign rights;

"Service" means the Australian National Parks and Wildlife Service established by this Act;

"Territory" means an internal Territory or an external Territory to which this Act extends;

~~"Territory Commission" means the Territory Parks and Wildlife Commission established by the Territory Parks and Wildlife Conservation Ordinance 1976 of the Northern Territory;~~

"Territory Commission" means the Conservation Commission of the Northern Territory established by the *Conservation Commission Act 1980* of the Northern Territory;

"this Act" includes the regulations;

"traditional Aboriginal owners" has the same meaning as in the *Aboriginal Land Rights (Northern Territory) Act 1976*;

"uranium mining operations" has the same meaning as in the *Environment Protection (Northern Territory Supreme Court) Act 1978*;

"vehicle" includes a hovercraft;

"vessel" means a ship, boat, raft or pontoon or any other thing capable of carrying persons or goods through or on water, but does not include a hovercraft;

"warden" means—

- (a) a person appointed as a warden under section 37; or
- (b) a person referred to in section 38;

"wilderness zone" means a wilderness zone declared under section 7;

"wildlife" means—

- (a) animals and plants that are indigenous to Australia;
- (b) animals and plants that are indigenous to the Australian coastal sea or the sea-bed and subsoil beneath that sea;
- (c) animals and plants that are indigenous to the continental shelf of Australia or the superjacent waters;

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**(ca) animals and plants that are indigenous to the Australian fishing zone;** 5

- (d) migratory animals that periodically or occasionally visit Australia, the Australian coastal sea or the sea over the continental shelf of Australia; Australian coastal sea 120/92
- (e) animals and plants of a kind introduced into Australia, directly or indirectly, by Aboriginals before the year 1788; and
- (f) such other animals and plants, not being domesticated animals or cultivated plants, as are prescribed.

**'Australian aircraft'** means an aircraft that is in Australian control or is registered in accordance with the Air Navigation Regulations as an Australian aircraft;

**'Australian fishing zone'** has the same meaning as in the *Fisheries Management Act 1991*;

**'Australian national'** means:

- (a) an Australian citizen; or
- (b) a body corporate established by or under a law of the Commonwealth, of a State or of a Territory;

**'Australian vessel'** means a vessel that is in Australian control or is an Australian boat within the meaning of the *Fisheries Management Act 1991*; 20

**'foreign national'** means a person other than an Australian national;

**'foreign vessel'** means a vessel other than an Australian vessel; 25

**'in Australian control'** means in the control or possession of one or more of any of the following:

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**Extension of Act to external Territories**

4. This Act extends to every external Territory.

**Act binds the Crown**

5. This Act binds the Crown in right of the Commonwealth or of a State.

**PART II—PARKS AND RESERVES**

**Object of this Part**

6. (1) The object of this Part is to make provision for the establishment and management of parks and reserves—

- (a) appropriate to be established by the Commonwealth Government, having regard to its status as a national government;
- (b) in the Territories;
- (c) in the Australian coastal sea;
- (d) for purposes related to the rights (including sovereign rights) and obligations of Australia in relation to the continental shelf of Australia;
- (e) for facilitating the carrying out by Australia of obligations under, or the exercise by Australia of rights under, agreements between Australia and other countries; or
- (f) conducive to the encouragement of tourism between the States and between other countries and Australia,

and this Act shall be administered accordingly.

(2) Land in a State shall not, without the consent of the State, be acquired by the Commonwealth for the purposes of this Part if it is land that is dedicated or reserved under a law of the State for purposes related to nature conservation or the protection of areas of historical, archaeological or geological importance or of areas having special significance in relation to Aborigines.

(3) Land in the Northern Territory, other than land in the Uluru (Ayers Rock-Mt. Olga) National Park or in the Alligator Rivers Region as defined by the *Environment Protection (Alligator Rivers Region) Act 1978*, shall not, without the consent of the Territory, be acquired by the Commonwealth for the purposes of this Part if it is land that is dedicated or reserved under a law of the Territory for purposes related to nature conservation or the protection of areas of historical, archaeological or geological importance or of areas having special significance in relation to Aborigines.

**Parks and reserves established by Governor-General**

7. (1) In this section, "area" means—

- (a) an area of land owned or held under lease by the Commonwealth, including any such area that has been dedicated or reserved under a law of a Territory for the purposes of a national park, nature reserve, protected area or wildlife sanctuary or for similar purposes;

- (a) the Commonwealth (including an arm of the Defence Force) or a State or Territory;
- (b) a corporation established for a public purpose by or under a law of the Commonwealth or of a State or Territory; 30
- (c) a company or other body corporate incorporated under a law of a State or Territory, being a company or other body corporate in which the Commonwealth has a controlling interest; 35

'seize' includes secure against interference;

'wildlife inspector' means a person appointed as a wildlife inspector under section 38A. 7

(2) In this Act, a reference to the sea-bed includes a reference to the surface of any coral formation, and a reference to the subsoil includes a reference to the coral beneath the surface of any such formation.

(3) In this Act, a reference to public notice is a reference to notice published—

- (a) in the *Gazette*;
- (b) in a local newspaper, if any, circulating in the area concerned; and
- (c) in each State and Territory, in a newspaper circulating throughout that State or Territory.

**(4) A reference in this Act (other than section 65) to an offence against this Act includes a reference to an offence against section 6, 7 or 7A, or subsection 86(1), of the Crimes Act 1914 that relates to this Act. 7**

#### Operations for the recovery of minerals

3A. (1) In this Act, subject to subsection (2), "operations for the recovery of minerals" means any operations or activities for or in connection with, or incidental to, the mining (whether by underground or surface working) or recovery of minerals or the production of material from minerals and, in particular, without limiting the generality of the foregoing, includes:

- (a) prospecting and exploration for minerals, the milling, refining, treatment and processing of minerals and the handling, transportation, storage and disposal of minerals and of material produced from minerals; and
- (b) the construction and use of towns, camps, dams, pipelines, power lines or other structures, and the performance of any other work, for the purposes of any such operations or activities.

(2) In this Act, "operations for the recovery of minerals" does not include:

- (a) anything done for the purposes of building or construction, or the supply of water, in a park or reserve, unless those purposes are connected with, or incidental to, operations for the recovery of minerals;
- (b) the transportation of anything in the Kakadu National Park along routes (including air routes) prescribed for the purposes of this paragraph;
- (c) the construction and use of pipelines and power lines in Kakadu National Park along routes prescribed for the purposes of this paragraph; or
- (d) prescribed activities carried on in Kakadu National Park in connection with, or incidental to, operations for the recovery of minerals carried on outside Kakadu National Park. 7

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“(3A) The *Lands Acquisition Act 1989* does not apply to the grant or surrender of a lease or sub-lease under this section.”

(4) In this section, “lease”, in relation to Aboriginal land, means sub-lease.

(other than in subsection (2B))

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✓(9) Subsection (1) does not limit the power to make regulations conferred by paragraph (8) (a).

✓(10) Where:

(a) regulations made under paragraph (8) (a) have effect in relation to a conservation zone; and

(b) an area is subsequently excised from the zone;

then, except as otherwise provided in the regulations, the regulations continue to apply in relation to the area, and further regulations may be made under that paragraph in relation to the area, as if the area had not been excised.

✓(11) Regulations made under paragraph (8) (a) have effect notwithstanding:

(a) any other regulations made under this Act; or

(b) any law of the Northern Territory, or any Act, by or under which interests referred to in subparagraph 8B (1) (a) (i) have been created, preserved or otherwise affected.

✓(12) Regulations made under this section (other than regulations made under paragraph (8) (a)) have no effect to the extent that they are inconsistent with the terms and conditions of:

~~(a) a lease or licence granted under section 51 of the *Lands Acquisition Act 1955*; or~~

~~(b) a right (however described) to explore or prospect for minerals granted under section 53 of that Act.~~

(a) an interest of either of the following kinds granted before the commencement of the *Lands Acquisition Act 1989*:

(i) a lease or licence granted under section 51 of the *Lands Acquisition Act 1955*;

(ii) a right (however described) to explore or prospect for minerals granted under section 53 of the *Lands Acquisition Act 1955*; or

(b) a right (however described) to explore for minerals, or to mine for or recover minerals, granted under section 124 of the *Lands Acquisition Act 1989*.

✓(13) Any operation for the recovery of minerals on, in or beneath land in a conservation zone in the exercise of an interest referred to in subparagraph 8B (1) (a) (i) shall be deemed, for the purposes of procedures contained in orders made under the *Environment Protection (Impact of Proposals) Act 1974*, to be a proposed action within the meaning of those procedures.

**Existing interests, &c., in parks, reserves and conservation zones**

8B. (1) Where any land is within a park, reserve or conservation zone—

(a) subject to paragraph (b), the prescribed provisions of this Act and of the regulations, and, in the case of a park or reserve, the provisions of

✓(other than subsection 8A (13) or regulations made under paragraph 8A (8) (a))

the plan of management do not affect—

(i) any interest in respect of that land or in respect of any minerals on, in or beneath that land held immediately before that land was within the park, reserve or conservation zone by any person other than the Commonwealth or the Director; or

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(12) Before submitting a report for the purposes of sub-section (11), the Director shall—

(a) by public notice—

- (i) state the nature of the report and of any recommendations proposed to be made in the report;
- (ii) invite interested persons to make representations in connexion with the report by such date, not being less than 60 days after the date of publication of the notice in the *Gazette*, as is specified in the notice; and

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- (aa) an area of Aboriginal land held under lease by the Director;
- (b) an area of the Australian coastal sea in respect of the sea-bed and subsoil beneath which no interest is vested in a person other than the Commonwealth;
- (c) an area of sea over a part of the continental shelf of Australia in respect of which no interest is vested in a person other than the Commonwealth; or
- (d) an area of land or sea outside the Australian coastal sea in respect of which Australia has, under an agreement between Australia and any other country or countries, obligations relating to wildlife that may appropriately be carried out by the establishment and management of the area as a park or reserve,

or an area of any such land and any such sea.

(2) Subject to this section, the Governor-General may—

- (a) by Proclamation, declare an area specified in the Proclamation to be a park or a reserve and assign a name to that park or reserve; and
- (b) by the same or by another Proclamation, declare the whole or a specified part of the park or reserve to be a wilderness zone.

(3) A Proclamation ~~under sub-section (2)~~ declaring an area to be a reserve may specify the purpose or purposes for which it is so declared.

(4) Where a plan of management is in force in relation to a park or reserve,

“declaring the whole or a specified part of the park or reserve to be a wilderness zone”  
a declaration shall not be made ~~under paragraph (2) (b) in relation to the park or reserve~~ except in accordance with the plan of management.

(5) A park may be named as a national park or by such other designation as the Governor-General thinks fit.

(6) Where an area is declared by Proclamation ~~under sub-section (2)~~ to be a park or reserve—

- (a) the subsoil beneath any land within the area, extending to such depth below the surface as is specified in the Proclamation;
- (b) the waters and sea-bed beneath any sea within the area; and
- (c) the subsoil beneath any such sea-bed, extending to such depth below the sea-bed as is specified in the Proclamation,

shall be taken to be within that park or reserve.

(7) Upon the declaration of a park or reserve ~~under sub-section (2)~~, any interest held by the Commonwealth in respect of the land (including any sea-bed or any subsoil) within the park or reserve, but not in respect of any minerals, becomes, by force of this sub-section, vested in the Director.

(7A) Where the Commonwealth acquires any interest in respect of any land (including any sea-bed or any subsoil) within a park or reserve (otherwise

“or transfer”

than by reason of the surrender ~~of an interest under sub-section 9 (3)), that~~

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interest becomes, by force of this sub-section, vested in the Director, but not to the extent that it is an interest in respect of minerals.

(8) Subject to this section, the Governor-General may, by Proclamation, revoke or amend a Proclamation made under ~~sub-section (2)~~.

"this section"

"this section"

(9) A Proclamation under ~~sub-section (8)~~ by virtue of which any land (including any subsoil) or sea, other than land or sea referred to in paragraph (1) (d), ceases to be land or sea within a park or reserve or within a wilderness zone shall not be made except in accordance with a resolution passed by each House of the Parliament in pursuance of a motion of which notice has been given not less than 15 sitting days of that House before the motion is moved.

(10) If, by virtue of a Proclamation made under ~~sub-section (8)~~, any land (including any sea-bed or any subsoil), other than Aboriginal land, ceases to be land within a park or reserve, any interest held by the Director in respect of that land becomes, by force of this sub-section, vested in the Commonwealth.

"this section"

(10A) If, by virtue of a Proclamation made under ~~sub-section (8)~~, any Aboriginal land (including any sea-bed or any subsoil) ceases to be land within a park or reserve, any leasehold interest held by the Director in respect of that land ceases, by force of this sub-section, to exist.

"this section"

"(10AB) Sub-sections (9), (10) and (10A) do not apply in relation to a Proclamation by virtue of which any land (including any Aboriginal land and any sea-bed or subsoil) or sea ceases to be land or sea within a park or reserve or within a wilderness zone and becomes land or sea within another park or reserve or another wilderness zone, as the case requires."

(10B) Where a leasehold interest held by the Director in respect of any land in a park or reserve ceases to exist (otherwise than by reason of the Director ~~surrendering~~ the interest under sub-section 9 (3) or acquiring ownership of the land or by reason of the operation of sub-section 12 (2A) of the *Aboriginal Land Rights (Northern Territory) Act 1976*), the land ceases, by force of this sub-section, to be land within the park or reserve and the Governor-General shall accordingly, by Proclamation, amend or revoke, as the case requires, the Proclamation ~~made under sub-section (2)~~ in relation to that land.

~~ransferring~~

"surrendering the interest under subsection 9(2B),"

"applying"

(11) Subject to sub-section (11A), the Governor-General shall not make a Proclamation under this section except after consideration by the Executive Council of a report by the Director in relation to the matter dealt with by the Proclamation.

~~(11A) Sub-section (11) does not apply in relation to the making of a Proclamation under sub-section (2) in relation to land or sea within the Region.~~

"(11A) Sub-section (11) does not apply in relation to the making of—

- (a) a Proclamation under sub-section (2) in relation to land or sea within the Region;
- (b) a Proclamation under sub-section (8) in relation to land or sea within the Region, other than a Proclamation, not being a Proclamation to which paragraph (c) applies, by virtue of which particular land (including any Aboriginal land or sea-bed or subsoil) or sea ceases to be land or sea within a park or reserve or within a wilderness zone; or
- (c) a Proclamation by virtue of which any land (including any Aboriginal land or any sea-bed or subsoil) or sea ceases to be land or sea within a park or reserve or within a wilderness zone and becomes land or sea within another park or reserve or

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- (iii) specify an address to which such representations may be forwarded; and
- (b) give due consideration to any representations so made, and, when submitting the report, he shall attach to the report any representations so made, together with his comments on those representations.

