

Serial  
Environment Protection Bill 2019  
Mr/Ms/Mrs/Dr

A Bill for an Act to provide for the protection of the environment

**CONSULTATION DRAFT ONLY  
PREPARED FOR THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
RESOURCES**



NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENT PROTECTION ACT 2019

---

Act No. [ ] of 2019

---

**Table of provisions**

<b>Part 1</b>	<b>Introduction</b>	
<b>Division 1</b>	<b>Preliminary matters</b>	
1	Short title .....	1
2	Commencement .....	1
3	Objects .....	1
4	Definitions.....	2
<b>Division 2</b>	<b>Important concepts</b>	
5	Meaning of <i>action</i> .....	6
6	Meaning of <i>environment</i> .....	6
7	Meaning of <i>environmental harm</i> .....	6
8	Meaning of significant environmental harm .....	7
9	Meaning of impact .....	7
10	Meaning of <i>significant impact</i> .....	7
<b>Division 3</b>	<b>Application provisions</b>	
11	Act binds Crown .....	7
12	Civil remedies and common law not affected .....	7
13	Application of Criminal Code .....	8
<b>Part 2</b>	<b>Principles of environmental protection and management</b>	
<b>Division 1</b>	<b>Principles of ecologically sustainable development</b>	
14	Principles of ecologically sustainable development .....	8
15	Decision-making principle.....	8
16	Precautionary principle .....	8
17	Principle of intergenerational equity.....	9
18	Principle of sustainable use.....	9
19	Principle of conservation of biological diversity and ecological integrity .....	9

20	Principle of improved valuation, pricing and incentive mechanisms .....	9
21	Principle of economic competitiveness .....	9

**Division 2            Management hierarchies**

22	Hierarchies .....	10
23	Environmental decision-making hierarchy .....	10
24	Waste management hierarchy .....	10

**Part 3                    Environment protection policies**

25	Purpose of environment protection policies .....	11
26	Contents of environment protection policy .....	11
27	Approval of environment protection policy .....	11
28	National environment protection measure may be incorporated into environment protection policy .....	12
29	Approved environment protection policy to be published .....	12
30	Notice of approved environment protection policy .....	12
31	When approved environment protection policy takes effect .....	12
32	Amendment or revocation of environment protection policy .....	12

**Part 4                    General environmental duty**

33	General environmental duty .....	13
34	Measures to be taken .....	13
35	Offence .....	13

**Part 5                    Environmental protection declarations**

**Division 1            Declaration of objectives and triggers**

36	Declaration of Territory environmental objectives .....	14
37	Declaration of environmental triggers .....	15
38	Proposed objective or trigger to be published .....	15
39	Consultation on objectives and triggers .....	15
40	Declaration of objective or trigger to be published .....	15
41	Notice and availability of declaration and reasons .....	16
42	NT EPA may recommend objectives and triggers and changes to them .....	16
43	Review of objectives and triggers .....	16
44	Proposed objectives and triggers under review to be published .....	16
45	Consultation on proposed objectives and triggers under review .....	16
46	Amendment and revocation of objective or environmental trigger .....	17
47	Offence to carry out action to which environmental trigger applies without authorisation .....	17
48	Offence to carry out action which has significant environmental impact without authorisation .....	19

<b>Division 2</b>	<b>Declaration of protected environmental areas and prohibited actions</b>	
49	Declaration of protected environmental areas .....	19
50	Declaration of prohibited actions .....	20
51	Proposed declaration to be published .....	20
52	Consultation on proposed declarations .....	20
53	Consultation on revocation of declaration.....	21
54	Revocation of declaration .....	21
55	Power not to be delegated.....	22
56	Application for environmental approval prohibited .....	22
57	Offence to carry out certain actions in protected environmental area .....	22
58	Offence to carry out prohibited action.....	23
<b>Part 6</b>	<b>Environmental impact assessment process</b>	
<b>Division 1</b>	<b>Purpose of environmental impact assessment process</b>	
59	Purpose of environmental impact assessment process.....	24
<b>Division 2</b>	<b>Co-operative assessments</b>	
60	Agreements for co-operative assessment .....	25
61	Proponent to have only one assessment process .....	25
62	Variation of action.....	25
<b>Division 3</b>	<b>Referral and assessment of proposed action</b>	
63	Referral of proposed action .....	25
64	Referral for strategic assessment.....	26
65	Joint referrals.....	26
66	Referral if application made to statutory decision-maker .....	27
67	Proponent to notify NT EPA of variation of action.....	27
68	Call-in notice.....	27
69	Offence to fail to comply with call-in notice.....	28
70	Process for considering referral of actions.....	28
71	NT EPA to consider variations of action .....	28
72	NT EPA to carry out environmental impact assessments of actions .....	28
<b>Division 4</b>	<b>Approval notice for actions under environmental approval for strategic proposal</b>	
73	Application for approval notice.....	29
74	Minister may request further information .....	29
75	Consultation on application.....	29
76	Decision of Minister .....	29

77	Notice of decision .....	30
78	Issue of approval notice.....	30
79	Effect of approval notice .....	30

## **Part 7 Environmental approval**

### **Division 1 NT EPA to provide assessment report**

80	Final assessment report .....	31
81	Draft environmental approval.....	31
82	Statement of unacceptable impact .....	31
83	Public notice of assessment report and other documents .....	32
84	Variation of action.....	32

### **Division 2 Decision of Minister on environmental approval**

85	Application of Division 2 .....	32
86	Decision of Minister in relation to draft environmental approval.....	32
87	Matters to be considered by Minister in deciding on environmental approval .....	33
88	Time for decision on environmental approval .....	33

### **Division 3 Decision of Minister on statement of unacceptable impact**

89	Application of Division 3 .....	34
90	Minister's decision in relation to statement .....	34
91	Refusal of approval if Minister accepts statement .....	34
92	Environmental approval granted if Minister rejects statement .....	35

### **Division 4 Publication of environmental approval**

93	Publication of environmental approval.....	35
----	--	----

### **Division 5 Conditions of approval**

94	Conditions of approval.....	36
95	Condition may apply after action completed.....	36
96	Conditions imposing financial requirements .....	36
97	Conditions requiring reporting of compliance with approval.....	36
98	Standard conditions for environmental approval.....	37

### **Division 6 Effect of environmental approval**

99	Effect of environmental approval .....	37
100	Expiry of environmental approval .....	37
101	Expiry if amended approval granted .....	38
102	Effect of notice of variation .....	38
103	Offence to fail to comply with approval and conditions .....	38

<b>Division 7</b>		<b>Amendment of environmental approval</b>	
104	Amendment of environmental approval .....		39
<b>Division 8</b>		<b>Revocation of environmental approval</b>	
105	Revocation of environmental approval .....		40
106	Suspension of approval .....		40
107	Show cause process .....		41
108	Notice to statutory decision-makers.....		41
109	Obligations under approval to continue .....		41
110	Revocation at request of approval holder .....		42
111	Strategic assessment: revocation of approval .....		42
112	Strategic assessment: suspension or revocation of approval.....		43
<b>Division 9</b>		<b>Transfer of environmental approval</b>	
113	Transfer of environmental approval .....		43
114	Application for approval to transfer .....		43
115	Minister may request information.....		44
116	Minister may have regard to certain matters.....		44
117	Consultation on draft transfer .....		44
118	Decision on transfer.....		45
<b>Part 8</b>		<b>Environmental offsets</b>	
119	Environmental offsets framework and guidelines .....		45
120	Environmental offsets register .....		46
<b>Part 9</b>		<b>Financial provisions</b>	
<b>Division 1</b>		<b>Environmental protection bonds</b>	
121	Application of Division .....		46
122	Purpose of environmental protection bond .....		46
123	Amount of bond .....		46
124	Environmental bond account .....		47
125	Claim on bond .....		48
126	Unused bond refundable .....		48
<b>Division 2</b>		<b>Environment protection levy</b>	
127	Environment protection levy .....		48
128	Liability for environment protection levy.....		49
129	Amount of levy .....		49
<b>Division 3</b>		<b>Environment protection funds</b>	
130	Minister may establish environment protection funds.....		49

131	Payments into environment protection funds.....	50
132	Expenditure from an environment protection fund .....	50
133	Recovery of amounts paid out of fund .....	51