(13) Where any land is acquired by the Commonwealth for the purposes of this Part, the Minister shall, as soon as practicable after the acquisition, but subject to compliance with sub-sections (11) and (12) (where applicable), cause the carrying out of that purpose to be submitted for consideration by the Executive Council.

(14) Subject to sub-section (10B), where land is within a park or reserve, it does not cease to be within the park or reserve by reason only of a transfer, assignment, surrender or extinguishment of, or any other change of any description in, any interest in respect of that land.

**Registration of changes in title to land**

8. Where, by reason of a Proclamation under section 7, any interest in any land (including any subsoil) in a State or Territory becomes vested in the Direc-

Secretary  
to the Attorney-General's Department or a person authorized  
under sub-section 55E (4) of the Judiciary Act 1903.

tor or the Commonwealth or ceases to exist, the ~~Crown Solicitor~~ may lodge with the Registrar-General, Registrar of Titles or other appropriate officer of

by writing signed by  
the Secretary or by a person so authorized.

the State or Territory a copy of the Proclamation, certified ~~under the hand of the Crown Solicitor or of an officer of the Attorney-General's Department authorized by the Crown Solicitor to certify such copies~~, and the officer with whom it is so lodged may make such entries in his registers, and do such other things, as are necessary to reflect the operation of section 7 in relation to the land by virtue of the Proclamation.

**Conservation zones**

a decision is made whether or not

8A. (1) The objects of this section are the protection and conservation of wildlife in, and the protection of the natural features of, an area of land or sea in the Region until ~~it is practicable~~ to declare the area to be a park or reserve.

(2) The Governor-General may, by Proclamation, declare an area within the Region, not being an area within a park or reserve, to be a conservation zone.

(3) Subject to sub-section (5), the Governor-General may, by Proclamation, revoke or amend a Proclamation made under sub-section (2).

(4) Where an area is declared to be a conservation zone—

- (a) the subsoil beneath any land within the area, extending to such depth below the surface as is specified in the Proclamation;
- (b) the waters and sea-bed beneath any sea within the area; and
- (c) the subsoil beneath any such sea-bed, extending to such depth below the sea-bed as is specified in the Proclamation,

shall be taken to be within that conservation zone.

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(5) A Proclamation under sub-section (3) by virtue of which an area is to cease to be within a conservation zone shall not be made unless—

- (a) a Proclamation is made under section 7, coming into operation immediately after the first-mentioned Proclamation comes into operation, declaring the area to be, or to be included in, a park or reserve; or
- (b) the area is to be used for operations for the recovery of minerals, other than prospecting or exploration.

~~(6) For the purposes of making regulations in relation to conservation zones, paragraphs 71 (2) (d), (da), (e), (h), (i), (j), (l), (n), (s) and (u) and sub-section 71 (3) apply, subject to sub-section (7) of this section, in relation to conservation zones in like manner as they apply in relation to parks and reserves.—~~

“(6) For the purposes of making regulations in relation to conservation zones, subsections 71 (2) (other than paragraph (t)) and 71 (3) apply, subject to subsection (7) of this section, in relation to conservation zones as they apply in relation to parks and reserves.”

(7) For the purposes of sub-section (6), paragraphs 71 (2) (da), (h), (j), (l), (n) and (s) apply as if the words “or prohibiting” were omitted.

(8) In addition to the powers to make regulations conferred by sub-section (6) and section 71, regulations in relation to conservation zones may be made—

~~(a) making provision for and in relation to operations for the recovery of minerals;—~~

“(a) regulating or prohibiting operations for the recovery of minerals;”

(b) regulating the carrying on of fishing, pastoral or agricultural activities for commercial purposes;

(c) regulating the construction or alteration of buildings and structures;

(d) regulating the construction or establishment of bridges, railways, roads, tracks, port facilities and air-strips and the carrying out of any other works;

(e) regulating the felling or taking of timber;

(f) making provision for and in relation to the powers to be exercised, and the functions and duties to be performed, in and in relation to conservation zones by wardens, rangers and other persons, being persons included in specified classes of persons; and

(g) making provision for and in relation to the giving of securities for compliance with regulations made in pursuance of this section by persons doing, or proposing to do, anything to which those regulations relate.

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- (ii) the application of any law of a State or Territory in relation to such an interest; and
  - (b) notwithstanding anything to the contrary contained in any law of the Commonwealth or of a State or Territory, an interest referred to in sub-paragraph (a) (i) (not being an interest in respect of minerals beneath the land concerned) shall not be renewed, and the term of such an interest shall not be extended, except with the consent in writing of the Minister and subject to such conditions as the Minister determines.
- (2) A person adversely affected by the refusal of the Minister to give consent, or by the imposition of conditions, under paragraph (1) (b) is entitled to be paid reasonable compensation by the Commonwealth.
- (3) In this section—
- (a) a reference to land shall be read as including a reference to sea-bed and subsoil;
  - (b) a reference to a prescribed provision shall be read as a reference to a provision that has effect only in relation to—
    - (i) a particular park, reserve or conservation zone; or
    - (ii) parks, reserves and conservation zones, or any of them;
  - (c) a reference to an interest shall be read as including a reference to the exercise of a right arising out of an interest; and
  - (d) a reference to minerals beneath land that is within a park, reserve or conservation zone shall be read as a reference to minerals situated below the depth specified in relation to that land in pursuance of sub-section 7 (6) or 8A (4), whichever is applicable.
- (4) This section does not apply in relation to—
- (a) any interest in respect of any minerals on, in or beneath land within Kakadu National Park; or
  - (b) any other interest in so far as it relates to operations for the recovery of any such minerals.

**Townships in the Region**

8C. (1) Where the plan of management relating to a park or reserve the whole or part of which is within the Region so provides, townships may be established and developed within the park or reserve or that part of the park or reserve, as the case may be, and the succeeding provisions of this section apply accordingly.

(2) A township, other than a township to which sub-section (3) applies, may be established and developed—

- (a) by the Director; or
- (b) by any other person on land held under lease by that person from the Director.

(3) An existing township within a park or reserve may be developed by a person other than the Director, but development of an existing township shall not take place on land that was undeveloped at the commencement of this section unless the land is held under lease from the Director.

(4) A township shall not be established or developed, and no building work shall be carried out in a township, except in accordance with—

- (a) the provisions of the plan of management; and
- (b) a town plan prepared and approved in the manner provided by the regulations.

(5) The provisions of the plan of management relating to a township shall include provisions for and in relation to—

- (a) in the case of a township to be established under paragraph (2) (a) or (b)—the site of the township and the general purposes of the township;
- (b) in the case of a township to be established or developed on land held under lease from the Director—the terms and conditions of the lease; and
- (c) where the township is to be divided into zones—the respective purposes of the zones.

(6) The town plan shall make detailed provision, not inconsistent with the plan of management or, in the case of a township to be established or developed on land held under lease from the Director, with the lease, for and in relation to the proposed construction or development of the township, including, in particular, the provision (if any) to be made for—

- (a) housing, shops, offices and other buildings and structures;
- (b) bridges, railways, roads, streets, footpaths and parking areas;
- (c) the supply of water, electricity and gas;
- (d) the standards to be maintained in the construction and alteration of buildings and structures;
- (e) sewerage and drainage;
- (f) public amenities for recreation and other purposes; and
- (g) any other matters that are specified for the purposes of this paragraph by the plan of management, the regulations or, in the case of a township to be established or developed on land held under lease from the Director, by the lease.

(7) For the purposes of sub-section (6), the town plan may apply, adopt or incorporate, with or without modification—

- (a) the provisions of any law of, or of a part of, the Northern Territory as in force at a specified time or as in force from time to time, being a law that, but for that application, adoption or incorporation, would not apply in relation to the township; or
- (b) any matter contained in any instrument or writing as in force or existing at a specified time.

(8) A town plan may be revoked or amended in the manner provided by the regulations, but a town plan shall not be amended so as to be inconsistent with the plan of management or, in the case of a township established or developed on land held under lease from the Director, with the lease.

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(9) In this section—

“building work” means the construction, alteration or demolition of a building or structure;

“existing township”, in relation to a park or reserve, means a township that was in existence before its inclusion within the park or reserve;

“lease”, in relation to a township established or developed on Aboriginal land, means sub-lease.

**Township at Jabiru**

8D. (1) In this section, unless the contrary intention appears—

“Authority” means the Jabiru Town Development Authority established by the *Jabiru Town Development Act 1978* of the Northern Territory;

“licence” means a licence granted under sub-section (2), and includes a licence as varied under sub-section (4);

~~“Park” means the Kakadu National Park established under this Act in the Northern Territory;~~

“Park” means Kakadu National Park;

“township” means the township referred to in sub-section (2).

(2) At any time before a plan of management relating to the Park comes into force, the Director may grant written licences to the Authority authorizing it to do such things within the Park as are specified in the licences, being things that he considers necessary or convenient to be commenced, before the plan of management comes into force, for and in relation to the establishment and development of a township at or near a place in the Region known as Jabiru.

(3) The Director shall not grant a licence under sub-section (2) unless Conservation

(a) the Authority has informed him, in writing, that the ~~Territory~~ Territory Commission, and each other authority or body established by or under a law of the Northern Territory which the Authority has considered it appropriate to consult in relation to the issue of the licence, have agreed to the issue of the licence; and

(b) where, under the *Aboriginal Land Rights (Northern Territory) Act 1976*, an Aboriginal Land Council has, or Aboriginal Land Councils have, been established for any area or areas wholly or partly within the Park—the Director has consulted with, and had regard to the views of, the Chairman of that Council or of each of those Councils, as the case may be, in relation to the issue of the licence.

(4) In granting a licence under sub-section (2), the Director shall impose such conditions as he thinks fit providing for such of the objects set out in sub-section 11 (8) as are applicable.

(5) A licence may be varied at any time by the Director with the consent of the Authority.

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(6) At any time when a plan of management relating to the Park is in force, things authorized to be done by a licence shall be done in accordance with the licence and, to the extent to which the plan is not inconsistent with the licence, also in accordance with the plan.

(7) As soon as practicable after a plan of management relating to the Park comes into force, a town plan relating to the township shall be prepared and approved as provided by section 8C.

(8) On the date of coming into effect of a town plan in pursuance of sub-section (7), section 8C applies, subject to this section, in relation to the township as if it were a township established and developed in accordance with sub-section (1) of that section.

(9) At any time after the coming into effect of a town plan in pursuance of sub-section (7), things authorized to be done by a licence shall be done in accordance with the licence and, to the extent to which the town plan is not inconsistent with the licence, also in accordance with the town plan.

(10) In—

- (a) the making of a variation of a licence;
- (b) the preparation and consideration of a plan of management relating to the Park; and
- (c) the preparation and approval of a town plan in pursuance of sub-section (7).

due regard shall be had to buildings, structures and works constructed, erected or carried out, or authorized to be constructed, erected or carried out, in accordance with this section.

**Restriction of disposal, &c., of land in parks and reserves**

9. (1) Notwithstanding any law of the Commonwealth or of a State or Territory, but subject to sub-sections (2), (2A) and (3), no interest held by the Director in respect of land within a park or reserve shall be sold, leased or otherwise disposed of.

(2B)

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

(2A) The Director may, for the purposes of establishing and developing a township as provided by section 8D, grant leases of, or licences in respect of, land in the Kakadu National Park established under this Act in the Northern Territory.

(2B) The Director may surrender a lease of land within a park or reserve in consideration of the grant to the Director of a new lease of land that includes that land.

(3) The Director may, for the purposes of Part II of the *Aboriginal Land Rights (Northern Territory) Act 1976*, surrender to the Commonwealth any interest held by him in respect of land within a park or reserve within the Region.

"or transfer"



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

sections 8B and

10. (1) Subject to ~~sub-section 8B (1) and section 8D~~, this section has effect notwithstanding any law of the Commonwealth or of a State or Territory.

(1A) No operations for the recovery of minerals shall be carried on in Kakadu National Park.

(1B) Subsection (1A) shall not be taken to prevent the use, development or re-construction of the township known as Jabiru.

not being Kakadu National Park)

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

(3) Subject to sub-sections (4) and (4A) —

- (a) no excavation shall be carried on;
- (b) no building or other structure shall be erected;
- (c) no works shall be carried out; and
- (d) no timber shall be felled or taken,

in a park or reserve except in accordance with the plan of management relating to that park or reserve.

(4) At a time when no plan of management is in force in relation to a particular park or reserve the whole or part of which is outside the Region, sub-section (3) does not prevent the Director from performing his functions in the park or reserve or that part of the park or reserve, as the case may be (in this sub-section referred to, in either case, as "the area"), for the purpose of preserving or protecting the area, protecting or conserving wildlife in the area, controlling authorized scientific research or protecting persons or property in the area.

(4A) At a time when no plan of management is in force in relation to a particular park or reserve the whole or part of which is within the Region, the Director may, subject to any directions of the Minister —

- (a) approve the erection of buildings and other structures, and the carrying out of excavations and other works, in the park or reserve or that part of the park or reserve, as the case may be; and
- (b) perform his functions and exercise his powers in and in relation to the park or reserve or that part of the park or reserve, as the case may be.

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

(6) Notwithstanding sub-sections (4) and (4A) —

- (a) no excavation shall be carried on;
- (b) no building or other structure shall be erected;
- (c) no works shall be carried out;
- (d) no timber shall be felled or taken;

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- (e) no tracks shall be established; and
- (f) no vehicle, aircraft or vessel shall be used,

in a wilderness zone except by the Director, in accordance with the plan of management relating to the zone, for purposes essential to the management of the zone.

**Plans of management**

[Subject to sub-section (2), as ]

11. (1) ~~As~~ <sup>As</sup> soon as practicable after a park or reserve has been declared, the Director shall prepare a plan of management in respect of that park or reserve.