## **Part 10            Review by NT EPA and environmental audits**

### **Division 1        Preliminary**

134	Relationship of this Part to other provisions.....	52
135	Environmental audit.....	52

### **Division 2        Review by NT EPA of actions**

136	Review of environmental aspects of actions.....	53
137	Report to Minister .....	53

### **Division 3        Environmental audit requirements**

138	Direction by NT EPA to carry out environmental audit.....	53
139	Direction by CEO to carry out environmental audit.....	54
140	Offences .....	54

### **Division 4        General environmental audit provisions**

141	Environmental auditor to be registered.....	55
142	Registration of environmental auditors .....	55
143	Conflict of interest.....	56
144	Environmental auditor may require information .....	57
145	Declarations in relation to environmental audit reports.....	57
146	Offence not to provide relevant information.....	58
147	False or misleading information or missing information in audit report .....	58
148	Retention and production of audit documentation .....	59

## **Part 11            Enforcement**

### **Division 1        Environmental officers**

149	Appointment or authorisation of environmental officers.....	59
150	Identity cards .....	59
151	Return of identity card .....	60
152	Powers of environmental officers: purposes.....	60
153	Powers of environmental officers.....	60
154	Consent to entry of residential premises .....	62
155	Offence to fail to comply with requirement.....	62
156	Application for and issue of search warrant.....	63
157	Effect and term of warrant .....	63
158	Entry on Aboriginal land .....	64



159	Directions by environmental officer.....	64
160	Offence to fail to comply with direction .....	65
161	Offence to hinder or obstruct environmental officer .....	65
162	Compliance with requirement to provide information.....	65

## **Division 2 Environment protection notices**

163	Environment protection notices – purpose .....	66
164	Issue of environment protection notice .....	66
165	Requirements of environment protection notices.....	67
166	Notice to prescribed statutory decision-maker of proposed notice.....	68
167	Emergency environment protection notice .....	69
168	Variation or revocation of environment protection notice.....	69
169	Copy of environment protection notice may be lodged with the Registrar-General.....	69
170	Recorded notice applies to owners and occupiers of land.....	70
171	Notice to owners and occupiers of land.....	70
172	Notice by owner or occupier to CEO .....	70
173	Cancellation of recording of environment protection notice .....	71
174	Compliance with environment protection notice .....	71
175	Offence to hinder or obstruct compliance with notice .....	72

## **Division 3 Stop work notices**

176	NT EPA may issue stop work notice.....	72
177	Purpose of stop work notice .....	73
178	Requirements of stop work notice .....	73
179	Stop work notice where failure to comply with call-in notice .....	73
180	Stop work notice may be issued even if other statutory approval granted.....	73
181	Compliance with stop work notice .....	74

## **Division 4 Closure notices**

182	Closure notice.....	74
183	Contents of closure notice .....	75
184	Effect of closure notice .....	75
185	Copy of closure notice may be lodged with the Registrar- General.....	75
186	Recorded notice applies to owners and occupiers of land.....	76
187	Notice to owners and occupiers of land.....	76
188	Notice by owner or occupier to CEO .....	76
189	Cancellation of recording of closure notice .....	77
190	Compliance with closure notice .....	77
191	Offence to hinder or obstruct compliance with notice .....	78
192	If closure notice not complied with.....	78

---

## **Division 5            Closure certificates**

193	Criteria for closure certificate .....	78
194	Application for closure certificate .....	78
195	Decision of Minister .....	79
196	Requirement to provide financial assurance.....	79
197	Effect of closure certificate.....	80

## **Division 6            Enforceable undertakings**

198	CEO may accept enforceable undertaking .....	80
199	Enforcement .....	80
200	CEO may do specified acts or things.....	81
201	Withdrawal or variation of enforceable undertaking by proponent or approval holder.....	82
202	Withdrawal of acceptance of enforceable undertaking by CEO.....	82
203	No criminal proceedings while enforceable undertaking is in force .....	83
204	Proceedings following revocation of enforceable undertaking.....	83
205	No further proceedings if enforceable undertaking complied with .....	83

## **Division 7            Emergency authorisations**

206	Emergency authorisations .....	83
-----	--------------------------------	----

## **Division 8            Duty to notify environmental incidents**

207	Application of Division .....	84
208	Duty of responsible persons to notify.....	84
209	Duty of environmental auditor to notify .....	85
210	Manner and form of notice.....	85
211	Incidents not required to be reported.....	85
212	Offences .....	85
213	Incriminating information.....	86

## **Part 12                Civil proceedings**

### **Division 1            Injunctions and other orders**

214	Who may bring proceedings .....	87
215	Prohibitory injunctions .....	87
216	Mandatory injunctions.....	88
217	Interim injunctions.....	88
218	Certain considerations for granting injunctions not relevant .....	88
219	Discharge of injunctions .....	89
220	Other civil orders .....	89
221	Court may vary or revoke order .....	89
222	Security and undertakings .....	90

223	Orders as to costs .....	90
224	Orders as to damages on application of respondent .....	90
225	Time for bringing proceedings under this Division .....	90
226	Powers conferred are in addition to other powers of court .....	91

## **Division 2      Civil penalties and directions**

227	CEO may recover civil penalty.....	91
228	CEO may give certain directions .....	91
229	CEO to have regard to certain matters .....	92
230	Maximum amount of civil penalty that may be recovered by negotiation .....	92
231	Notice of proposed application to court .....	92
232	Court order .....	93
233	Court to have regard to certain matters .....	93
234	Jurisdiction is civil jurisdiction .....	93
235	Contravention of 2 or more provisions.....	93
236	Proceeding to be stayed if criminal proceedings commenced.....	93
237	Evidence not admissible in criminal proceedings .....	94
238	Orders as to costs .....	94
239	Time for bringing proceedings under this Division .....	94

## **Part 13            Offences, penalties and criminal proceedings**

### **Division 1        Offences**

240	Offence to provide false or misleading information.....	94
241	Offence to fail to comply with court order .....	96
242	Continuing offences.....	96
243	Liability of occupier .....	96
244	Liability of owner.....	97
245	Criminal liability of executive officer of body corporate.....	97
246	Court may order reimbursement of investigation costs.....	98
247	Alternative verdicts .....	98

### **Division 2        Specified environmental offences**

248	Principles to be applied in imposing a penalty for specified environmental offences .....	99
249	Additional court orders where specified environmental offence proved .....	100
250	CEO may take measures if offender does not.....	100

### **Division 3        Criminal proceedings**

251	Who can commence proceedings .....	101
252	Time for commencing prosecution.....	101

---

253	Enforcement agency for <i>Fines and Penalties (Recovery) Act 2001</i> .....	102
-----	---	-----

**Part 14            Review of decisions**

254	Standing for judicial review .....	102
255	Review by Civil and Administrative Tribunal .....	102

**Part 15            General matters**

**Division 1        Delegation**

256	Delegation by Minister .....	103
257	Delegation by CEO .....	103

**Division 2        Public register**

258	Public register .....	103
-----	-----------------------	-----

**Division 3        Directions to provide information**

259	Direction notice .....	104
260	Methodologies .....	105
261	Proponent or approval holder to provide information .....	105
262	Proponent or approval holder may seek exemption .....	105
263	Publication of information .....	105

**Division 4        Report by CEO**

264	CEO to report on enforcement and compliance .....	105
-----	---	-----

**Division 5        Guidance and procedural documents**

265	Guidance documents .....	106
266	Approved forms .....	106

**Division 6        Regulations**

267	Regulations .....	106
-----	-------------------	-----

**Part 16            Transitional provisions**

268	Transitional regulations .....	107
-----	--------------------------------	-----

**Part 17            Repeal**

269	Act repealed .....	107
-----	--------------------	-----

- 
- Schedule 1    Public register**
- Schedule 2    Environmental offsets register**
- Schedule 3    Reviewable decisions and affected persons**
- Schedule 4    Alternative verdicts**



# NORTHERN TERRITORY OF AUSTRALIA

---

Act No. [ ] of 2019

---

An Act to provide for the protection of the environment

[Assented to [ ] 2019]  
[Introduced [ ] 2019]

The Legislative Assembly of the Northern Territory enacts as follows:

## **Part 1            Introduction**

### **Division 1        Preliminary matters**

#### **1            Short title**

This Act may be cited as the *Environment Protection Act 2019*.

#### **2            Commencement**

- (1) Part 1 commences on the day after the day on which the Administrator's assent to this Act is declared.
- (2) The remaining provisions of this Act commence on the day fixed by the Administrator by *Gazette* notice.

#### **3            Objects**

The objects of this Act are:

- (a) to protect the environment of the Northern Territory; and

- (b) to promote ecologically sustainable development that improves the total quality of human life, both now and in the future, in a way that:
  - (i) maintains the ecological processes on which all life depends; and
  - (ii) recognises the need for development to be equitable between current and future generations.

#### 4 Definitions

In this Act:

***acting in an official capacity***, in relation to a person, means the person is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

***action***, see section 5.

***approval holder*** means:

- (a) the person to whom an environmental approval has been issued or transferred; or
- (b) in the case of a action to which an approval notice applies, the person who is taken to be the environmental approval holder for the action; or
- (c) a liquidator or administrator appointed for a person mentioned in paragraph (a) or (b).

***approval notice*** means an approval notice issued under section 78.

***approval trigger*** means:

- (a) an activity-based approval trigger declared under section 37; or
- (b) a location-based approval trigger declared under section 37.

***approved form*** means a form approved under section 266.

***call-in notice*** means a call-in notice under section 68.

***CEO*** means the Chief Executive Officer.

***closure certificate*** means a closure certificate issued under section 195.

**closure notice** means a closure notice issued under section 182.

**co-operative agreement** means an agreement mentioned in section 60.

**court** means the Supreme Court.

**decision-maker**, for Part 2, means, as the case requires:

- (a) the Minister; or
- (b) the CEO; or
- (c) the NT EPA.

**eligible person**, see section 255.

**environment**, see section 6.

**environmental approval** means:

- (a) an environmental approval granted under Part 7; or
- (b) for an action to which an approval notice applies, the environmental approval granted under Part 7 that identifies the action.

**environmental audit**, see section 135.

**environmental auditor** means a person who carries out an environmental audit.

**environmental duty holder** means:

- (a) a person who has a general environmental duty; or
- (b) an approval holder.

**environmental harm**, see section 7.

**environment protection fund** means an environment protection fund established under section 130.

**environment protection levy** means the environment protection levy established under section 127.

**environment protection notice** means:

- (a) an environment protection notice issued under section 164; or



- (b) an emergency environment protection notice issued under section 167.

**environmental trigger** means:

- (a) a referral trigger; or  
(b) an approval trigger.

**general environmental duty** means the duty imposed under section 33.

**government authority** means an Agency or a statutory authority.

**impact**, see section 9.

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

**Land Register** means the Register kept by the Registrar-General under the *Land Title Act 2000*.

**misleading information** means information that is misleading in a material particular or because of the omission of a material particular.

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

**obstruct** includes hinder and resist.

**offset** means a measure designed to compensate for the residual impact of an action on the environment.

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

**principles of ecologically sustainable development** means the principles of ecologically sustainable development set out in Part 2 Division 1.

**prohibited action** means an action declared under section 50 to be a prohibited action.

**proponent** means a person proposing to carry out, or carrying out, an action.

**protected environmental area** means an area declared under section 49 to be a protected environmental area.

**publish** means make publicly available in the Northern Territory.

**referral trigger** means:

- (a) an activity-based referral trigger declared under section 37; or
- (b) a location-based referral trigger declared under section 37.

**residential premises**, in relation to premises that are used for both residential and non-residential purposes, means that part of the building or structure that is used only for residential purposes and does not include any land surrounding the building or structure.

**significant environmental harm**, see section 8.

**significant impact**, see section 10.

**specified environmental offence** means any of the following:

- (a) an offence against section 35;
- (b) an offence against section 47(1) or (2);
- (c) an offence against section 48(1);
- (d) an offence against section 57;
- (e) an offence against section 58;
- (f) an offence against section 103;
- (g) an offence against section 181;
- (h) an offence against section 241;

**standard assessment**, see section 63.

**standard conditions** means standard conditions for environmental approval approved under the regulations.

**statutory authority** means a body established under an Act for a public purpose.

**statutory decision-maker** in relation to an action, means a person or a government authority authorised under an Act to make a decision in relation to that action.

**strategic assessment** means a strategic assessment carried out in accordance with the regulations.

**Territory environmental objective** means a Territory environmental objective declared under section 36.

**water** includes:

- (a) surface water, ground water and tidal waters; and
- (b) coastal waters of the Territory, within the meaning of the *Coastal Waters (Northern Territory Powers) Act 1980 (Cth)*; and
- (c) water containing an impurity.

*Note for section 4*

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

## **Division 2 Important concepts**

### **5 Meaning of *action***

- (1) An **action** includes any of the following:
  - (a) a project;
  - (b) a development;
  - (c) an undertaking;
  - (d) an activity or series of activities;
  - (e) works;
  - (f) a material alteration of any of the things mentioned in paragraph (a) to (e).
- (2) A decision by a government authority authorising another person to take an action is not an action.
- (3) A grant of funding by a government authority for an action is not an action.

### **6 Meaning of *environment***

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

### **7 Meaning of *environmental harm***

**Environmental harm** means direct or indirect:

- (a) alteration of the environment to its detriment or degradation, of any degree or duration, whether temporary or permanent; or

- (b) environmental harm prescribed by the regulations.

## **8 Meaning of significant environmental harm**

**Significant environmental harm** means environmental harm that:

- (a) would cost more than the monetary amount prescribed by the regulations to remediate; or
- (b) has a significant impact on the environment.

## **9 Meaning of impact**

- (1) An **impact** of an action taken by a person is:
  - (a) an event or circumstance that is a direct consequence of the action; or
  - (b) an event or circumstance that is an indirect consequence of the action and the action is a substantial cause of that event or circumstance.
- (2) An impact may be a cumulative impact and may occur over time.

## **10 Meaning of significant impact**

A **significant impact** is an impact of major consequence having regard to:

- (a) the context and intensity of the impact; and
- (b) the sensitivity, value and quality of the environment impacted on and the intensity, duration, magnitude and geographic extent of the impact.

## **Division 3 Application provisions**

### **11 Act binds Crown**

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

### **12 Civil remedies and common law not affected**

- (1) Except where expressly provided for, this Act is not taken to affect a civil right or remedy available to a person in relation to conduct, or a failure or refusal to engage in conduct, to which this Act applies.

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

### **13 Application of Criminal Code**

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

*Note for section 13*

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

*Note for this Act*

*Sections 43CA and 43CB of the Criminal Code provide for extraterritoriality in relation to offences.*

## **Part 2 Principles of environmental protection and management**

### **Division 1 Principles of ecologically sustainable development**

#### **14 Principles of ecologically sustainable development**

- (1) This Division sets out the principles of ecologically sustainable development.
- (2) A decision-maker must consider these principles in making a decision under this Act.
- (3) In making a decision under this Act and stating the reasons for that decision, a decision-maker is not required to specify how the decision-maker has considered these principles.

#### **15 Decision-making principle**

Decision-making processes should effectively integrate long-term, short-term and equitable considerations.

#### **16 Precautionary principle**

- (1) If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- (2) Decision-making should be guided by:
- (a) a careful evaluation to avoid serious or irreversible damage to the environment wherever practicable; and

- (b) an assessment of the risk-weighted consequences of various options.

**17 Principle of intergenerational equity**

The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

**18 Principle of sustainable use**

Natural resources should be used in a manner that is sustainable, prudent, rational, wise and appropriate.

**19 Principle of conservation of biological diversity and ecological integrity**

Biological diversity and ecological integrity should be conserved and maintained.

**20 Principle of improved valuation, pricing and incentive mechanisms**

- (1) Environmental factors should be included in the valuation of assets and services.
- (2) Persons who generate pollution and waste should bear the cost of containment, avoidance and abatement.
- (3) Users of goods and services should pay prices based on the full life cycle costs of providing the goods and services, including costs relating to the use of natural resources and the ultimate disposal of wastes.
- (4) Established environmental goals should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms, which enable persons best placed to maximise benefits or minimise costs to develop solutions and responses to environmental problems.

**21 Principle of economic competitiveness**

- (1) The global dimension of environmental impacts of actions and policies should be recognised and considered.
- (2) The need to develop a strong, growing and diversified economy which can enhance the capacity for environmental protection should be recognised.

- (3) The need to maintain and enhance international competitiveness in an environmentally sound manner should be recognised.