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

- ~~(a) state that he intends to prepare a plan of management in respect of that park or reserve;~~
- ~~(b) invite interested persons to make representations in connexion with the proposed plan by such date, not being less than 1 month after the date of publication of the notice in the *Gazette*, as is specified in the notice; and~~
- ~~(c) specify an address to which such representations may be forwarded, and, in the case of a plan of management in respect of a park or reserve wholly or partly within a prescribed area, shall serve a copy of the notice on the relevant Chairman~~

(2) Where a Board is established under Part IIA for a prescribed park or reserve, the Board, in conjunction with the Director, shall, as soon as practicable after the Board is established, prepare a plan of management in respect of that park or reserve unless, at the time when the Board is established, there is already a plan of management in force in respect of that park or reserve.

(2A) Before a plan of management is prepared in respect of a park or reserve, the Director shall, by public notice—

- (a) state that a plan of management is to be prepared in respect of that park or reserve;
- (b) invite interested persons to make representations in connection with the proposed plan by such date, not being less than 1 month after the date of publication of the notice in the *Gazette*, as is specified in the notice; and
- (c) specify an address to which such representations may be forwarded,

and, in the case of a plan of management in respect of a park or reserve wholly or partly within a prescribed area, shall serve a copy of the notice on the relevant Chairman.

(7) Where a plan of management provides for operations for the recovery of minerals or for excavation or other works, the plan shall set out any conditions that are to be applicable.

(8) In the preparation of the plan of management, regard shall be had to the following objects:

- (a) in the case of a park—the encouragement and regulation of the appropriate use, appreciation and enjoyment of the park by the public;
- (b) in the case of a reserve—the regulation of the use of the reserve for the purpose for which it was declared;
- (ba) in the case of a park or reserve wholly or partly within the Region—the interests of the traditional Aboriginal owners of, and of other Aboriginals interested in, so much of the land within the park or reserve as is within the Region;
- (c) the preservation of the park or reserve in its natural condition and the protection of its special features, including objects and sites of biological, historical, palaeontological, archaeological, geological and geographical interest;
- “(ca) in the case of a park or reserve managed as a botanic garden—the increase of knowledge, appreciation and enjoyment of Australia’s plant heritage by establishing, as an integrated resource, a collection of living and herbarium specimens of Australian and related plants for study, interpretation, conservation and display;”
- (d) the protection, conservation and management of wildlife within the park or reserve; and
- (e) the protection of the park or reserve against damage.

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

the plan of management has been prepared, the Director

(10) When the Director has prepared the plan of management, he shall, by public notice—

- (a) state that the plan has been prepared;
- (b) invite interested persons to make representations in connexion with the plan by such date, not being less than 1 month after the date of publication of the notice in the *Gazette*, as is specified in the notice;
- (c) specify an address or addresses at which copies of the plan may be inspected or purchased; and
- (d) specify an address to which representations in connexion with the plan may be forwarded,

but, where the plan of management is in respect of a park or reserve wholly or partly within the Northern Territory, he shall, at least 14 days before the date of publication of the notice in the *Gazette*, serve a copy of the plan and of the notice on the Territory Commission and, if the park or reserve is also wholly or partly within a prescribed area, on the relevant Chairman.

Conservation

Conservation

(11) A person (including the Territory Commission and the Chairman of an Aboriginal Land Council established under the *Aboriginal Land Rights (Northern Territory) Act 1976*) may, not later than the date specified in the notice, make representations to the Director in connexion with the plan of

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### Conservation

(3) A person (including the Territory Commission and the Chairman of an Aboriginal Land Council established under the *Aboriginal Land Rights (Northern Territory) Act 1976*) may, not later than the date specified in the notice, make representations to the Director in connexion with the proposed

or the Director together with the Board, as the case requires,

plan of management, and the Director shall give due consideration to any representations so made.

~~(4) The plan of management shall specify a date, being a date within 10 years after the date on which the park or reserve was declared, as being the date on which the plan is to cease to have effect.~~

(5) The plan of management may include provisions in relation to an area that is proposed to be added to the park or reserve, but those provisions shall not have effect until the area is added to the park or reserve.

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

- (a) a description of any existing or proposed buildings, structures, facilities or other development; and
- (b) a description of any operations for the recovery of minerals, or excavation, works or other operations, that may be carried on,

in the park or reserve.

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*Interpretation Act 1901* applies in relation to that alteration as if the alteration had been made by an Act.

“(8) The performance of the functions and the exercise of the powers of a Board are not affected by a vacancy or vacancies in the membership of the Board.”

### **Functions of Boards**

“14D. (1) The functions of a Board established for a park or reserve are—

- (a) to prepare, in conjunction with the Director, plans of management in respect of that park or reserve;
- (b) to make decisions, being decisions that are consistent with the plan of management in respect of that park or reserve, in relation to the management of that park or reserve;
- (c) to monitor, in conjunction with the Director, the management of that park or reserve; and
- (d) to give advice, in conjunction with the Director, to the Minister on all aspects of the future development of that park or reserve.

“(2) A Board shall, in performing its functions under this Act, comply with any directions given by the Minister to the Board under section 11, 13 or 14A.

### **Appointment of members of Boards**

“14E. (1) The Minister may, by instrument in writing, appoint to an office of member of a Board a person who satisfies the relevant preconditions in relation to that office.

“(2) Where an office of member of a Board becomes vacant, the Minister shall appoint a person to that office in accordance with sub-section (1) as soon as practicable after that office becomes vacant.

“(3) A member of a Board holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.

### **Tenure of office**

“14F. (1) A person appointed to an office of member of a Board holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

“(2) Where the instrument of appointment of a member does not specify a period of appointment in accordance with sub-section (1), the instrument of appointment shall be deemed to specify that the member holds office for a period of 5 years commencing on the day of appointment.

“(3) Where a person is appointed to an office of member of a Board and the person ceases to satisfy the relevant preconditions in respect of the office, the person's appointment to the office terminates at the time when the person ceases to satisfy those preconditions.

“(4) A member of a Board may resign office by writing signed by the member and delivered to the Minister.

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or the Director together with the Board, as the case requires,  
management, and the Director shall give due consideration to any represen-

the Director thinks fit, or the Director and the Board think fit, as the case requires

tations so made and, if ~~he thinks fit~~, alter the plan accordingly.

“(11A) Where the Director and the Board are unable to agree on—

- (a) the preparation under sub-section (2) of a plan of management in respect of that park or reserve;
- (b) the alteration or alterations to be made under sub-section (11) to the plan of management in respect of that park or reserve; or
- (c) the submission of the plan of management to the Minister under sub-section (12),

the Director and the Board shall advise the Minister accordingly.

“(11B) Where the Minister is advised under sub-section (11A) of a disagreement between the Director and the Board, the Minister shall take such steps as the Minister considers appropriate to resolve the disagreement.

“(11C) Where the Minister is unable to resolve the disagreement, the Minister shall appoint an arbitrator (being a person whom the Minister considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.

“(11D) A person appointed under sub-section (11C) shall inquire into the matter and submit a report, together with the person's recommendations, to the Minister.

“(11E) Where the Minister receives a report and recommendations under sub-section (11D), the Minister shall give such directions as the Minister thinks appropriate to the Director and the Board, together with a statement of the Minister's reasons for giving the directions and a copy of the report and recommendations given to the Minister under sub-section (11D).

“(11F) The Director and the Board shall comply with any directions given by the Minister under sub-section (11E).”

or the Director together with the Board, as the case requires,  
subject to sub-section (12A),

(12) The Director shall thereupon submit to the Minister—

- (a) the plan of management; and
- (b) if representations have been made under sub-section (11)—those rep-

resentations, together with the comments of the Director on those representations,  
or the Director and the Board, as the case requires,

“(12A) Where a Board, in conjunction with the Director, is preparing a plan of management in respect of that park or reserve, the Director shall not submit the plan of management to the Minister under sub-section (12) without the consent of the Board.”

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Chairman may, within the period of 14 days after receiving the copies, submit to the Minister representations in connexion with the plan.

(17) Where the Minister receives representations under sub-section (16) and he is satisfied that there is a substantial difference of opinion between the relevant Chairman and the Director in relation to the plan of management, the Minister may appoint a person (being a person whom the Minister considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.

(18) A person appointed under sub-section (17) shall inquire into the matter and submit a report, together with his recommendations, to the Minister.

(19) Subject to sub-section (20), as soon as practicable after the plan of management is submitted to the Minister under sub-section (15) or, in a case to which sub-section (16) applies, after the expiration of the period referred to in that sub-section, the Minister shall accept the plan as so submitted or, if he is of the opinion that the plan as so submitted should be altered, the plan as so submitted and altered by him in such manner as he thinks fit.

(20) The Minister shall not take any action—

- (a) under sub-section (13)—except after giving due consideration to any representations or comments submitted to him under sub-section (12); or
- (b) under sub-section (19)—except after giving due consideration to any representations or comments submitted to him under sub-section (15) or (16), and to any report and recommendations submitted to him under sub-section (18).

(21) When a plan of management is laid before both Houses of Parliament under section 12, the Minister shall cause the plan to be accompanied by—

- (a) copies of any representations and comments, and of any report and recommendations, submitted to him under this section in connexion with the plan, other than those that have been given effect to in the plan; and
- (b) in a case where he has made alterations to the plan under sub-section (19)—a report specifying the alterations and setting out any views in respect of matters to which the alterations relate expressed by the Director and, in the case of a plan of management in respect of a park or reserve wholly or partly within the Northern Territory, by the Territory Commission and, if the park or reserve is also wholly or partly within a prescribed area, by the relevant Chairman.

(22) In this section—

“prescribed area” means an area wholly or partly within the Region, being an area for which an Aboriginal Land Council has been established under the *Aboriginal Land Rights (Northern Territory) Act 1976*;

“relevant Chairman”, in relation to a prescribed area, means the Chairman of the Aboriginal Land Council for the area;

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~~"traditional Aboriginal owners" has the same meaning as in the *Aboriginal Land Rights (Northern Territory) Act 1976.*~~

**Plan of management to be laid before Parliament**

12. (1) The Minister shall, as soon as practicable after a plan of management has been accepted under section 11, cause it to be laid before both Houses of the Parliament.

(2) Either House of the Parliament, within 20 sitting days of that House after the plan of management has been laid before that House, may, in pursuance of a motion upon notice, pass a resolution disallowing the plan of management.

(3) If neither House of the Parliament passes a resolution in accordance with sub-section (2) disallowing the plan of management, the plan of management comes into operation on the day immediately following the last day upon which such a resolution could have been passed by either House.

(4) If, before the expiration of 20 sitting days of a House of the Parliament after the plan of management has been laid before that House—

(a) that House is dissolved or, being the House of Representatives, expires, or the Parliament is prorogued; and

(b) a resolution for the disallowance of the plan of management has not been passed by that House,

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

~~(5) If either House of the Parliament passes a resolution in accordance with sub-section (2) disallowing the plan of management, the Minister shall direct the Director to prepare a fresh plan of management and the Director shall thereupon reconsider the matter and prepare a fresh plan of management, and for that purpose section 11 applies accordingly.~~

(5) If either House of the Parliament passes a resolution in accordance with sub-section (2) disallowing the plan of management, the Minister shall give to the Director a direction that a fresh plan of management be prepared and, where the Minister gives such a direction, a fresh plan of management shall be prepared in accordance with section 11.

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

\*, specifying an address or addresses where copies of the plan of management may be inspected or purchased and specifying the day (being a day not later than 10 years after the day on which the plan of management came into operation) on which the plan of management is to cease to have effect



**Amendment or revocation of plan of management**

~~13. (1) Subject to sub-section (2), the Director may at any time amend a plan of management, and sub-sections 11 (2) to (16) and section 12 apply in relation to any such amendment in like manner as they apply in relation to a plan of management.~~

(1) Subject to sub-section (2), a plan of management may be amended at any time and sub-sections 11 (2A) to (22) (inclusive) and section 12 apply in relation to any such amendment in like manner as they apply in relation to a plan of management.

(2) A plan of management shall not be amended so as to extend the period of operation of the plan to a <sup>day</sup> ~~date~~ later than the <sup>day</sup> ~~date~~ specified under sub-section ~~11 (4)~~. <sup>12 (6)</sup>

(3) A plan of management in respect of a park or reserve may be revoked by a new plan of management in respect of that park or reserve, but the revocation shall not take effect until the new plan comes into operation.

**Director to comply with plan of management**

14. (1) While a plan of management is in force, the Director shall perform his functions and exercise his powers in relation to the park or reserve to which the plan relates in accordance with that plan and not otherwise.

(2) Where, in respect of Aboriginal land wholly or partly within the area for which an Aboriginal Land Council has been established under the *Aboriginal Land Rights (Northern Territory) Act 1976*, being an area wholly or partly within the Region, a difference of opinion arises between the Chairman of that Council and the Director as to whether the Director is performing his functions or exercising his powers in accordance with a plan of management, the Minister shall appoint a person (being a person whom he considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.

(3) A person appointed under sub-section (2) shall inquire into the matter and submit a report, together with his recommendations, to the Minister.

(4) Upon receipt of a report and recommendations under sub-section (3), the Minister shall give the Director such directions in the matter as he thinks fit, and the Director shall comply with those directions.

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**Delegation**

20. (1) Subject to any directions of the Minister, the Director may, by writing signed by him, delegate to a person all or any of his powers and functions under this Act (except this power of delegation).

(2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

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

**Contracts and leases**

21. (1) The Director shall not, without the approval of the Minister—

(a) enter into a contract involving the payment or receipt of an amount exceeding ~~50,000~~; or

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~~\$250,000~~ ~~\$100,000~~ or, if a higher amount is prescribed, that higher amount.

(b) take any land on lease for a period exceeding 10 years.

(2) Sub-section (1) does not apply in relation to a lease of Aboriginal land.

**Appointment of Director**

22. (1) The Director shall be appointed by the Governor-General.

(2) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

**Qualifications**

23. A person shall not be appointed to be the Director unless he has such qualifications and experience in connexion with national parks or the conservation and management of animals and plants as, in the opinion of the Governor-General, render him suitable for the appointment.

**Term of office**

24. (1) The Director shall be appointed for such period, not exceeding 7 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Director, and a person shall not be appointed or re-appointed as the Director for a period that extends beyond the date on which he will attain the age of 65 years.

**Remuneration and allowances**

25. (1) The Director shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) Subject to the *Remuneration Tribunals Act 1973-1974*, the Director shall be paid such allowances as are prescribed.

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- (ii) in the case of land vested in a State—the Minister of that State or the authority of that State, as the case may be, having responsibility for the administration of that land; or
- (iii) in the case of any other land—the person in whom, or body in which, the land is vested.

(3) With the consent of the person with whom, or the party or body with which, such an agreement is made by the Director in relation to any land, the Governor-General may, by Proclamation, assign a name to that land.