## **Division 2 Management hierarchies**

### **22 Hierarchies**

This Division sets out hierarchies for environmental decision-making and the management of environmental wastes.

### **23 Environmental decision-making hierarchy**

In making decisions in relation to actions that affect the environment, decision-makers, proponents and approval holders should apply the following hierarchy of approaches in order of priority:

- (a) ensure that actions are designed to avoid adverse impacts on the environment;
- (b) identify management options to mitigate adverse impacts on the environment to the greatest extent practicable;
- (c) if appropriate, provide for environmental offsets in accordance with this Act for residual adverse impacts on the environment that cannot be avoided or mitigated.

### **24 Waste management hierarchy**

- (1) In designing, implementing and managing an action, all reasonable and practicable measures should be taken to minimise the generation of waste and its discharge into the environment.
- (2) For subsection (1), waste should be managed in accordance with the following approaches, in order of priority:
  - (a) avoidance of the production of waste;
  - (b) minimisation of the production of waste;
  - (c) re-use of waste;
  - (d) recycling of waste;
  - (e) recovery of energy and other resources from waste;
  - (f) treatment of waste to reduce potentially degrading impacts;
  - (g) disposal of waste in an environmentally sound manner.

## **Part 3 Environment protection policies**

### **25 Purpose of environment protection policies**

The purpose of an environment protection policy is to establish requirements relating to compliance with the following:

- (a) the general environmental duty;
- (b) an environmental approval;
- (c) the duty to notify an environmental incident;
- (d) a duty prescribed by the regulations.

### **26 Contents of environment protection policy**

- (1) An environment protection policy may specify any of the following:
  - (a) that a feature or use of the environment or part of the environment must be protected;
  - (b) an environmental indicator that can be used to define and measure environmental quality;
  - (c) a result necessary or desirable to be achieved by an action in order to:
    - (i) effectively manage the environmental impact of the action; and
    - (ii) minimise and control and remediate any environmental harm resulting from the action;
  - (d) indicators, criteria or methods to be used in evaluating practices for management of the environmental impact of an action and to minimise and control and remediate any environmental harm resulting from the action.
- (2) An environment protection policy may incorporate by reference a goal, standard, guideline or protocol as in force at a particular time or as in force from time to time.
- (3) An environment protection policy must be prepared in accordance with the regulations.

### **27 Approval of environment protection policy**

The Minister may approve an environment protection policy that has been prepared in accordance with the regulations.



**28 National environment protection measure may be incorporated into environment protection policy**

- (1) The Minister may approve an environment protection policy that incorporates all or part of a national environment protection measure as in force at a particular time.
- (2) The Minister may incorporate the national environment protection measure with any declaratory, machinery or administrative changes the Minister thinks appropriate.
- (3) Section 26(3) does not apply to an environment protection policy approved under this section.
- (4) In this section:

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

**29 Approved environment protection policy to be published**

The Minister must publish each approved environment protection policy.

**30 Notice of approved environment protection policy**

- (1) The Minister must publish notice of the approval of an environment protection policy in the *Gazette*.
- (2) The notice must state where the approved environment protection policy may be obtained and inspected.

**31 When approved environment protection policy takes effect**

An approved environment protection policy takes effect:

- (a) on the date of the *Gazette* notice under section 30(2); or
- (b) if the notice provides for a later date, on that later date.

**32 Amendment or revocation of environment protection policy**

The Minister may amend or revoke an environment protection policy in accordance with the regulations.

## **Part 4                    General environmental duty**

### **33                    General environmental duty**

- (1) A person must not take an action that may impact on the environment unless the person takes all reasonable and practicable measures to avoid or minimise any resulting environmental harm.
- (2) If a person causes environmental harm in taking an action the person must, to the greatest extent practicable:
  - (a) remediate the environmental harm; and
  - (b) restore any ecological functions impaired by the action.
- (3) A person must ensure that any residual adverse environmental impacts of an action taken by the person are appropriately mitigated and managed.

### **34                    Measures to be taken**

- (1) The measures taken under section 33(1) must include the development, implementation and maintenance of appropriate management systems to avoid or minimise the adverse environmental impact of the action.
- (2) In determining what measures are reasonable and practicable to be taken under section 33(1), regard must be had to the following:
  - (a) the nature of the impact;
  - (b) the sensitivity of the receiving environment;
  - (c) the financial implications of the measures that might be taken;
  - (d) the current state of technical knowledge;
  - (e) the likelihood of success of the measures that might be taken;
  - (f) any other relevant matter.

### **35                    Offence**

- (1) A person commits an offence if:
  - (a) the person recklessly engages in conduct; and
  - (b) the conduct results in an increase in the risk of significant environmental harm; and

(c) the conduct is not authorised under this Act.

Maximum penalty:

(2) A person commits an offence if:

- (a) the person recklessly engages in conduct; and
- (b) the conduct results in significant environmental harm; and
- (c) the conduct is not authorised under this Act.

Maximum penalty:

(3) It is a defence to an offence against subsection (1) or (2) if the conduct engaged in:

- (a) was not connected to a business or commercial undertaking; and
- (b) is of a kind of domestic or personal activity that may be engaged in by ordinary people as part of everyday life.

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to comply with the environmental duty under section 33.

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

## **Part 5 Environmental protection declarations**

### **Division 1 Declaration of objectives and triggers**

#### **36 Declaration of Territory environmental objectives**

- (1) The Minister may declare Territory environmental objectives for the purposes of this Act.
- (2) In developing Territory environmental objectives, the Minister must:
  - (a) identify environmental matters that have value to the Territory and that need to be protected; and
  - (b) determine for each matter the objective to be achieved in relation to the protection of the environment.

**37 Declaration of environmental triggers**

- (1) The Minister may declare all or any of the following:
- (a) an activity-based referral trigger;
  - (b) a location-based referral trigger;
  - (c) an activity-based approval trigger;
  - (d) a location-based approval trigger.

**38 Proposed objective or trigger to be published**

The Minister must publish a proposed Territory environmental objective or environmental trigger before declaring the objective or trigger.

**39 Consultation on objectives and triggers**

- (1) Before declaring a Territory environmental objective or an environmental trigger, the Minister must:
- (a) consult with the NT EPA and seek its comments; and
  - (b) publish a notice of the proposed objective or trigger.
- (2) The notice must:
- (a) advise where the proposed objective or trigger may be inspected or obtained; and
  - (b) invite interested persons to make a submission to the Minister on the proposed objective or trigger within the period set out in the notice.
- (3) The submission period must be not less than 30 business days after the date of the notice.
- (4) The Minister must consider the comments of the NT EPA and any submissions received within the specified period.

**40 Declaration of objective or trigger to be published**

The Minister must publish:

- (a) the declaration of a Territory environmental objective or an environmental trigger; and
- (b) a statement of the reasons for the declaration.

**41 Notice and availability of declaration and reasons**

- (1) The Minister must publish notice of the declaration of a Territory environmental objective or an environmental trigger in the *Gazette*.
- (2) The notice must state where the declaration and the statement of reasons for the declaration may be obtained and inspected.

**42 NT EPA may recommend objectives and triggers and changes to them**

- (1) The NT EPA may recommend a proposed Territory environmental objective or an environmental trigger or a change to an objective or trigger.
- (2) A recommendation may be made at the request of the Minister or on the NT EPA's own initiative.
- (3) The Minister must consider the NT EPA's recommendation and may:
  - (a) accept the recommendation; or
  - (b) decide not to accept the recommendation; or
  - (c) conduct a review of the objective or environmental trigger.
- (4) The Minister must publish a statement of reasons for a decision under subsection (3).

**43 Review of objectives and triggers**

- (1) The Minister must review the Territory environmental objectives and environmental triggers at least every 10 years.
- (2) The Minister may review the Territory environmental objectives and environmental triggers at any time.

**44 Proposed objectives and triggers under review to be published**

The Minister must publish proposed Territory environmental objectives and environmental triggers arising from a review.

**45 Consultation on proposed objectives and triggers under review**

- (1) In conducting a review of Territory environmental objectives and environmental triggers, the Minister must:
  - (a) consult with the NT EPA and seek its comments; and

- (b) publish a notice of the proposed objectives and triggers.
- (2) The notice must:
  - (a) advise where the proposed objectives and triggers may be inspected or obtained; and
  - (b) invite interested persons to make a submission to the Minister on the proposed objectives and triggers within the period set out in the notice.
- (3) The submission period must be not less than 30 business days after the date of the notice.
- (4) The Minister must consider the comments of the NT EPA and any submissions received within the specified period.