(4) This section applies to—

- (a) land vested in an Aboriginal or Aborigines or in a body corporate that is wholly owned by Aborigines;
- (b) land held upon trust for the benefit of Aborigines; or
- (c) any other land occupied by Aborigines.

**Wildlife conservation programs**

19. (1) The Director may—

- (a) formulate and implement; and
- (b) co-operate with a State or the Northern Territory or with an authority of a State or of the Northern Territory in formulating and implementing.

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

(2) A program formulated under sub-section (1) shall be based upon, among other matters—

- (a) an examination of the habitat of the wildlife to which the program relates;
- (b) an evaluation of the extent to which parks and reserves (including parks and reserves established under a law of a State or Territory) assist in the conservation of the wildlife to which the program relates;
- (c) an assessment and analysis of the population of the wildlife to which the program relates; and
- (d) consideration of the obligations of Australia under agreements between Australia and other countries relating to the protection and conservation of wildlife.

and shall provide for the review, at appropriate intervals, of the matters referred to in paragraphs (a), (b), (c) and (d).

(3) This section is not intended to exclude or limit the concurrent operation of any law of a State or of the Northern Territory.

(4) A program shall not be implemented by the Director under this section until it has been approved by the Minister.

s. 17E

- (b) to a person to whom, in the opinion of the Minister, it is in the public interest that the information be communicated or the document be produced.

**Secretary**

(4) Neither the ~~Permanent Head~~ of a Department that deals with matters arising under this Act nor an officer of, or employee in, that Department approved by him for the purposes of sub-section (3) shall, either directly or indirectly, except for the purpose of advising the Minister in connexion with this Act, make a record of, or divulge or communicate to any person, any information relating to uranium mining operations in the Region communicated to him by the Director or by a member of the staff assisting the Director, being information concerning the affairs of another person acquired by the Director or by a member of that staff by reason of his office or employment under or for the purposes of this Act or otherwise in the performance of functions or the exercise of powers under this Act.

Penalty: \$1.000 or imprisonment for 6 months, or both.

(5) Nothing in this section shall be taken to affect the operation of section 9 of the *Ombudsman Act 1976* or the operation of any similar provision in a law of the Northern Territory that confers functions on a person similar to functions conferred on the Ombudsman by that Act.

(6) A reference in this section to a member of the staff assisting the Director is a reference to a member of the Service or a person engaged under section 35 or performing functions and exercising powers by virtue of section 36 or a person to whom a delegation has been made under section 20.

**Application of Aboriginal Land Rights (Northern Territory) Act**

17F. Sub-section 70 (1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* does not prevent a person from entering or remaining on Aboriginal land in the exercise of powers or the performance of functions or duties under this Act.

**Co-operation with Aboriginals**

18. (1) Subject to sub-section (2), the Director may assist and co-operate with Aboriginals in managing land to which this section applies for the purpose of the protection and conservation of wildlife in that land and the protection of the natural features of that land.

(2) The Director shall not take any action under sub-section (1) in relation to any land (not being land within a park, reserve or conservation zone) except—

- (a) after consultation with the Aboriginals, if any, as to whom the Minister is satisfied that they have traditional rights in relation to the land; and
- (b) in accordance with an agreement between the Director and—
- (i) in the case of land vested in the Commonwealth—the Minister of State for Aboriginal Affairs;

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(4) The Court shall not, under this section, require a person to furnish information or a document if the Court is satisfied that compliance with a requirement to furnish that information or document might tend to incriminate that person.

**Application to Supreme Court for order with respect to access**

17D. (1) Where the occupier of a building or place has refused, or is unwilling, to consent to the entry of the Director or an authorized person into that building or place under section 17B, the Director may apply to the Supreme Court of the Northern Territory of Australia for an order under this section against the occupier.

(2) A person against whom an order under this section is sought is entitled to notice of, and to appear in, the proceedings.

(3) Where, in proceedings under this section, the Court is satisfied that access by the Director or an authorized person to the building or place to which the proceedings relate is necessary for the purpose referred to in sub-section 17B (1), the Court may make an order requiring the person against whom the order is sought to give his consent, within a time specified in the order, to the entry of the Director or an authorized person into that building or place for that purpose.

(4) In this section, "authorized person", means a person who is an authorized person for the purposes of section 17B.

**Secrecy**

17E. (1) Sub-section (2) applies to every person who is or has been the Director or a member of the staff assisting the Director.

(2) Subject to sub-section (3), a person to whom this sub-section applies shall not, either directly or indirectly, except in the performance of a duty under or in connexion with this Act, make a record of, or divulge or communicate to any person, any information relating to uranium mining operations in the Region, being information concerning the affairs of any other person acquired by him by reason of his office or employment under or for the purposes of this Act or otherwise in the performance of functions or the exercise of powers under this Act.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(3) Sub-section (2) does not prevent the communication of information or the production of a document by the Director or a member of the staff assisting the Director authorized by him for that purpose—

- ( Secretary ) (a) to the Minister, to the ~~Permanent Head~~ of a Department that deals with matters arising under this Act or to an officer of, or employee in, Secretary such a Department approved by the ~~Permanent Head~~ of that Department; or

s. 17A

- (b) to furnish to him, within the time and in the manner specified in the notice, such documents in the possession of the person as are specified in the notice,

being information that is, or documents that are, required for the performance of the functions or the exercise of the powers of the Director under this Act so far as those functions or powers relate to those operations.

(2) A person shall not, in purported compliance with a notice served on him under sub-section (1), knowingly furnish information that is false or misleading.

Penalty: \$1,000.

(3) It is a reasonable excuse for a person to fail to furnish information or a document that he is required to furnish under this section if the furnishing of the information, or the document, may tend to incriminate him.

**Director to have access to buildings and places in the Region**

**17B. (1)** The Director, or a person authorized by the Director in writing, is entitled, with the consent of the occupier, to full and free access to all buildings and places in the Region for the purpose of the performance of the functions or the exercise of the powers of the Director under this Act, so far as those functions or powers relate to uranium mining operations.

(2) A person shall not, without reasonable excuse, obstruct or hinder the Director, or a person authorized by him, in the exercise of the powers conferred by sub-section (1).

Penalty: \$1,000 or imprisonment for 6 months, or both.

**Application to Supreme Court for order with respect to information or documents**

**17C. (1)** Where a person who has been served with a notice under section 17A has refused or failed to comply, or to comply fully, with the notice, the Director may apply to the Supreme Court of the Northern Territory of Australia for an order under this section against that person.

(2) The person against whom an order under this section is sought is entitled to notice of, and to appear in, the proceedings.

(3) Where, in proceedings under this section, the Court is satisfied that all or any of the information or documents that was or were required by the notice to be furnished and has or have not been furnished—

- (a) is or are in the possession of, or available to, the person against whom the order is sought; and  
(b) is or are information or documents of a kind referred to in paragraph 17A (1) (a) or (b),

the Court may make an order requiring the person against whom the order is sought to furnish to the Director, within the time and in the manner specified in the order, the information or documents as to which the Court is so satisfied.

which an Aboriginal Land Council has been established under the *Aboriginal Land Rights (Northern Territory) Act 1976*, the Chairman of the Council.

**Powers**

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

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

**(1A)** The Director may, subject to the approval of the Minister, determine and impose charges—

- (a) for entering or using a park or reserve or part of a park or reserve;
- (b) for using services or facilities provided by the Director in or in connexion with a park, reserve or conservation zone; and
- (c) for—
  - (i) the parking or stopping of vehicles;
  - (ii) the mooring or landing of vessels;
  - (iii) the landing of aircraft; and
  - (iv) the use of vehicles and vessels, in parks and reserves.

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

**(3)** The Director has power to perform any of his functions in co-operation with a State, with an authority of the Commonwealth or of a State or with a local governing body.

**Director may obtain information and documents in relation to the Region**

**17A. (1)** The Director may, by notice in writing served either personally or by post on any person involved in or associated with uranium mining operations in the Region, require the person—

- (a) to furnish to him, by writing signed by that person, or, in the case of a body corporate, by a competent officer of the body corporate, within the time and in the manner specified in the notice, such information in the possession of the person as is specified in the notice; or

(4) At all times after the first appointment of a person to the office of Director, the corporation continues in existence notwithstanding any vacancy in that office.

### Functions

16. (1) The functions of the Director are—

- (a) to administer, manage and control parks, reserves and conservation zones;
- (b) to protect, conserve, manage and control wildlife;
- (c) to conduct surveys, and collect statistics, of and in relation to animals and plants;
- (d) to co-operate with any country in matters relating to the protection and conservation of animals and plants in that country and the establishment and management of national parks and nature reserves in that country;
- (e) to provide, and assist in the provision of, training in the knowledge and skills relevant to the protection, conservation and management of wildlife and the establishment and management of national parks and nature reserves;
- (f) to carry out by himself or in co-operation with other institutions and persons, and to arrange for any other institution or person to carry out, research and investigations relevant to the establishment and management of national parks and nature reserves and the protection, conservation and management of wildlife;
- (g) to make recommendations to the Minister in relation to—
  - (i) the establishment and naming of parks and reserves; and
  - (ii) the protection and conservation of wildlife throughout Australia;
- (h) to administer the Fund; and
- (i) to do anything incidental or conducive to the performance of any of the foregoing functions.

(2) Except as otherwise provided by this Act, the Director shall perform his functions and exercise his powers in accordance with any directions given by the Minister.

(3) The Director shall include in each report prepared under section 52 particulars of any directions given by the Minister under sub-section (2) during the period to which the report relates.

(4) In relation to the performance of his functions and the exercise of his powers with respect to a park, reserve or conservation zone wholly or partly within the Northern Territory, the Director shall, from time to time, consult with, and have regard to the views of, the Territory Commission and, if the park, reserve or conservation zone is also wholly or partly within an area for

Conservation



## National Parks and Wildlife Conservation Act 1975

Aboriginal owners of the Aboriginal land situated in the park or reserve for which the Board is established.

“(7) Subject to sub-section (8), the presiding member of a Board shall preside at all meetings of the Board.

“(8) If the presiding member of a Board is absent from a meeting of the Board, the members of the Board who are present shall elect one of their number to preside at the meeting.

“(9) Decisions of a Board shall be determined by a majority of the members of the Board present and voting.

“(10) The member of a Board who is presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.”

### **PART III—THE DIRECTOR OF NATIONAL PARKS AND WILDLIFE**

#### **Director of National Parks and Wildlife**

15. (1) There shall be a Director of National Parks and Wildlife, who shall be a corporation with perpetual succession.

(2) The corporation shall have a seal, and may sue or be sued in its corporate name.

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

**Leave of absence**

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"26.(1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

"(2) The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines."

**Resignation**

27. The Director may resign his office by writing signed by him and delivered to the Governor-General.

**Termination of office**

28. (1) The Governor-General may terminate the appointment of the Director by reason of misbehaviour or physical or mental incapacity.

(2) If the Director—

(a) engages in paid employment outside the duties of his office without the approval of the Minister;

(b) is absent from duty, except on leave of absence granted by the Minister; for 14 consecutive days or for 28 days in any 12 months; or

(c) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

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the Governor-General shall terminate his appointment.

**Acting Director**

29. (1) The Minister may appoint a person to act as the Director—

(a) during a vacancy in the office of Director, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Director is absent from duty or from Australia or, for any reason, is unable to perform the functions of his office.

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

(3) The Minister may—

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed under this section; and

(b) at any time terminate such an appointment.

(4) Where a person is acting in the office of Director in accordance with paragraph (1) (b), and the office becomes vacant while he is so acting, he may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

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(5) The appointment of a person under this section ceases to have effect if he resigns the appointment by writing signed by him and delivered to the Minister.

(6) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for his appointment had not arisen or that his appointment had ceased to have effect.

#### **Powers, &c., of Acting Director**

30. (1) At any time when a person is acting in the office of Director he has, and may exercise, all the powers, and shall perform all the functions, of the Director and shall be deemed to be the Director for the purposes of any reference to the Director in any other law.

(2) At any time when a person is acting in the office of Director in accordance with paragraph 29 (1) (a), he shall be deemed to constitute the corporation referred to in section 15.

#### **Officers' Rights Declaration Act**

~~31. Where the Director was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928-1973* applied.~~

- ~~(a) he retains his existing and accruing rights;~~
- ~~(b) for the purposes of determining those rights, his service under this Act shall be taken into account as if it were service in the Australian Public Service; and~~
- ~~(c) that Act applies as if this Act and this section had been specified in the Schedule to that Act.~~

### **PART IV—ADMINISTRATION AND ENFORCEMENT** 120/92

#### **Division 1—Administration**

##### **Establishment of Service**

33. There is established by this Act, for the purpose of assisting the Director in the performance of his functions, a Service by the name of the Australian National Parks and Wildlife Service.

##### **Constitution of Service**

34. (1) The persons who constitute the Service shall be persons appointed or employed under the *Public Service Act 1922-1974* and having duties for the purposes of the Service.

(2) The Director has all the powers of, or exercisable by, a Secretary ~~Permanent Head~~ under the *Public Service Act 1922-1974*, so far as those powers relate to the branch of the Australian Public Service comprising the persons referred to in sub-section (1), as if that branch were a separate Department of the Australian Public Service.

Insert  
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section 26

Secretary

(3) For the purposes of ~~sub-sections 25 (5) and (6)~~ of the *Public Service Act 1922-1974*, the Director shall be deemed to be a ~~Permanent Head~~.

**Performance of services by other persons**

35. Notwithstanding section 34, the Director may, with the consent of the Minister, engage persons, not being persons referred to in that section, to provide services for the Director.

**Officers and employees of governments and authorities**

36. (1) The Government of the Commonwealth may make arrangements with the Government of a State for the performance of functions and the exercise of powers under this Act by officers or employees of that State or of an authority of that State.

Secretary

(2) The Director may make arrangements with the ~~Permanent Head~~ of a Department of the Australian Public Service, or with an authority of the Commonwealth, for the performance of functions and the exercise of powers under this Act by officers or employees of the Department or of the authority, as the case may be.

(3) The Government of the Commonwealth—

- (a) shall, from time to time, consult with, and have regard to the views of, the Administrator of the Northern Territory in relation to the performance of functions and the exercise of powers under this Act by officers or employees of the Territory or of an authority of the Territory; and
- (b) may make arrangements with the Administrator for the performance of those functions and the exercise of those powers by such officers or employees.

(4) The Director may make arrangements with the Head of a Department of the Public Service of the Northern Territory, or with an authority of the Territory, for the performance of functions and the exercise of powers under this Act by officers or employees of the Department or of the authority, as the case may be.

(5) An arrangement under this section shall not be inconsistent with any law or with any agreement between the Commonwealth and an Aboriginal Land Council established by the *Aboriginal Land Rights (Northern Territory) Act 1976* or between the Director and any such Land Council.

(6) The references in paragraphs (3) (a) and (b) to the Administrator of the Northern Territory shall be read as references to the Administrator of the Northern Territory acting with the advice of the Executive Council of the Northern Territory.

**Appointment of wardens and rangers**

37. The Director may, by instrument in writing, appoint—

- (a) an officer of, or employee in, the Service; or

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(b) an officer or employee referred to in section 36, as a warden or as a ranger.

**Wardens ex officio**

38. By force of this section, the Director and any member or special member of the Australian Federal Police or member of the police force of a Territory is a warden.

**Appointment of wildlife inspectors**

38A. The Director may, by instrument in writing, appoint:

- (a) an officer of, or employee in, the Service; or
- (b) an officer or employee referred to in section 36;

as a wildlife inspector.

Note: Section 44F confers powers on wildlife inspectors.

**Identity cards**

39. (1) The Director shall cause to be issued to each warden, other than a member of a police force, ~~and to each ranger,~~ an identity card in the form prescribed, containing a photograph of the holder. **to each ranger and to each wildlife inspector**

(2) A person who ceases to be a warden ~~or a ranger~~ shall forthwith return his identity card to the Director. **a ranger or a wildlife inspector**

Penalty: \$100.

**Arrest without warrant**

~~40. (1) A warden may, without warrant, arrest any person, if the warden reasonably believes—~~

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

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

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

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

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

~~(5) The powers conferred by sub-section (1) may be exercised anywhere in Australia or the Australian coastal sea or in a park or reserve outside the Australian coastal sea.~~

**Confiscation and forfeiture**

~~41. (1) Where a court convicts a person of an offence against this Act, the court may order the forfeiture to the Commonwealth of any vehicle, aircraft, vessel or article used or otherwise involved in the commission of the offence.~~

insert  
hope

O+S  
120/92

Repeal  
120/92

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

Repeal  
12/1/92

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

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

(5) A warden may seize—

- (a) any animal or plant that he reasonably believes to have been killed or taken in contravention of this Act; or
- (b) any animal that he reasonably believes to have been used or otherwise involved in the commission of an offence against this Act.

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

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

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

**General powers of wardens and rangers**

42. (1) A warden may, in a park or reserve in Australia or the Australian coastal sea or in a conservation zone, search a vehicle, aircraft or vessel for the purpose of ascertaining whether there is in or on that vehicle, aircraft or vessel—

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

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

~~(2) A warden may, anywhere in Australia or the Australian coastal sea or in a park or reserve outside the Australian coastal sea, search a vehicle, aircraft~~

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~~or vessel if he believes on reasonable grounds that there is in or on that vehicle, aircraft or vessel—~~

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

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

(3) A warden or ranger may, in a park, reserve or conservation zone—

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

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

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

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

(5) Where a warden (other than a member of a police force who is in uniform) or a ranger makes a requirement of a person in pursuance of sub-section (3), he shall—

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

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

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

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

(8) If an animal or plant seized under subsection (6) was not killed or taken in contravention of this Act or used or otherwise involved in the commission of an offence against this Act, any person who has suffered loss or damage because of the seizure is entitled to reasonable compensation. 5

**Searches of vehicles, aircraft and vessels**

43.(1) This section applies in relation to a vehicle, aircraft or vessel if: 10

- (a) a warden believes on reasonable grounds that there is in or on the vehicle, aircraft or vessel:
  - (i) anything in respect of which an offence against this Act has been committed; or
  - (ii) anything that may afford evidence about the commission of an offence against this Act; or 15
- (b) the vehicle, aircraft or vessel is in a park, reserve or conservation zone and a search of the vehicle, aircraft or vessel is reasonably necessary for the purpose of ascertaining whether there is in that vehicle, aircraft or vessel: 20
  - (i) anything in respect of which an offence against this Act has been committed; or
  - (ii) anything that may afford evidence about the commission of an offence against this Act.

(2) The warden may: 25

- (a) stop and detain the vehicle or vessel, or detain the aircraft, as the case requires; and
- (b) search the vehicle, aircraft or vessel; and
- (c) break open and search any compartment, container or other receptacle, in or on the vehicle, vessel or aircraft, in which the warden suspects on reasonable grounds there to be anything of a kind referred to in subsection (1); and 30
- (d) examine and seize:
  - (i) anything in respect of which the warden suspects on reasonable grounds an offence against this Act has been committed; or 35
  - (ii) anything that the warden suspects on reasonable grounds may afford evidence about the commission of an offence against this Act.

(3) A warden (other than a member of a police force who is in uniform) who stops or proposes to search or detain a vehicle, aircraft or vessel must: 40



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(a) in the case of a member of a police force—produce, for inspection by the person in charge of the vehicle, aircraft or vessel, written evidence of the fact that the warden is a member of a police force; or

5 (b) in any other case—produce the warden's identity card for inspection by the person;

and, if the warden fails to do so, he or she is not authorised to search or detain the vehicle, aircraft or vessel.

**Searches of land or premises**

10 44.(1) This section applies if a warden suspects on reasonable grounds that there is in or on land or premises:

(a) anything in respect of which an offence against this Act has been committed; or

15 (b) anything that may afford evidence about the commission of an offence against this Act.

(2) The warden may, with the consent of the owner or occupier of the land or premises or under a warrant issued under section 44A:

(a) enter the land or premises; and

(b) search the land or premises; and

20 (c) break open and search a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in which the warden suspects on reasonable grounds there to be anything of a kind referred to in subsection (1); and

(d) examine and seize:

25 (i) anything in respect of which the warden suspects on reasonable grounds an offence against this Act has been committed; or

30 (ii) anything that the warden suspects on reasonable grounds may afford evidence about the commission of an offence against this Act.

(3) A warden (other than a member of a police force who is in uniform) who proposes to enter land or premises under subsection (2) must:

35 (a) in the case of a member of a police force—produce, for inspection by the owner or occupier of the land or premises, written evidence of the fact that the warden is a member of a police force; or

(b) in any other case—produce the warden's identity card for inspection by the owner or occupier;

40 and, if the warden fails to do so, he or she is not authorised to enter the land or premises.

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**Annual reports**

**52. (1)** The Director shall, as soon as practicable after the end of each financial year, prepare and furnish to the Minister, for presentation to the Parliament, a report of his operations during that year together with financial statements in respect of that year in such form as the Minister for Finance approves.

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

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

(3) The Minister shall cause the report and financial statements of the Director, together with the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

(4) The first report and financial statements of the Director under this section shall be furnished as soon as practicable after 30 June 1975, and shall relate to the operations of the Director during the period that commenced at the commencement of this Act and ended on that date.

**Audit**

**53. (1)** The Auditor-General shall inspect and audit the accounts and financial records kept under section 51 and shall forthwith draw the Minister's attention to any irregularity disclosed by the inspection and audit that in the opinion of the Auditor-General is of sufficient importance to justify his so doing.

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

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

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

**Bank accounts**

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

(2) The Director shall pay all moneys received by him in the performance of his functions, ~~other than moneys referred to in sub-section 46 (2)~~, into an account referred to in sub-section (1). *Omit 33/91*

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

(4) In this section, "approved bank" means a bank for the time being approved by the Treasurer.

**Application of moneys**

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

- (a) in payment or discharge of the costs, expenses and other obligations incurred by the Director in the performance of his functions; and
- (b) in payment of any remuneration and allowances, and of any compensation (other than compensation payable under sub-section 8B (2)), payable under this Act.

**No borrowing or investment**

49. The Director shall not—

- (a) borrow moneys from any person in the performance of his functions; or
- (b) invest any moneys of the Fund otherwise than directly in the performance of his functions. *O+S 33/91*

**No borrowing**

"49. The Director must not borrow money in the performance of his or her functions.

**Investment of Fund**

"49A. Money standing to the credit of the Fund that is not immediately required for the purposes of the Fund may be invested by the Director: *Insert 33/91*

- (a) on deposit with an approved bank within the meaning of section 63E of the *Audit Act 1901*; or
- (b) in Commonwealth securities; or
- (c) in any other manner approved by the Treasurer."

**Estimates**

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

(2) Moneys shall not be expended by the Director in the performance of his functions except in accordance with estimates of expenditure approved by the Minister.

**Proper accounts to be kept**

51. The Director shall cause to be kept proper accounts and records of the transactions and affairs of the Director and of the Fund and shall do all things necessary to ensure that all payments out of the Fund are correctly made and properly authorized and that adequate control is maintained over the assets of, and the custody of, the Director and over the incurring of liabilities by the

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**Right to elect to transfer**

58. (1) For the purposes of giving effect to an arrangement entered into under section 57, the Public Service Board may, by notice in writing addressed to an officer of the Reserves Board—

- (a) inform him that he may elect to be appointed to the Public Service; or
- (b) inform him that he may elect to be employed in the Public Service in the Australian National Parks and Wildlife Service.

(2) An election in pursuance of a notice given under sub-section (1) shall be in writing addressed to the Public Service Board and shall be delivered to the Secretary of that Board within the period of 60 days after the date of the notice or within such further period as that Board, within that period of 60 days, allows.

(3) A notice under sub-section (1) shall include particulars of the proposed appointment or employment.

**Appointment to Public Service**

59. Where a person elects, in pursuance of a notice given under section 58, to be appointed to the Public Service, the Public Service Board may (notwithstanding anything contained in the Public Service Act, except in paragraphs 34 (1) (a) and (c) of that Act) appoint him accordingly.

**Temporary employment in Public Service**

60. (1) Where a person elects, in pursuance of a notice given under section 58, to be employed in the Public Service in the Australian National Parks and Wildlife Service, the Public Service Board may authorize his employment accordingly.

(2) Sub-sections 82 (1) and (2) of the Public Service Act do not apply in relation to any employment authorized by the Public Service Board under sub-section (1).

**Rate of remuneration**

the provisions of Division 6 of Part III of the Public Service Act relating to the reduction in, or suspension of, remuneration payable to an officer, the *Commonwealth Employees (Redeployment and Retirement) Act 1979*

61. (1) Subject to this section, and to sections 20<sup>1</sup>, 55, 56, 62 and 67<sup>1</sup> of the ~~Public Service Act~~ and to any law providing for a reduction in the remuneration payable to officers of the Public Service generally, the rate of remuneration of a person appointed or employed under this Part shall, while he continues in the Public Service, be not less favourable than that to which, in the opinion of the Public Service Board, he would have been entitled in respect of the normal position which he occupied as an officer of the Reserves Board immediately before his appointment or employment under this Part.

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

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

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

#### **Exemption from taxation**

54. The income of the Fund and the property and transactions of the Director are not subject to taxation under a law of the Commonwealth or of a State or Territory.

### **PART VI—TRANSFER OF CERTAIN OFFICERS AND EMPLOYEES**

#### **Interpretation**

55. In this Part, unless the contrary intention appears—

“employed”, in relation to the Public Service, means employed under Division 10 of Part III of the Public Service Act, and “employment” and “employee” shall be construed accordingly;

“officer of the Reserves Board” means a person employed under section 19 of the *National Parks and Gardens Ordinance 1959*, as amended, of the Northern Territory;

“Public Service” means the Service constituted under the Public Service Act;

“Public Service Act” means the *Public Service Act 1922-1974*;

“Public Service Board” means the Board constituted under the Public Service Act;

“Reserves Board” means the Board continued in existence under the *National Parks and Gardens Ordinance 1959*, as amended, of the Northern Territory.

#### **Incorporation with Public Service Act**

56. The provisions of this Part relating to the appointment of persons to, and the employment of persons in, the Public Service are incorporated and shall be read as one with the Public Service Act.

#### **Arrangement for transfer**

57. The Public Service Board may enter into an arrangement with the Reserves Board with respect to the transfer of officers of the Reserves Board to the Public Service.

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PART V—FINANCE

Establishment of Fund

45. (1) There is established by this Act a fund by the name of the Australian National Parks and Wildlife Fund.

(2) The Fund is vested in the Director.

Payments to Fund and to Consolidated Revenue Fund

46. (1) There shall be paid into the Fund

- (a) such moneys as are appropriated by the Parliament for the purposes of this Act;
- (b) the proceeds of the sale of any property acquired out of moneys standing to the credit of the Fund;
- (c) the proceeds of a sale made in pursuance of section 41;
- (d) any amount paid as a fine or other penalty imposed under this Act;
- (e) any moneys paid by a person to the Director where payment of those moneys into the Fund would be consistent with the purposes for which the moneys are paid and the Minister for Finance considers it appropriate that the moneys should be paid into the Fund;

(f) any charges paid in pursuance of sub-section 17 (1A); ~~and~~ Omit 33/91

Insert  
33/91

“(fa) any amounts payable to the Director in respect of leases, licences, permits and other authorities granted by the Director, and”.

(g) any other moneys, ~~not being moneys referred to in sub-section (2),~~ Omit 33/91  
received by the Director in the performance of his functions.

~~(2) All moneys payable to the Director in respect of leases, licences, permits and other authorities granted by the Director shall be collected and received by the Director on account of and shall be paid into the Consolidated Revenue Fund.~~ Omit 33/91

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- (a) one or more wardens (whether or not including the warden exercising the power) have pursued the person or vessel from a place within one of the areas referred to in subsection 40(2) to such a place; and
- (b) the pursuit was not terminated or interrupted at any time before the warden concerned arrived at such a place with a view to exercising that power. 5

(2) For the purposes of paragraph (1)(b), a pursuit of a person or vessel is not taken to be terminated or substantially interrupted only because the warden or wardens concerned lose sight of the person or vessel. 10

(3) A reference in subsection (2) to losing sight of a person or vessel includes a reference to losing output from a radar or other sensing device.

**Powers of wildlife inspectors 15**

44F.(1) A wildlife inspector has, in relation to the offences specified in his or her instrument of appointment, the same powers as a warden has under this Division.