**46 Amendment and revocation of objective or environmental trigger**

- (1) The Minister may amend or revoke a Territory environmental objective or an environmental trigger.
- (2) Sections 39 to 42 apply to the amendment or revocation of a Territory environmental objective or environmental trigger.
- (3) The Minister is not required to consult with the NT EPA if the amendment or revocation is made on the recommendation of the NT EPA.
- (4) Section 39 does not apply to an amendment that is solely of an administrative nature.

**47 Offence to carry out action to which environmental trigger applies without authorisation**

- (1) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the person engages in the conduct knowing the conduct is part of carrying out an action; and
  - (c) an environmental trigger applies to the action; and
  - (d) the person is not authorised under this Act to engage in the action.

Maximum penalty:

- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
  - (b) the person engages in the conduct knowing the conduct is part of carrying out an action; and
  - (c) the conduct causes significant environmental harm; and
  - (d) an environmental trigger applies to the action; and
  - (e) the person is not authorised under this Act to engage in the action.

Maximum penalty:

- (3) A person commits an offence if:
- (a) the person intentionally engages in conduct knowing the conduct is part of carrying out an action; and
  - (b) the action is an action mentioned in section 63(1)(c); and
  - (c) the person is not authorised under this Act to engage in the action.

Maximum penalty:

- (4) A person commits an offence if:
- (a) the person intentionally engages in conduct knowing the conduct is part of carrying out an action; and
  - (b) the conduct causes significant environmental harm; and
  - (c) the action is an action mentioned in section 63(1)(c); and
  - (d) the person is not authorised under this Act to engage in the action.

Maximum penalty:

- (5) Strict liability applies to subsections (1)(c) and (d) (2)(d) and (e), (3)(c) and (4)(d).
- (6) It is a defence to a prosecution for an offence against subsection (1), (2), (3) or (4) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

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

**48 Offence to carry out action which has significant environmental impact without authorisation**

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct knowing the conduct is part of carrying out an action; and
  - (b) the conduct has or has the potential to have a significant environmental impact; and
  - (c) the person is not authorised under this Act to engage in the action.

Maximum penalty:.

- (2) Strict liability applies to subsection (1)(c).
- (3) In determining whether conduct has or has the potential to have a significant impact on the environment, regard may be had to any applicable Territory environmental objectives.
- (4) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

**Division 2 Declaration of protected environmental areas and prohibited actions**

**49 Declaration of protected environmental areas**

- (1) The Minister may, by *Gazette* notice, declare an area of land to be a protected environmental area.
- (2) Before declaring an area, the Minister must be satisfied that the environmental value of the area is such that it should be protected..
- (3) A declaration or the regulations may specify actions that are permitted in a protected environmental area.
- (4) The Minister may make a temporary declaration under subsection (1) if the Minister is satisfied that the temporary declaration is warranted in the circumstances.



- (5) A temporary declaration of an area has effect for the period (not exceeding 2 years) specified in the *Gazette* notice.
- (6) Only one temporary declaration may be made in relation to an area.
- (7) The *Gazette* notice must include the following information:
  - (a) a description of the declared area;
  - (b) the day on which the declaration takes effect;
  - (c) in the case of a temporary declaration, the period of the declaration;
  - (d) any actions permitted in the area;
  - (e) the reason for the declaration.

## **50 Declaration of prohibited actions**

- (1) The Minister may, by *Gazette* notice, declare an action or class of actions to be a prohibited action or prohibited actions.
- (2) Before declaring an action or class of actions, the Minister must be satisfied that the action or class of actions should not be carried out in the Territory because of their potential adverse impact on the environment.
- (3) The *Gazette* notice must include the following information:
  - (a) a description of the declared action or class of actions;
  - (b) the day on which the declaration takes effect;
  - (c) the reason for the declaration.

## **51 Proposed declaration to be published**

The Minister must publish a proposed declaration of a protected environmental area or a prohibited action or class of actions before making the declaration.

## **52 Consultation on proposed declarations**

- (1) Before declaring a protected environmental area or a prohibited action or class of actions, the Minister must:
  - (a) consult with the NT EPA and seek its comments; and
  - (b) publish a notice of the proposed declaration.

- (2) The notice must:
  - (a) advise where the proposed declaration may be inspected or obtained; and
  - (b) invite interested persons to make a submission to the Minister on the proposed declaration within the period set out in the notice.
- (3) The submission period must be not less than 30 business days after the date of the notice.
- (4) The Minister must consider the comments of the NT EPA and any submissions received within the specified period.
- (5) This section does not apply to a temporary declaration of an area under section 49(4).

### **53 Consultation on revocation of declaration**

- (1) Before revoking a declaration made under this Division, the Minister must:
  - (a) consult the NT EPA and seek its comments; and
  - (b) publish a notice of the proposed revocation.
- (2) The notice must:
  - (a) include the following information:
    - (i) a description of the declaration to which the proposed revocation relates and the area of land or action or class of actions affected;
    - (ii) the reason for the proposed revocation; and
  - (b) invite interested persons to make a submission to the Minister on the proposed revocation within the period set out in the notice.
- (3) The submission period must be not less than 30 business days after the date of the notice.
- (4) The Minister must consider the comments of the NT EPA and any submissions received within the specified period.

### **54 Revocation of declaration**

The Minister may, by *Gazette* notice, revoke the declaration in whole or in part:

- (a) after taking into account:
  - (i) the reasons for the declaration; and
  - (ii) any comments of the NT EPA and any submissions received within the specified period under section 53(3); and
- (b) if satisfied that it is in the interests of the Territory to revoke the declaration in whole or in part.

**55 Power not to be delegated**

The Minister must not delegate the power to make a declaration or revoke a declaration under this Division.

**56 Application for environmental approval prohibited**

- (1) A person is not entitled to seek environmental approval for an action in a declared area unless the action is permitted by the declaration under section 49 or by the regulations.
- (2) A person is not entitled to seek environmental approval for a prohibited action.

**57 Offence to carry out certain actions in protected environmental area**

- (1) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the person is reckless as to whether the conduct is part of carrying out an action; and
  - (c) the action relates to a protected environmental area; and
  - (d) the action is not permitted under the protected environmental area declaration or the regulations.

Maximum penalty:

- (2) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the person is reckless as to whether the conduct is part of carrying out an action; and
  - (c) the conduct causes significant environmental harm; and

- (d) the action relates to a protected environmental area; and
- (e) the action is not permitted under the protected environmental area declaration or the regulations.

Maximum penalty:

- (3) Strict liability applies to subsections (1)(c) and (d) and (2)(d) and (e).
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

## **58 Offence to carry out prohibited action**

- (1) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the person is reckless as to whether the conduct is part of carrying out an action; and
  - (c) the action is a prohibited action.

Maximum penalty:

- (2) A person commits an offence if:
  - (a) the person intentionally engages in conduct; and
  - (b) the person is reckless as to whether the conduct is part of carrying out an action; and
  - (c) the conduct causes significant environmental harm; and
  - (d) the action is a prohibited action.

Maximum penalty:

- (3) Strict liability applies to subsections (1)(c) and (2)(d).
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

## **Part 6 Environmental impact assessment process**

### **Division 1 Purpose of environmental impact assessment process**

#### **59 Purpose of environmental impact assessment process**

- (1) The purpose of the environmental impact assessment process is to ensure that:
  - (a) actions do not have an unacceptable impact on the environment, now or in the future; and
  - (b) all actions that may have a significant impact on the environment are assessed, planned and conducted taking into account:
    - (i) the principles of ecologically sustainable development; and
    - (ii) the hierarchy for environmental decision-making set out in section 23; and
    - (iii) the hierarchy for the management of environmental wastes set out in section 24; and
    - (iv) ecosystem-based management; and
    - (v) the potential for more desirable, and less environmentally damaging, alternatives; and
  - (c) the public are provided with the opportunity to participate, and have their views considered, in decisions on proposed actions.