(2) In this section:

'offence' means an offence against the regulations. 20

**Offences against Part III excluded**

44G. A reference in this Division to an offence against this Act is taken not to include a reference to an offence against:

- (a) a provision of Part III; or
- (b) a regulation made for the purposes of such a provision. 25

**Obstruction of wardens etc.**

44H.(1) A person must not:

- (a) without reasonable excuse, refuse or fail to comply with a requirement made by an officer in the exercise of powers under section 44D (including the exercise of those powers by virtue of section 44F); or 30
- (b) state a false name and address, or give false information, to an officer when lawfully required by the officer, in the exercise of powers under section 44D (including the exercise of those powers by virtue of section 44F), to state the person's full name and address, or to give information, to the officer. 35

Penalty: Imprisonment for 6 months.

(2) In this section:

'officer' means a warden, ranger or wildlife inspector.

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**Wardens may require certain information etc.**

44D.(1) A warden who:

(a) detains or searches a vehicle, aircraft or vessel under section 43; or

(b) enters or searches land or premises under section 44;  
may require a person found in or on the vehicle, aircraft or vessel, or on the land or premises, to state the person's full name and address.

(2) A warden who detains or searches a vessel under section 43 may require the person in charge of the vessel to give the warden such information concerning:

(a) the vessel and its crew; and

(b) any person on board the vessel;  
as the warden requests.

(3) A warden or ranger may, in a park, reserve or conservation zone:

(a) require any person whom the warden or ranger finds committing, or suspects on reasonable grounds to be committing or to have committed, an offence against this Act to state the person's full name and address; and

(b) require any person whom the warden or ranger finds committing, or suspects on reasonable grounds to be committing or to have committed, an offence against this Act to leave the park, reserve or conservation zone; and

(c) require any person whom the warden or ranger suspects on reasonable grounds of doing or having done an act in respect of which the person is required to hold a licence, permit or other authority under this Act to produce such a licence or permit, or evidence of such an authority.

(4) If a warden (other than a member of a police force who is in uniform) or a ranger makes a requirement of a person under this section, the warden or ranger must:

(a) in the case of a member of the police force—produce, for inspection by that person, written evidence of the fact that the warden is a member of a police force; or

(b) in any other case—produce the warden's or ranger's identity card for inspection by that person;

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

**Power to pursue persons and vessels**

44E.(1) A warden may exercise, in relation to foreign vessels and foreign nationals in any place, but not within the territorial sea of another country, a power conferred on the warden under section 41 or 43 if:



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(5) The warden must, not later than the day after the date of expiry or execution of the warrant, whichever is the earlier, send to the magistrate:

- (a) the form of warrant completed by the warden; and
- (b) the information duly sworn in connection with the warrant. 5

(6) Upon receiving the documents referred to in subsection (5), the magistrate must:

- (a) attach to them the warrant signed by the magistrate; and
- (b) deal with the documents in the way in which the magistrate would have dealt with the information if the application for the warrant had been made under section 44A. 10

(7) A form of warrant duly completed by a warden under subsection (4) is, if it is in accordance with the terms of the warrant signed by the magistrate, authority for any entry, search, seizure or other exercise of a power that the warrant so signed authorises. 15

(8) If:

- (a) it is material, in any proceedings, for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised in accordance with this section; and
- (b) the warrant signed by a magistrate under this section authorising the entry, search, seizure or other exercise of power is not produced in evidence; 20

the court is to assume, unless the contrary is proved, that the entry, search, seizure or other exercise of power was not authorised by such a warrant. 25

**Retention of things seized**

44C.(1) If a warden seizes a thing under paragraph 43(2)(d) or 44(2)(d), the warden may retain it until:

- (a) the end of the period of 60 days after the seizure; or
- (b) if proceedings for an offence against this Act in the commission of which it may have been used or otherwise involved, or in respect of which it may afford evidence, are instituted within that period—until the proceedings (including any appeal to a court in relation to those proceedings) are completed. 30

(2) The Director may authorise a thing seized under paragraph 43(2)(d) or 44(2)(d) to be released to its owner, or to the person from whose possession it was seized, either: 35

- (a) unconditionally; or
- (b) on such conditions as the Director thinks fit, including conditions as to giving security for payment of its value if it is forfeited. 40

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and the warden believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence, the warrant is taken to authorise the warden to seize that thing.

### Warrants may be granted by telephone or other electronic means

44B.(1) If, because of circumstances of urgency, a warden thinks it necessary to do so, the warden may apply for a warrant under subsection 44A(1) by telephone, telex, fax or other electronic means under this section.

(2) Before applying, the warden must prepare an information of a kind referred to in subsection 44A(1) that sets out the grounds on which the issue of the warrant is being sought, but may, if it is necessary to do so, make the application before the information has been sworn.

(3) If the magistrate to whom an application under subsection (1) is made is satisfied:

- (a) after having considered the terms of the information prepared under subsection (2); and
- (b) after having received such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought;

that there are reasonable grounds for issuing the warrant, the magistrate must complete and sign such a search warrant as the magistrate would issue under section 44A if the application had been made under that section.

(4) If the magistrate signs a warrant under subsection (3):

- (a) the magistrate must:
  - (i) inform the warden of the terms of the warrant; and
  - (ii) inform the warden of the day on which and the time at which the warrant was signed; and
  - (iii) inform the warden of the day (not more than 7 days after the magistrate completes and signs the warrant) on which the warrant ceases to have effect; and
  - (iv) record on the warrant the reasons for granting the warrant; and
- (b) the warden must:
  - (i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
  - (ii) write on it the magistrate's name and the day on which and the time at which the warrant was signed.

National Parks and Wildlife  
Conservation Act 1975

(4) If the entry is under a warrant issued under section 44A, the warden is taken not to have complied with subsection (3), unless he or she also produces the warrant for inspection by the owner or occupier.

Warrants for searches of land or premises

44A.(1) If:

(a) an information on oath is laid before a magistrate alleging that a warden suspects on reasonable grounds that there may be, in or on land or premises:

(i) anything in respect of which an offence against this Act has been committed; or

(ii) anything that may afford evidence about the commission of an offence against this Act; and

(b) the information sets out those grounds;

the magistrate may issue a search warrant authorising a warden named in the warrant, with such assistance, and by such force, as is necessary and reasonable, to enter the land or premises and exercise the powers referred to in paragraphs 44(2)(b), (c) and (d) in respect of the thing.

(2) The magistrate must not issue the warrant unless:

(a) the informant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

(b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) There must be stated in the warrant:

(a) the purpose for which the warrant is issued, and the nature of the offence in relation to which the entry and search are authorised; and

(b) whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

(c) a description of the kind of things to be seized; and

(d) a day, not later than 7 days after the day of issue of the warrant, upon which the warrant ceases to have effect.

(4) If, in the course of searching, under the warrant, for a particular thing in relation to a particular offence, a warden finds a thing that the warden believes on reasonable grounds to be:

(a) a thing that will afford evidence about the commission of the offence, although not the thing specified in the warrant; or

(b) a thing that will afford evidence about the commission of another offence against this Act;

### Arrest without warrant

41.(1) A warden may, without warrant, arrest a person if the warden has reasonable grounds to believe:

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

(2) A warden (other than a member of a police force who is in uniform) who arrests a person under subsection (1) must:

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- (a) in the case of a member of a police force—produce, for inspection by the person, written evidence of the fact that the warden is a member of a police force; or
- (b) in any other case—produce the warden's identity card for inspection by the person.

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(3) Nothing in this section prevents the arrest of a person under any other law.

### Confiscation and forfeiture

42.(1) If a court convicts a person of an offence against this Act, the court may order the forfeiture to the Commonwealth of any vehicle, aircraft, vessel or article used or otherwise involved in the commission of the offence.

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(2) In considering whether it is appropriate to make such an order in respect of a vehicle, aircraft, vessel or article, the court may have regard to:

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- (a) any hardship that may reasonably be expected to be caused to any person by the operation of such an order; and
- (b) the use that is ordinarily made, or was intended to be made, of the vehicle, aircraft, vessel or article; and
- (c) the gravity of the offence concerned.

(3) A warden may:

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- (a) seize any vehicle, aircraft, vessel or article that the warden reasonably believes to have been used or otherwise involved in the commission of an offence against this Act; and
- (b) retain it until:

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- (i) the end of the period of 60 days after the seizure; or
- (ii) if proceedings for an offence against this Act in the commission of which it may have been used or otherwise involved are instituted within that period—until the proceedings (including any appeal to a court in relation to those proceedings) are completed.

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(4) The Director may authorise a vehicle, aircraft, vessel or article seized under subsection (3) to be released to its owner, or to the person from whose possession it was seized, either:

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- (a) unconditionally; or
- (b) on such conditions as the Director thinks fit, including conditions as to giving security for payment of its value if it is forfeited.

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

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(6) A warden may seize:

- (a) any animal or plant that the warden reasonably believes to have been killed or taken in contravention of this Act; or
- (b) any animal that the warden reasonably believes to have been used or otherwise involved in the commission of an offence against this Act.

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(7) If an animal or plant has been seized under subsection (6), the Director may cause it to be:

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Assaulting, &c., warden or ranger

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~~43. A person who assaults or threatens a warden or ranger acting in the performance of his duties under this Act is guilty of an offence and is punishable—~~

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

Personation

~~44. A person who, by words or conduct, falsely represents that he is a warden or a ranger is guilty of an offence and is punishable—~~

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

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Extent of powers

40.(1) The powers conferred by this Division may be exercised anywhere within or outside Australia in relation to:

- (a) Australian nationals; or
- (b) Australian aircraft and Australian vessels; or
- (c) the members of the crew (including persons in charge) of Australian aircraft and Australian vessels.

(2) Subject to this section, the powers conferred by this Division may be exercised (other than in relation to a person, aircraft or vessel of a kind mentioned in subsection (1)) anywhere:

- (a) in Australia; or
- (b) on or in the Australian coastal sea; or
- (c) on, or in the waters above, the continental shelf of Australia; or
- (d) on or in the Australian fishing zone.

(3) On, or in the waters above, the continental shelf of Australia, the powers conferred by this Division may only be exercised, as provided for in subsection (2), in relation to an offence against this Act committed:

- (a) on, or in the waters above, the continental shelf of Australia; or
- (b) in a park, reserve or conservation zone.

(4) On or in the Australian fishing zone, the powers conferred by this Division may only be exercised, as provided for in subsection (2), in relation to an offence against this Act committed on or in the Australian fishing zone.

(5) Nothing in subsection (2), (3) or (4) affects the operation of section 44E.

Note: Regulations made under section 71 may confer additional powers on wardens, rangers and wildlife inspectors.

**Prosecution of offences**

67. (1) An offence against this Act may be prosecuted summarily or upon indictment or, where the law of the State or Territory in which the proceedings are brought makes provision for an offender who pleads guilty to a charge to be dealt with by the court otherwise than on indictment, the court may deal with an offender in accordance with that law.

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

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

**Changes in office of Director**

68. An authority given, or a delegation or appointment made, by a person for the time being holding or acting in the office of Director continues in force notwithstanding that the person ceases to hold or act in that office, but may be revoked by a person later holding or acting in that office.

**International agreements**

69. (1) The Governor-General may make regulations for and in relation to giving effect to an agreement specified in the Schedule.

(2) Regulations made under sub-section (1) in relation to an agreement that has not entered into force for Australia shall not come into operation on a date earlier than the date on which the agreement enters into force for Australia.

(3) Sub-sections 71 (5), (7) and (8) apply in relation to regulations made under this section in like manner as they apply in relation to regulations made under section 71.

**Traditional use of land and water by Aboriginals**

70. (1) Subject to sub-section (2) and to the operation of this Act in relation to parks, reserves and conservation zones, nothing in this Act prevents Aboriginals from continuing, in accordance with law, the traditional use of any area of land or water for hunting or food-gathering (otherwise than for purposes of sale) and for ceremonial and religious purposes.

(2) The operation of sub-section (1) is subject to regulations made for the purpose of conserving wildlife in any area and expressly affecting the traditional use of the area by Aboriginals.

**Regulations**

71. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of sub-section (1), regulations may be made—

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- (a) providing for functions and powers to be conferred, and duties to be imposed, upon wardens ~~and rangers~~; ~~\_\_\_\_\_~~ rangers and wildlife inspectors
- (b) providing for the protection and conservation of wildlife;
- (c) regulating trade and commerce in connexion with wildlife in a Territory;
- (d) regulating or prohibiting the pollution of soil, air or water in a manner that is, or is likely to be, harmful to people or wildlife in, or to the natural features of, parks and reserves;
- (da) regulating or prohibiting tourism in parks and reserves;
- (e) providing for the protection and preservation of parks and reserves and property and things in parks and reserves;
- (f) regulating or prohibiting access to the whole or part of a park or reserve by persons or classes of persons;
- (g) providing for the removal of trespassers from parks and reserves;
- (h) regulating or prohibiting camping in parks and reserves;
- (i) providing for the safety of persons in parks and reserves;
- (j) regulating or prohibiting the use of fire in parks and reserves;
- (k) regulating the conduct of persons in parks and reserves;
- (l) regulating or prohibiting the carrying on of any trade or commerce in a park or reserve;
- (n) regulating or prohibiting the use of vehicles in parks and reserves and providing for signs and road markings for those purposes;
- (p) providing for the removal of vehicles, aircraft or vessels from places in parks and reserves where they have been left in contravention of the regulations or have been abandoned and for the impounding of such vehicles, aircraft or vessels;
- (q) making provision to the effect that, where a contravention of a provision of the regulations relating to the parking or stopping of vehicles in a park or reserve occurs in respect of a motor vehicle, the person who is to be regarded as the owner of the motor vehicle for the purposes of the regulations (who may, in accordance with the regulations, be or include a person in whose name the motor vehicle is registered under the law of a State or Territory) is to be, except as provided otherwise, deemed to have committed an offence against the provision so contravened, whether or not he in fact contravened that provision;

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- (r) enabling a person who is alleged to have contravened a provision of the regulations relating to—
- (i) littering;
  - (ii) the use of vehicles or vessels;
  - (iii) the parking or stopping of vehicles;
  - (iv) the mooring or landing of vessels; or
  - (v) the landing, use or flying of aircraft,
- to pay to the Director, as an alternative to prosecution, a specified penalty, not exceeding the maximum penalty by which a contravention of that provision is otherwise punishable;
- (s) regulating or prohibiting the use of vessels in, and the passage of vessels through, parks and reserves and the landing and use of aircraft in, and the flying of aircraft over, parks and reserves;
- (t) providing for giving effect to plans of management in relation to parks and reserves;
- (u) regulating or prohibiting the taking of animals or plants into, or out of, parks and reserves;
- (v) providing for the impounding, removal, destruction or disposal of animals found straying in parks and reserves;
- (w) regulating or prohibiting the taking into parks and reserves, and the use in parks and reserves, of weapons, traps, nets, snares, fishing apparatus and other devices;
- (x) regulating or prohibiting the laying of baits and the use of explosives and poisons in parks and reserves;
- (y) providing for the collection of specimens and the pursuit of research in parks and reserves for scientific purposes;
- (z) providing for the issue of licences, permits and authorities, the conditions subject to which they are issued and the charging of fees by the Director in respect of such licences, permits and authorities; and
- (za) providing for any matter incidental to or connected with any of the foregoing.