## **Division 2 Co-operative assessments**

### **60 Agreements for co-operative assessment**

- (1) The Minister, on the advice of the NT EPA, may enter into an agreement with a Minister of the Commonwealth, a State or another Territory in relation to the process of environmental impact assessment of a proposed action.
- (2) The agreement must identify the process to be used to assess the proposed action.
- (3) The agreed process must:
  - (a) meet the objectives of this Act; and
  - (b) provide for public participation in the assessment process; and
  - (c) provide for a report of the assessment to be prepared that meets the prescribed criteria.

### **61 Proponent to have only one assessment process**

A proponent of an action that has had an environmental assessment in accordance with a co-operative agreement is not required to have another environmental assessment of the same action under this Act.

### **62 Variation of action**

- (1) A variation of an action that has had an environmental assessment in accordance with a co-operative agreement may be dealt with and assessed in accordance with the agreement.
- (2) If the co-operative agreement is no longer in place, a variation of an action referred to in subsection (1) must be dealt with and assessed in accordance with Division 3.

## **Division 3 Referral and assessment of proposed action**

### **63 Referral of proposed action**

- (1) A proponent must refer to the NT EPA for assessment (a ***standard assessment***) a proposed action that:
  - (a) meets a referral trigger; or
  - (b) meets an approval trigger; or

- (c) has the potential to have a significant impact on the environment.
- (2) In determining whether a proposed action has the potential to have a significant impact on the environment, regard must be had to any applicable Territory environmental objectives.
- (3) A proponent must not refer an action to the NT EPA for assessment if it is:
  - (a) a prohibited action; or
  - (b) an action that is prohibited in a protected environmental area under Part 5 Division 2.

#### **64 Referral for strategic assessment**

A proponent may refer to the NT EPA for strategic assessment a proposed action or group of actions that individually or in combination with each other:

- (a) will meet a referral trigger; or
- (b) will meet an approval trigger; or
- (c) will have the potential to have a significant impact on the environment.

#### **65 Joint referrals**

- (1) Two or more proponents intending to take similar actions within the same region or area may make a joint referral under section 63 or 64.
- (2) Each proponent making a joint referral is jointly and severally liable to comply with any requirements under this Act in relation to the joint referral and the assessment of the referred actions, including:
  - (a) complying with requirements relating to the provision of information; and
  - (b) complying with requirements relating to timeframes for doing any thing; and
  - (c) ensuring that information provided is not false or misleading.

**66 Referral if application made to statutory decision-maker**

- (1) This section applies if a proponent applies to a statutory decision-maker for authorisation of an action and the decision-maker considers that the action should have been referred to the NT EPA under this Division.
- (2) The statutory decision-maker:
  - (a) may refuse to consider the application until the action is referred to the NT EPA under this Division and a decision is made on the referral; and
  - (b) must take all reasonable steps to encourage the proponent to refer the action to the NT EPA.
- (3) Subsection (2) applies despite anything to the contrary in the Act under which the application to the statutory decision-maker is made.

**67 Proponent to notify NT EPA of variation of action**

- (1) A proponent who has referred a proposed action to the NT EPA must give the NT EPA notice of any variation to the proposed action that may alter the assessment of the environmental impacts or risks of the action.
- (2) A proponent is not required to give a notice of variation if the proponent refers the amended action to the NT EPA for assessment under this Division.
- (3) If an amended action is referred to the NT EPA under this Division, the original referral is taken to be withdrawn.

**68 Call-in notice**

- (1) If the NT EPA believes that a proponent is taking an action that should be referred to the NT EPA under section 63, it may by written notice request the proponent to refer the action under that section within the time required by the notice.
- (2) If the NT EPA believes that a proponent who has referred an action to the NT EPA has or is proposing to vary the action, it may by written notice request the proponent to give notice of the variation to the NT EPA under section 67 within the time required by the notice.
- (3) Subsections (1) and (2) apply whether or not a statutory decision-maker has made a decision authorising the action.



**69 Offence to fail to comply with call-in notice**

- (1) A person commits an offence if:
  - (a) the person is served with a notice under section 68; and
  - (b) fails to comply with the notice.

Maximum penalty:

- (2) An offence under subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

**70 Process for considering referral of actions**

- (1) The regulations may provide for the process for considering referrals of actions and determining whether assessment of the environmental impact of actions is required.
- (2) The NT EPA must consider and deal with any referral of an action in accordance with the regulations.

**71 NT EPA to consider variations of action**

- (1) The regulations may provide for the process for considering variations of actions and determining whether assessment of the environmental impact of the varied actions is required.
- (2) The NT EPA must consider and deal with any variation of an action notified to the NT EPA in accordance with the regulations.

**72 NT EPA to carry out environmental impact assessments of actions**

- (1) The regulations may provide for the processes and methods for assessment of the environmental impact of referred actions or varied actions.
- (2) The NT EPA must carry out an environmental impact assessment of a referred action or varied action in accordance with the regulations.

## **Division 4 Approval notice for actions under environmental approval for strategic proposal**

### **73 Application for approval notice**

A person may apply to the Minister for an approval notice for a proposed action if:

- (a) the proposed action has been assessed under a strategic assessment; and
- (b) an environmental approval was granted as a result of the strategic assessment.

### **74 Minister may request further information**

- (1) On receipt of an application under section 73, the Minister may request the applicant to give any further information necessary to enable the Minister to decide whether to accept the application.
- (2) A request must be made within 10 business days after the Minister receives the application.
- (3) The applicant must give the information to the Minister within the period specified by the Minister in the request.
- (4) If the Minister requests information under this section, the required time for the Minister to make a decision on the application ceases to run until the information is provided.

### **75 Consultation on application**

Before making a decision on an application under section 73, Minister must:

- (a) consult with the following in relation to the application:
  - (i) the NT EPA;
  - (ii) any relevant statutory decision-maker; and
- (b) consider any comments received from them within the time specified by the Minister.

### **76 Decision of Minister**

- (1) The Minister may:
  - (a) approve an application under section 73; or

- (b) refuse to approve an application under section 73.
- (2) The Minister must make a decision on the application within 30 business days after receiving the application for an approval notice.
- (3) Before making a decision to approve an application, the Minister must be satisfied that:
  - (a) the applicant is a fit and proper person; and
  - (b) the proposed action has been assessed under a strategic assessment; and
  - (c) it is appropriate in the circumstances to issue the approval notice.
- (4) The Minister may have regard to the matters prescribed by the regulations and any other matters the Minister considers relevant in determining whether an applicant is a fit and proper person.
- (5) The Minister must not issue an approval notice for a proposed action if the environmental approval relevant to that application has lapsed.

**77 Notice of decision**

The Minister must give the applicant:

- (a) notice of the Minister's decision under section 76; and
- (b) a statement of reasons for the decision.

**78 Issue of approval notice**

If the Minister approves an application under section 76, the Minister must issue an approval notice to the applicant.

**79 Effect of approval notice**

If an approval notice is issued in relation to a proposed action, the holder of the approval notice is taken to be an approval holder of the environmental approval for that action.

---

## **Part 7 Environmental approval**

### **Division 1 NT EPA to provide assessment report**

#### **80 Final assessment report**

On completion of an environmental impact assessment of an action under Part 6, the NT EPA must provide an assessment report to the Minister.

#### **81 Draft environmental approval**

- (1) The NT EPA must provide the following to the Minister with the assessment report:
  - (a) a draft environmental approval prepared in accordance with the regulations;
  - (b) any submissions received by the NT EPA on the draft environmental approval under the regulations to the extent that those submissions have not been accepted by the NT EPA;
  - (c) any advice of the NT EPA on those submissions.
- (2) Subsection (1) does not apply if the NT EPA provides the Minister with a statement of unacceptable impact.
- (3) The draft environmental approval may set out the conditions (including standard conditions) recommended to apply to that approval.

#### **82 Statement of unacceptable impact**

- (1) The NT EPA may provide the Minister with a statement of unacceptable impact with the final assessment report if it considers that the action will have an unacceptable environmental impact and the impact cannot be appropriately avoided, mitigated, managed or offset.
- (2) The NT EPA must provide the following to the Minister with the statement of unacceptable impact:
  - (a) any submissions received by the NT EPA or a statutory decision-maker on the draft statement of unacceptable impact under the regulations to the extent that those submissions have not been accepted by the NT EPA; and
  - (b) any advice of the NT EPA on those submissions.

**83 Public notice of assessment report and other documents**

The NT EPA must publish a notice stating where the following documents provided to the Minister may be obtained or inspected:

- (a) the assessment report on an action;
- (b) the draft environmental approval;
- (c) a statement of unacceptable environmental impact.

**84 Variation of action**

- (1) This section applies if a notice of variation of an action is given to the NT EPA after an assessment report is prepared and before an environmental approval is granted for that action.
- (2) The variation must be dealt with in accordance with the regulations and this Division applies with any necessary changes.

**Division 2 Decision of Minister on environmental approval**

**85 Application of Division 2**

This Division applies to a draft environmental approval provided to the Minister by the NT EPA under Division 1.

**86 Decision of Minister in relation to draft environmental approval**

- (1) The Minister may:
  - (a) accept the draft environmental approval and grant the approval; or
  - (b) grant an amended environmental approval; or
  - (c) refuse the environmental approval.
- (2) If the Minister proposes to grant an amended environmental approval or to refuse an environmental approval:
  - (a) the Minister must consult with the following:
    - (i) the NT EPA;
    - (ii) the proponent;
    - (iii) any relevant statutory decision-maker; and

- (b) consider any comments received from them within the time specified by the Minister.

### **87 Matters to be considered by Minister in deciding on environmental approval**

- (1) The Minister must have regard to the following in deciding whether to grant or refuse an environmental approval for an action:
  - (a) the objects of this Act;
  - (b) whether the proponent is a fit and proper person to hold an environmental approval;
  - (c) the potential impacts and benefits associated with the action;
  - (d) any other matters the Minister considers relevant.
- (2) Before granting an environmental approval for an action, the Minister must be satisfied that:
  - (a) the community has been consulted on the design of the action; and
  - (b) the significant impacts of the action have been appropriately avoided or mitigated or can be appropriately managed; and
  - (c) the action is acceptable; and
  - (d) the action is consistent with the principles of ecologically sustainable development; and
  - (e) if appropriate, residual significant impacts will be appropriately offset.
- (3) The Minister may have regard to the matters prescribed by the regulations and any other matters the Minister considers relevant in determining whether a person is a fit and proper person to hold an environmental approval.

### **88 Time for decision on environmental approval**

- (1) The Minister must make a decision to grant or refuse an environmental approval within the required time.
- (2) The Minister, by written notice to the proponent, may extend the required time for a decision to grant or refuse an environmental approval if the Minister considers this necessary.
- (3) The notice must be given to the proponent before the expiry of the required time.

- (4) If the Minister does not make a decision within the required time to grant or refuse an environmental approval:
- (a) the Minister is taken to have accepted the NT EPA recommendations for the action; and
  - (b) if the NT EPA has recommended the granting of the approval the draft approval prepared by the NT EPA is taken to be an environmental approval granted by the Minister on the day after the end of the required time.

- (5) In this section:

***required time*** means:

- (a) in the case of a proposed action assessed on the basis of the referral, 30 business days after the Minister received the assessment report; and
- (b) in the case of any other proposed action, 40 business days after the Minister received the assessment report.

### **Division 3 Decision of Minister on statement of unacceptable impact**

#### **89 Application of Division 3**

This Division applies to if the NT EPA provides the Minister with a statement of unacceptable impact under Division 1.

#### **90 Minister's decision in relation to statement**

- (1) If the NT EPA provides the Minister with a statement of unacceptable impact, the Minister:
- (a) must consider the assessment report and the statement; and
  - (b) may decide to accept, or not to accept, the statement.
- (2) The Minister must consider the matters in section 87 in making a decision under this section.

#### **91 Refusal of approval if Minister accepts statement**

- (1) If the Minister accepts the statement of unacceptable impact, the Minister must refuse to grant the environmental approval.

- (2) If the Minister accepts the statement of unacceptable impact, the Minister must:
  - (a) publish a statement of reasons for refusing the approval; and
  - (b) provide the NT EPA with a copy of the statement of reasons.
- (3) The statement of reasons may refer to or adopt the statement of unacceptable impact.

## **92 Environmental approval granted if Minister rejects statement**

- (1) If the Minister does not accept the statement of unacceptable impact, the Minister must:
  - (a) prepare and grant an environmental approval; and
  - (b) publish a statement of reasons for refusing to accept the statement; and
  - (c) provide the NT EPA with a copy of the statement of reasons.
- (2) If the Minister proposes to grant an environmental approval under subsection (1):
  - (a) the Minister must consult with the following:
    - (i) the NT EPA;
    - (ii) the proponent;
    - (iii) any relevant statutory decision-maker; and
  - (b) consider any comments received from them within the time specified by the Minister.

## **Division 4 Publication of environmental approval**

### **93 Publication of environmental approval**

- (1) The Minister must publish an environmental approval granted under Division 2 or 3.
- (2) If a draft environmental approval is taken to be an environmental approval under section 88(4), the Minister or the NT EPA must publish a statement that the approval is given under section 88(4).
- (3) If the environmental approval is granted under section 92(1), the Minister must also publish a statement of reasons for the approval.



- (4) The Minister must give a copy of the environmental approval and any statement of reasons for the decision or statement under subsection (3) to:
- (a) the NT EPA; and
  - (b) the proponent; and
  - (c) any relevant statutory decision-maker.

## **Division 5 Conditions of approval**

### **94 Conditions of approval**

- (1) An environmental approval may be granted subject to any conditions that the Minister considers necessary for the protection of the environment and imposes on the approval in accordance with this Act.
- (2) Without limiting subsection (1), the Minister may impose standard conditions on an environmental approval.

### **95 Condition may apply after action completed**

A condition may be expressed to continue to apply to an action to which the environmental approval applies after the completion of the action.

### **96 Conditions imposing financial requirements**

- (1) A condition may require the approval holder to provide an environmental protection bond in accordance with Part 9 Division 1.
- (2) A condition may require the approval holder to pay an environmental levy in accordance with Part 9 Division 2.

### **97 Conditions requiring reporting of compliance with approval**

- (1) A condition may require the approval holder to report to the CEO on the approval holder's compliance with the approval and with any other requirements imposed under this Act in relation to the approval.
- (2) A report must be provided in the manner and at the times specified in the approval.
- (3) The CEO may direct the approval holder to publish the report in the manner the CEO directs.

**98 Standard conditions for environmental approval**

The regulations may provide for:

- (a) the preparation and approval of standard conditions of environmental approval; and
- (b) the amendment and revocation of standard conditions for environmental approval.

**Division 6 Effect of environmental approval**

**99 Effect of environmental approval**

An environmental approval authorises the approval holder to take the action approved by the approval in accordance with:

- (a) the approval; and
- (b) the conditions of the approval; and
- (c) the requirements of this Act.

**100 Expiry of environmental approval**

- (1) An environmental approval relating to an action expires if the approval holder does not take a required step or steps specified in the approval in relation to the action within:
  - (a) the time specified in the approval; or
  - (b) that time as extended by the Minister on an application under this section.
- (2) In determining a specified time under subsection (1), the Minister may have regard to any matters the Minister considers relevant including the following:
  - (a) the complexity of the action and the environment affected;
  - (b) the likelihood of significant change to the environment;
  - (c) the extent to which the approval holder is required to take the action;
  - (d) whether the approval is granted on the basis of a strategic assessment.
- (3) An approval holder may apply to the Minister to extend the required period for taking a step in relation to an action.

- (4) An application for an extension of time must be made not later than 30 days before the date of expiry of the approval.

**101 Expiry if amended approval granted**

An environmental approval for an action expires if an amended approval for the action is granted.

**102 Effect of notice of variation**

If a notice of variation of an action is given under section 67 after an environmental approval is granted for that action, the variation must be dealt with in accordance with the regulations and Divisions 7 and 8 apply accordingly.

**103 Offence to fail to comply with approval and conditions**

- (1) A person commits an offence if:
- (a) an environmental approval has been granted under section 86, 88 or 92; and
  - (b) the person is the approval holder for the environmental approval; and
  - (c) the person contravenes a condition of the environmental approval.

Maximum penalty:

- (2) A person commits an offence if:
- (a) an environmental approval has been granted under section 86, 88 or 92; and
  - (b) the person is the approval holder for the environmental approval; and
  - (c) the person contravenes a condition of the environmental approval; and
  - (d) the contravention results in significant environmental harm.