(3) A provision of the regulations regulating or prohibiting the flying of aircraft over a park or reserve does not have any force or effect to the extent to which it is inconsistent with a law of the Commonwealth, but such a provision shall not be taken for the purposes of this sub-section to be inconsistent with such a law if it can be complied with without contravention of that law.

(3A) A law of a Territory has effect to the extent to which it is not inconsistent with a provision of the regulations having effect in that Territory, but such a law shall not be taken for the purposes of this sub-section to be inconsistent with such a provision to the extent that it is capable of operating concurrently with that provision.



(4) Regulations with respect to a matter shall be regulations applicable to that matter only so far as that matter may be dealt with under the powers of the Parliament, including its powers with respect to—

- (a) the government of a Territory;
- (b) places acquired by Australia for public purposes;
- (c) the Australian coastal sea;
- (d) matters arising out of the rights (including sovereign rights) of Australia in relation to the continental shelf of Australia;
- (e) trade and commerce with other countries including the import or export of animals and plants;
- (f) fisheries in Australian waters beyond territorial limits; and
- (g) statistics relating to animals and plants.

(5) The power to make regulations conferred by this Act may be exercised—

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
- (b) so as to make, as respects the cases in relation to which it is exercised, the same provision for all those cases or different provision for different cases or classes of case.

(6) The power to make regulations conferred by this Act shall not be taken, by implication, to exclude the power to make provision for or in relation to a matter by reason only of the fact that—

- (a) a provision is made by this Act in relation to that matter or another matter; or
- (b) power is expressly conferred by this Act to make provision by regulation for or in relation to another matter.

(7) The regulations may provide, in respect of an offence against the regulations, for the imposition of—

- (a) a fine not exceeding \$5,000; or
- (b) a fine not exceeding \$1,000 for each day during which the offence continues.

(8) The limitation imposed by sub-section (7) on the penalties that may be prescribed by the regulations does not prevent the regulations from requiring a person to make a statutory declaration.

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**SCHEDULE**

Section 69

**AGREEMENTS BETWEEN AUSTRALIA AND OTHER COUNTRIES**

1. Convention on Wetlands of International Importance especially as Waterfowl Habitat adopted on 2 February 1971 by the International Conference on the Conservation of Wetlands and Waterfowl held at Ramsar, Iran.

~~2. Convention for the Conservation of Antarctic Seals adopted on 11 February 1972 by the Conference on the Conservation of Antarctic Seals held at London.~~

3. Convention concerning the protection of the world cultural and natural heritage adopted on 16 November 1972 by the General Conference of the United Nations Educational, Scientific and Cultural Organisation at its seventeenth session held at Paris.

4. Convention on International Trade in Endangered Species of Wild Fauna and Flora signed at Washington on 3 March 1973.

5. Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment signed at Tokyo on 6 February 1974.

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“6. Convention on Conservation of Nature in the South Pacific, signed at Apia, Western Samoa on 12 June 1976.

“7. Convention on the Conservation of Migratory Species of Wild Animals signed at Bonn on 23 June 1979.

“8. Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment, signed at Canberra on 20 October 1986.”

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## National Parks and Wildlife Conservation Act 1975

### **Part II: Disagreement between the Director and Board over implementation of plan of management**

“14A. (1) Where—

- (a) a Board has been established under Part IIA for a park or reserve; and
- (b) the Director is of the opinion that—
  - (i) the implementation of a decision of the Board is likely to be substantially detrimental to the good management of that park or reserve; or
  - (ii) a decision of the Board is contrary to the plan of management in respect of that park or reserve,

the Director shall advise the Minister accordingly.

“(2) Where the Minister is advised under sub-section (1) of a disagreement between the Director and the Board, the Minister shall take such steps as the Minister considers appropriate to resolve the disagreement.

“(3) Where the Minister is unable to resolve the disagreement, the Minister shall appoint an arbitrator (being a person whom the Minister considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.

“(4) A person appointed under sub-section (3) shall inquire into the matter and submit a report, together with the person's recommendations, to the Minister.

“(5) Where the Minister receives a report and recommendations under sub-section (4), the Minister shall give such directions as the Minister thinks appropriate to the Director and the Board, together with a statement of the Minister's reasons for giving the directions and a copy of the report and recommendations given to the Minister under sub-section (4).

“(6) The Director and the Board shall comply with any directions given by the Minister under sub-section (5).”

### **“PART IIA—BOARDS**

#### **Interpretation**

“14B. In this Part, unless the contrary intention appears—

“relevant Land Council”, in relation to Aboriginal land, means the Aboriginal Land Council established under the *Aboriginal Land Rights (Northern Territory) Act 1976* for the area in which the land is situated;

“relevant preconditions”, in relation to an office of member of a Board, means the preconditions that a person must satisfy, in accordance with the section 14C notice in relation to the Board, in order to be eligible for appointment to that office;

“section 14C notice” means a notice under sub-section 14C (1) and includes such a notice as amended or further amended under sub-section 14C (4).

## National Parks and Wildlife Conservation Act 1975

### Boards

14C. (1) Where—

- (a) an area of Aboriginal land is situated wholly or partly within a prescribed park or reserve; and
- (b) the Minister and the relevant Land Council in relation to the land—
  - (i) agree that a Board should be established for that park or reserve; and
  - (ii) agree on the matters to be specified, in accordance with sub-section (2), in the notice in respect of the Board,

the Minister shall, by notice published in the *Gazette*, establish a Board for that park or reserve.

(2) A notice under sub-section (1) establishing a Board shall—

- (a) specify the park or reserve for which the Board is established;
- (b) specify the name by which the Board is to be known;
- (c) specify the number of persons who are to constitute the Board; and
- (d) subject to sub-section (5), specify, in relation to each office of member of the Board, the preconditions that a person must satisfy in order to be eligible for appointment to that office.

(3) Subject to sub-section (6), the Minister may, by notice published in the *Gazette*, revoke a notice under sub-section (1) in relation to a Board.

(4) Subject to sub-sections (5) and (6), the Minister may, by notice published in the *Gazette*, amend, or further amend, a notice under sub-section (1) in relation to a Board so as to—

- (a) change the specification of the name by which the Board is to be known;
- (b) increase the number of persons who are to constitute the Board and specify, in relation to each additional office of member of the Board so created, the preconditions that a person must satisfy in order to be eligible for appointment to that office;
- (c) decrease the number of persons who are to constitute the Board and specify which office or offices of member of the Board is or are abolished; or
- (d) change the specification, in relation to an office of member of the Board, of the preconditions that a person must satisfy in order to be eligible for appointment to that office.

(5) Where a Board is established for a park or reserve that consists wholly of Aboriginal land, a majority of the members of the Board shall be Aboriginals nominated by the traditional Aboriginal owners of that Aboriginal land.

(6) Where a Board is established for a park or reserve, the Minister shall not revoke, amend or further amend a notice under sub-section (1) in relation to that park or reserve unless the relevant Land Council in relation to the Aboriginal land situated in that park or reserve has agreed to the revocation, amendment or further amendment, as the case requires.

(7) Where the Minister, under sub-section (4), amends or further amends a notice under sub-section (1) in relation to a Board so as to alter the name of the Board or so as to alter the constitution of the Board, section 25B of the *Acts*

### Arrest without warrant

41.(1) A warden may, without warrant, arrest a person if the warden has reasonable grounds to believe:

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

(2) A warden (other than a member of a police force who is in uniform) who arrests a person under subsection (1) must:

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- (a) in the case of a member of a police force—produce, for inspection by the person, written evidence of the fact that the warden is a member of a police force; or
- (b) in any other case—produce the warden's identity card for inspection by the person.

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(3) Nothing in this section prevents the arrest of a person under any other law.

### Confiscation and forfeiture

42.(1) If a court convicts a person of an offence against this Act, the court may order the forfeiture to the Commonwealth of any vehicle, aircraft, vessel or article used or otherwise involved in the commission of the offence.

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(2) In considering whether it is appropriate to make such an order in respect of a vehicle, aircraft, vessel or article, the court may have regard to:

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- (a) any hardship that may reasonably be expected to be caused to any person by the operation of such an order; and
- (b) the use that is ordinarily made, or was intended to be made, of the vehicle, aircraft, vessel or article; and
- (c) the gravity of the offence concerned.

(3) A warden may:

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- (a) seize any vehicle, aircraft, vessel or article that the warden reasonably believes to have been used or otherwise involved in the commission of an offence against this Act; and
- (b) retain it until:

20

- (i) the end of the period of 60 days after the seizure; or
- (ii) if proceedings for an offence against this Act in the commission of which it may have been used or otherwise involved are instituted within that period—until the proceedings (including any appeal to a court in relation to those proceedings) are completed.

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(4) The Director may authorise a vehicle, aircraft, vessel or article seized under subsection (3) to be released to its owner, or to the person from whose possession it was seized, either:

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- (a) unconditionally; or
- (b) on such conditions as the Director thinks fit, including conditions as to giving security for payment of its value if it is forfeited.

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

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(6) A warden may seize:

- (a) any animal or plant that the warden reasonably believes to have been killed or taken in contravention of this Act; or
- (b) any animal that the warden reasonably believes to have been used or otherwise involved in the commission of an offence against this Act.

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(7) If an animal or plant has been seized under subsection (6), the Director may cause it to be:

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Assaulting, &c., warden or ranger

Repeated  
20/92

~~43. A person who assaults or threatens a warden or ranger acting in the performance of his duties under this Act is guilty of an offence and is punishable—~~

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

Personation

~~44. A person who, by words or conduct, falsely represents that he is a warden or a ranger is guilty of an offence and is punishable—~~

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

“Division 2—Enforcement

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Extent of powers

40.(1) The powers conferred by this Division may be exercised anywhere within or outside Australia in relation to:

- (a) Australian nationals; or
- (b) Australian aircraft and Australian vessels; or
- (c) the members of the crew (including persons in charge) of Australian aircraft and Australian vessels.

(2) Subject to this section, the powers conferred by this Division may be exercised (other than in relation to a person, aircraft or vessel of a kind mentioned in subsection (1)) anywhere:

- (a) in Australia; or
- (b) on or in the Australian coastal sea; or
- (c) on, or in the waters above, the continental shelf of Australia; or
- (d) on or in the Australian fishing zone.

(3) On, or in the waters above, the continental shelf of Australia, the powers conferred by this Division may only be exercised, as provided for in subsection (2), in relation to an offence against this Act committed:

- (a) on, or in the waters above, the continental shelf of Australia; or
- (b) in a park, reserve or conservation zone.

(4) On or in the Australian fishing zone, the powers conferred by this Division may only be exercised, as provided for in subsection (2), in relation to an offence against this Act committed on or in the Australian fishing zone.

(5) Nothing in subsection (2), (3) or (4) affects the operation of section 44E.

Note: Regulations made under section 71 may confer additional powers on wardens, rangers and wildlife inspectors.

**Prosecution of offences**

67. (1) An offence against this Act may be prosecuted summarily or upon indictment or, where the law of the State or Territory in which the proceedings are brought makes provision for an offender who pleads guilty to a charge to be dealt with by the court otherwise than on indictment, the court may deal with an offender in accordance with that law.

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

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

**Changes in office of Director**

68. An authority given, or a delegation or appointment made, by a person for the time being holding or acting in the office of Director continues in force notwithstanding that the person ceases to hold or act in that office, but may be revoked by a person later holding or acting in that office.

**International agreements**

69. (1) The Governor-General may make regulations for and in relation to giving effect to an agreement specified in the Schedule.

(2) Regulations made under sub-section (1) in relation to an agreement that has not entered into force for Australia shall not come into operation on a date earlier than the date on which the agreement enters into force for Australia.

(3) Sub-sections 71 (5), (7) and (8) apply in relation to regulations made under this section in like manner as they apply in relation to regulations made under section 71.

**Traditional use of land and water by Aboriginals**

70. (1) Subject to sub-section (2) and to the operation of this Act in relation to parks, reserves and conservation zones, nothing in this Act prevents Aboriginals from continuing, in accordance with law, the traditional use of any area of land or water for hunting or food-gathering (otherwise than for purposes of sale) and for ceremonial and religious purposes.

(2) The operation of sub-section (1) is subject to regulations made for the purpose of conserving wildlife in any area and expressly affecting the traditional use of the area by Aboriginals.

**Regulations**

71. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of sub-section (1), regulations may be made—

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- (a) providing for functions and powers to be conferred, and duties to be imposed, upon wardens ~~and rangers~~; ~~\_\_\_\_\_~~ rangers and wildlife inspectors
- (b) providing for the protection and conservation of wildlife;
- (c) regulating trade and commerce in connexion with wildlife in a Territory;
- (d) regulating or prohibiting the pollution of soil, air or water in a manner that is, or is likely to be, harmful to people or wildlife in, or to the natural features of, parks and reserves;
- (da) regulating or prohibiting tourism in parks and reserves;
- (e) providing for the protection and preservation of parks and reserves and property and things in parks and reserves;
- (f) regulating or prohibiting access to the whole or part of a park or reserve by persons or classes of persons;
- (g) providing for the removal of trespassers from parks and reserves;
- (h) regulating or prohibiting camping in parks and reserves;
- (i) providing for the safety of persons in parks and reserves;
- (j) regulating or prohibiting the use of fire in parks and reserves;
- (k) regulating the conduct of persons in parks and reserves;
- (l) regulating or prohibiting the carrying on of any trade or commerce in a park or reserve;
- (n) regulating or prohibiting the use of vehicles in parks and reserves and providing for signs and road markings for those purposes;
- (p) providing for the removal of vehicles, aircraft or vessels from places in parks and reserves where they have been left in contravention of the regulations or have been abandoned and for the impounding of such vehicles, aircraft or vessels;
- (q) making provision to the effect that, where a contravention of a provision of the regulations relating to the parking or stopping of vehicles in a park or reserve occurs in respect of a motor vehicle, the person who is to be regarded as the owner of the motor vehicle for the purposes of the regulations (who may, in accordance with the regulations, be or include a person in whose name the motor vehicle is registered under the law of a State or Territory) is to be, except as provided otherwise, deemed to have committed an offence against the provision so contravened, whether or not he in fact contravened that provision;



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- (r) enabling a person who is alleged to have contravened a provision of the regulations relating to—
- (i) littering;
  - (ii) the use of vehicles or vessels;
  - (iii) the parking or stopping of vehicles;
  - (iv) the mooring or landing of vessels; or
  - (v) the landing, use or flying of aircraft,
- to pay to the Director, as an alternative to prosecution, a specified penalty, not exceeding the maximum penalty by which a contravention of that provision is otherwise punishable;
- (s) regulating or prohibiting the use of vessels in, and the passage of vessels through, parks and reserves and the landing and use of aircraft in, and the flying of aircraft over, parks and reserves;
- (t) providing for giving effect to plans of management in relation to parks and reserves;
- (u) regulating or prohibiting the taking of animals or plants into, or out of, parks and reserves;
- (v) providing for the impounding, removal, destruction or disposal of animals found straying in parks and reserves;
- (w) regulating or prohibiting the taking into parks and reserves, and the use in parks and reserves, of weapons, traps, nets, snares, fishing apparatus and other devices;
- (x) regulating or prohibiting the laying of baits and the use of explosives and poisons in parks and reserves;
- (y) providing for the collection of specimens and the pursuit of research in parks and reserves for scientific purposes;
- (z) providing for the issue of licences, permits and authorities, the conditions subject to which they are issued and the charging of fees by the Director in respect of such licences, permits and authorities; and
- (za) providing for any matter incidental to or connected with any of the foregoing.

(3) A provision of the regulations regulating or prohibiting the flying of aircraft over a park or reserve does not have any force or effect to the extent to which it is inconsistent with a law of the Commonwealth, but such a provision shall not be taken for the purposes of this sub-section to be inconsistent with such a law if it can be complied with without contravention of that law.

(3A) A law of a Territory has effect to the extent to which it is not inconsistent with a provision of the regulations having effect in that Territory, but such a law shall not be taken for the purposes of this sub-section to be inconsistent with such a provision to the extent that it is capable of operating concurrently with that provision.

(4) Regulations with respect to a matter shall be regulations applicable to that matter only so far as that matter may be dealt with under the powers of the Parliament, including its powers with respect to—

- (a) the government of a Territory;
- (b) places acquired by Australia for public purposes;
- (c) the Australian coastal sea;
- (d) matters arising out of the rights (including sovereign rights) of Australia in relation to the continental shelf of Australia;
- (e) trade and commerce with other countries including the import or export of animals and plants;
- (f) fisheries in Australian waters beyond territorial limits; and
- (g) statistics relating to animals and plants.

(5) The power to make regulations conferred by this Act may be exercised—

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
- (b) so as to make, as respects the cases in relation to which it is exercised, the same provision for all those cases or different provision for different cases or classes of case.

(6) The power to make regulations conferred by this Act shall not be taken, by implication, to exclude the power to make provision for or in relation to a matter by reason only of the fact that—

- (a) a provision is made by this Act in relation to that matter or another matter; or
- (b) power is expressly conferred by this Act to make provision by regulation for or in relation to another matter.

(7) The regulations may provide, in respect of an offence against the regulations, for the imposition of—

- (a) a fine not exceeding \$5,000; or
- (b) a fine not exceeding \$1,000 for each day during which the offence continues.

(8) The limitation imposed by sub-section (7) on the penalties that may be prescribed by the regulations does not prevent the regulations from requiring a person to make a statutory declaration.

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**SCHEDULE**

Section 69

**AGREEMENTS BETWEEN AUSTRALIA AND OTHER COUNTRIES**

1. Convention on Wetlands of International Importance especially as Waterfowl Habitat adopted on 2 February 1971 by the International Conference on the Conservation of Wetlands and Waterfowl held at Ramsar, Iran.
- ~~2. Convention for the Conservation of Antarctic Seals adopted on 11 February 1972 by the Conference on the Conservation of Antarctic Seals held at London.~~
3. Convention concerning the protection of the world cultural and natural heritage adopted on 16 November 1972 by the General Conference of the United Nations Educational, Scientific and Cultural Organisation at its seventeenth session held at Paris.
4. Convention on International Trade in Endangered Species of Wild Fauna and Flora signed at Washington on 3 March 1973.
5. Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment signed at Tokyo on 6 February 1974.
- add  
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"6. Convention on Conservation of Nature in the South Pacific, signed at Apia, Western Samoa on 12 June 1976.
- "7. Convention on the Conservation of Migratory Species of Wild Animals signed at Bonn on 23 June 1979.
- "8. Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment, signed at Canberra on 20 October 1986."

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## National Parks and Wildlife Conservation Act 1975

### **Part II: Disagreement between the Director and Board over implementation of plan of management**

“14A. (1) Where—

- (a) a Board has been established under Part IIA for a park or reserve; and
- (b) the Director is of the opinion that—
  - (i) the implementation of a decision of the Board is likely to be substantially detrimental to the good management of that park or reserve; or
  - (ii) a decision of the Board is contrary to the plan of management in respect of that park or reserve,

the Director shall advise the Minister accordingly.

“(2) Where the Minister is advised under sub-section (1) of a disagreement between the Director and the Board, the Minister shall take such steps as the Minister considers appropriate to resolve the disagreement.

“(3) Where the Minister is unable to resolve the disagreement, the Minister shall appoint an arbitrator (being a person whom the Minister considers to be suitably qualified and in a position to deal with the matter impartially) to inquire into the matter.

“(4) A person appointed under sub-section (3) shall inquire into the matter and submit a report, together with the person's recommendations, to the Minister.

“(5) Where the Minister receives a report and recommendations under sub-section (4), the Minister shall give such directions as the Minister thinks appropriate to the Director and the Board, together with a statement of the Minister's reasons for giving the directions and a copy of the report and recommendations given to the Minister under sub-section (4).

“(6) The Director and the Board shall comply with any directions given by the Minister under sub-section (5).”

### **“PART IIA—BOARDS**

#### **Interpretation**

“14B. In this Part, unless the contrary intention appears—

“relevant Land Council”, in relation to Aboriginal land, means the Aboriginal Land Council established under the *Aboriginal Land Rights (Northern Territory) Act 1976* for the area in which the land is situated;

“relevant preconditions”, in relation to an office of member of a Board, means the preconditions that a person must satisfy, in accordance with the section 14C notice in relation to the Board, in order to be eligible for appointment to that office;

“section 14C notice” means a notice under sub-section 14C (1) and includes such a notice as amended or further amended under sub-section 14C (4).

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### Boards

14C. (1) Where—

- (a) an area of Aboriginal land is situated wholly or partly within a prescribed park or reserve; and
- (b) the Minister and the relevant Land Council in relation to the land—
  - (i) agree that a Board should be established for that park or reserve; and
  - (ii) agree on the matters to be specified, in accordance with sub-section (2), in the notice in respect of the Board,

the Minister shall, by notice published in the *Gazette*, establish a Board for that park or reserve.

(2) A notice under sub-section (1) establishing a Board shall—

- (a) specify the park or reserve for which the Board is established;
- (b) specify the name by which the Board is to be known;
- (c) specify the number of persons who are to constitute the Board; and
- (d) subject to sub-section (5), specify, in relation to each office of member of the Board, the preconditions that a person must satisfy in order to be eligible for appointment to that office.

(3) Subject to sub-section (6), the Minister may, by notice published in the *Gazette*, revoke a notice under sub-section (1) in relation to a Board.

(4) Subject to sub-sections (5) and (6), the Minister may, by notice published in the *Gazette*, amend, or further amend, a notice under sub-section (1) in relation to a Board so as to—

- (a) change the specification of the name by which the Board is to be known;
- (b) increase the number of persons who are to constitute the Board and specify, in relation to each additional office of member of the Board so created, the preconditions that a person must satisfy in order to be eligible for appointment to that office;
- (c) decrease the number of persons who are to constitute the Board and specify which office or offices of member of the Board is or are abolished; or
- (d) change the specification, in relation to an office of member of the Board, of the preconditions that a person must satisfy in order to be eligible for appointment to that office.

(5) Where a Board is established for a park or reserve that consists wholly of Aboriginal land, a majority of the members of the Board shall be Aboriginals nominated by the traditional Aboriginal owners of that Aboriginal land.

(6) Where a Board is established for a park or reserve, the Minister shall not revoke, amend or further amend a notice under sub-section (1) in relation to that park or reserve unless the relevant Land Council in relation to the Aboriginal land situated in that park or reserve has agreed to the revocation, amendment or further amendment, as the case requires.

(7) Where the Minister, under sub-section (4), amends or further amends a notice under sub-section (1) in relation to a Board so as to alter the name of the Board or so as to alter the constitution of the Board, section 25B of the *Acts*

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~~(7) The plan of management shall cease to have effect on the date specified in the plan under sub-section 11 (4), unless it is sooner revoked.~~

“(7) The plan of management shall, unless sooner revoked, cease to have effect on the day specified by the Minister in the notice published in the *Gazette*. ”

“; or of the Director and the Board, as the case requires, ”

“(8) It is the duty of the Director to ensure, so far as is practicable, that, on ~~the date~~ <sup>“day”</sup> on which the plan of management in respect of a park or reserve ceases to have effect under sub-section (7) or as soon as practicable thereafter, a new plan of management in respect of that park or reserve comes into operation.

“(9) Sub-sections 11 (2A) to (22) (inclusive) and sub-sections (1) to (8) (inclusive) of this section apply in relation to the new plan of management in like manner as they apply in relation to a plan of management that is not a new plan of management.”

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(13) Subject to sub-section (20) —

(a) in a case where the Minister is satisfied that, in relation to a plan of management in respect of a park or reserve wholly or partly within a prescribed area, there is a substantial difference of opinion between the

“, on the one hand,”

“, or the Director and the Board, as the case requires, on the other hand”

relevant Chairman and the Director, the Minister shall refer the plan to the Director, together with his suggestions, for further consider-

ation; or “by the Director, or by the Director together with the Board, as the case requires”

ation; or

(b) in any other case, the Minister may —

(i) accept the plan of management as submitted under sub-section (12); or

(ii) refer it to the Director, together with his suggestions, for further consideration. “by the Director,”

“or by the Director together with the Board, as the case requires”

(14) Where, under sub-section (13), the Minister refers to the Director the plan of management in respect of a park or reserve wholly or partly within the Northern Territory, he shall cause a copy of his suggestions referred to the Director with the plan to be served on the Territory Commission and, if the park or reserve is also wholly or partly within a prescribed area, on the relevant Chairman, and the Commission and, as the case may be, the Chairman may, within the period of 14 days after receiving a copy of the suggestions, make representations to the Director in connexion with the suggestions. Conservation

(15) Where the plan of management has been referred to the Director

“, or the Director together with the Board, as the case requires,”

under sub-section (13), the Director shall, as soon as practicable after receipt of the plan or, in a case to which sub-section (14) applies, after the expiration of the period referred to in that sub-section, give further consideration to the plan, having regard to the suggestions of the Minister and any representations

“the Director shall, subject to sub-section (15A),”

received under sub-section (14), and again submit the plan, with or without alterations, to the Minister, together with —

(a) his comments on the suggestions of the Minister; and

(b) a copy of any representations received under sub-section (14), together with his comments on those representations.

(15A) Where a Board, in conjunction with the Director, is preparing a plan of management in respect of that park or reserve, the

Director shall not submit the plan of management to the Minister under sub-section (15) without the consent of the Board.

(15B) Where the Director and the Board are unable to agree on the submission of the plan of management to the Minister under sub-section (15), the Director and the Board shall advise the Minister accordingly and the provisions of sub-sections (11B) to (11F) (inclusive) apply to and in relation to the disagreement as if the disagreement were a disagreement of the kind referred to in sub-section (11A).

(16) Where, under sub-section (15), the Director submits a plan of management, with or without alterations, to the Minister and the plan is in respect of a park or reserve wholly or partly within a prescribed area, the Director shall, not later than the date on which the plan is so submitted to the Minister, serve on the relevant Chairman copies of the plan and of any comments and

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(2) Where, by virtue of sub-section (1), the remuneration to which a person is entitled would or might be increased by reason of an increment of salary in respect of the normal position which he occupied as an officer of the Reserves

of the regulations under the Public Service Act, and of the determinations in force under sub-section 9 (7A) or section 82D of that Act that are applicable to him, relating to increments of salary

Board, his entitlement to the increase is subject to the provisions ~~that, under sub-sections 31 (4), (5) and (6) of the Public Service Act, apply to increments of salary referred to in sub-section 31 (1) of that Act.~~

(3) In this section, "remuneration" means salary or pay and includes such allowances as, in the opinion of the Public Service Board, should be regarded as having formed part of the salary or pay of the person in his normal position as an officer of the Reserves Board.

**Prior service reckoned as service in Public Service**

62. Where a person is appointed or employed under this Part and his service in the Public Service is continuous with permanent service or temporary service, as the case may be, of that person with the Reserves Board (including any service deemed under the law of the Northern Territory to have been continuous service) that service with the Reserves Board shall be reckoned, for the

Long Service Leave (Commonwealth Employees) Act 1976

purposes of the Public Service Act and the ~~Commonwealth Employees' Furlough Act 1943-1973~~, as service in the Public Service.



**Accrued recreation or sick leave**

63. A person appointed or employed under this Part preserves his eligibility for the grant of leave of absence for recreation or sickness that had accrued immediately prior to his being so appointed or employed.

**Special conditions of employment**

64. (1) For the purpose of ensuring that the conditions of employment of a person appointed or employed under this Part are, as far as possible, as favourable as those which, in the opinion of the Public Service Board, he enjoyed as an officer of the Reserves Board, the Public Service Board may, notwithstanding anything in the Public Service Act or any other law—

- (a) determine any conditions of employment that are to apply to him; or
- (b) determine that an allowance is payable to him as compensation,

or both.

(2) In this section, "conditions of employment" includes conditions relating to salary, pay or allowances, but does not include conditions relating to superannuation.

**PART VII—MISCELLANEOUS**

**Averment in relation to parks, reserves and conservation zones**

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

- (a) the defendant was in a specified park, reserve or conservation zone; or
- (b) an animal, plant, vehicle, aircraft, vessel or article referred to in the information or complaint was in a specified park, reserve or conservation zone,

is *prima facie* evidence of the matter averred.