Maximum penalty:

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

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

## **Division 7 Amendment of environmental approval**

### **104 Amendment of environmental approval**

- (1) The Minister may amend an environmental approval:
- (a) at the request of the approval holder; or
  - (b) in accordance with the regulations, as a result of a notice of variation submitted by the approval holder under section 67; or
  - (c) if the Minister becomes aware of information that was not available to the Minister at the time of granting the approval and the Minister would have imposed different conditions on the approval if the information had been available; or
  - (d) if information becomes available indicating a new threat or change in circumstance relating to the environment which in the opinion of the Minister necessitates, or would otherwise benefit from, an amendment to the conditions of approval; or
  - (e) if, as a result of the monitoring of compliance with or enforcement of this Act, the Minister considers that the environmental impact of the approved action is not being appropriately avoided, mitigated or managed; or
  - (f) if as a result of an amendment to a standard condition, the Minister considers that the standard condition in the approval should also be amended; or
  - (g) in any other circumstance that the Minister considers appropriate.
- (2) Before amending an environmental approval on the Minister's own initiative:
- (a) the Minister must consult with the following:
    - (i) the NT EPA;
    - (ii) the proponent;
    - (iii) any relevant statutory decision-maker; and
  - (b) consider any comments received from them within the time specified by the Minister.

- (3) The Minister must publish the amended approval and a statement of reasons for the amendment.

## **Division 8 Revocation of environmental approval**

### **105 Revocation of environmental approval**

- (1) The Minister may revoke an environmental approval:
- (a) if the Minister becomes aware of information that was not available to the Minister at the time of granting the approval and the Minister would not have granted the approval if the information had been available; or
  - (b) the Minister becomes aware of a new threat or change in circumstance relating to the environment that in the Minister's opinion necessitates revocation of the approval; or
  - (c) the Minister is of the opinion that the approval holder is no longer a fit and proper person to hold the approval including because the approval holder:
    - (i) has failed repeatedly to comply with the approval or with the approval holder's obligations under this Act; or
    - (ii) has committed an offence against this Act or an Act of another jurisdiction that corresponds to this Act; or
    - (iii) has committed a offence against another Act of the Territory that is prescribed by regulation or an equivalent offence under an enactment of another jurisdiction; or
  - (d) at the request of the approval holder; or
  - (e) in the circumstances prescribed by regulation.
- (2) The Minister may have regard to the matters prescribed by the regulations and any other matters the Minister considers relevant in determining whether a person is a fit and proper person to hold an environmental approval.

### **106 Suspension of approval**

- (1) The Minister may, by written notice to the approval holder, suspend an environmental approval in place of a revocation under section 105.
- (2) The suspension is to be for a period specified in the notice which must not exceed the period prescribed by regulation.

### **107 Show cause process**

- (1) The Minister must not revoke or suspend an environmental approval under section 105 or 106 unless the Minister has first complied with this section.
- (2) The Minister must give written notice to the approval holder:
  - (a) stating the Minister's intention to revoke or suspend the environmental approval; and
  - (b) asking the approval holder to show cause why the approval should not be revoked or suspended.
- (3) The notice must specify the date by which the approval holder may show cause.
- (4) The date specified must be not less than 28 business days after the date of the notice.
- (5) The Minister must consider any response given by the approval holder to the show cause notice in making a decision under section 105 or 106.
- (6) This section does not apply to a revocation at the request of the approval holder.

### **108 Notice to statutory decision-makers**

The Minister must give written notice to any relevant decision-maker of:

- (a) the Minister's intention to suspend or revoke an environmental approval; and
- (b) a decision by the Minister under this Division:
  - (i) to suspend an environmental approval; or
  - (ii) to revoke an environmental approval; or
  - (iii) not to suspend or revoke an environmental approval after a show cause notice is given under section 107.

### **109 Obligations under approval to continue**

- (1) This section applies if an environmental approval for an action is revoked or suspended.

- (2) The person who was the approval holder of the environmental approval must continue to:
  - (a) comply with any obligations to manage the site to which the approval applies to minimise or remediate the environmental impact of the action; and
  - (b) comply with any obligations under the environmental approval that relate to rehabilitation of the environment.
- (3) The person required to comply with subsection (2) may apply to the Minister to waive the requirement to comply with that subsection.
- (4) The Minister may waive compliance with the requirements of subsection (2) if the Minister considers it appropriate to do so.

**110 Revocation at request of approval holder**

- (1) This section applies if a proponent requests the Minister to revoke an environmental approval on the basis that all remediation, rehabilitation and closure requirements of the approval have been met.
- (2) The Minister may revoke the environmental approval if the Minister is satisfied that the approval is no longer required because all remediation, rehabilitation and closure requirements of the approval have been met to the satisfaction of the Minister.
- (3) The revocation of an environmental approval under this section does not prevent the issue of a closure notice in relation to any activities under the approval.
- (4) If the Minister proposes to revoke an environmental approval under this section:
  - (a) the Minister must consult with the following:
    - (i) the NT EPA;
    - (ii) any relevant statutory decision-maker; and
  - (b) consider any comments received from them within the time specified by the Minister.

**111 Strategic assessment: revocation of approval**

- (1) This section applies if an environmental approval was granted as a result of a strategic assessment.

- (2) The Minister must not revoke the environmental approval at the request of an approval holder unless all approval holders under the approval agree to the revocation.

**112 Strategic assessment: suspension or revocation of approval**

- (1) This section applies if:
- (a) an environmental approval was granted as a result of a strategic assessment; and
  - (b) a person is:
    - (i) the approval holder to whom the environmental approval was granted; or
    - (ii) an approval holder to whom an approval notice has been issued in relation to the environmental approval.
- (2) The Minister may revoke or suspend the entitlement of a person to be an approval holder under that approval.
- (3) Sections 105 to 107 apply to a decision under subsection (2) as if it were a decision to revoke or suspend the environmental approval.
- (4) An action by the Minister under subsection (2) does not affect the entitlement of any other person to be an approval holder under the environmental approval.

**Division 9 Transfer of environmental approval**

**113 Transfer of environmental approval**

An environmental approval may be transferred with the agreement of the Minister.

**114 Application for approval to transfer**

- (1) The proposed transferee must apply to the Minister for agreement to the transfer.
- (2) The application must:
- (a) be in the approved form; and
  - (b) be accompanied by any information required by the Minister to assess the application; and
  - (c) be accompanied by the fee prescribed by the regulations.



- (3) In the application the transferee must agree to perform any obligation imposed on the approval holder under the environmental approval or this Act.
- (4) An application cannot be made unless the approval holder consents to the transfer.

#### **115 Minister may request information**

- (1) The Minister may ask the following persons for information to assist the Minister in assessing the application:
  - (a) the approval holder;
  - (b) the proposed transferee;
  - (c) any other person who the Minister considers may have relevant information.
- (2) If the Minister asks for information under this section, the required time for the Minister to make a decision on the transfer ceases to run until the information is provided.

#### **116 Minister may have regard to certain matters**

- (1) The Minister must have regard to the following in deciding whether to agree to a transfer of an environmental approval:
  - (a) the objects of this Act;
  - (b) whether the proposed transferee is a fit and proper person to hold an environmental approval;
  - (c) the potential impacts and benefits associated with the transfer;
  - (d) any other matters the Minister considers relevant.
- (2) The Minister may have regard to the matters prescribed by the regulations and any other matters the Minister considers relevant in determining whether a person is a fit and proper person to hold an environmental approval.

#### **117 Consultation on draft transfer**

Before agreeing to the transfer of an environmental approval, the Minister must:

- (a) give the following the draft agreement and any proposed amendments to the conditions of the environmental approval:
  - (i) the NT EPA;

- (ii) any relevant statutory decision-maker;
  - (iii) the proposed transferee; and
- (b) consider any comments received from them within the time specified by the Minister.

### **118 Decision on transfer**

- (1) The Minister may:
- (a) agree to the transfer of an environmental approval; or
  - (b) refuse the transfer of the environmental approval.
- (2) The Minister must make a decision on the application within 30 business days after the Minister received the application for approval of the transfer.
- (3) If the Minister agrees to the transfer of the environmental approval, the Minister may amend or revoke the conditions of the approval or impose new conditions on the approval.
- (4) The Minister's agreement may be subject to a condition that the transfer does not take effect until the transfer of assets or other matters related to the action have occurred.
- (5) Until a transfer of the environmental approval takes effect the approval holder is responsible for performing all obligations in relation to the approval.

## **Part 8 Environmental offsets**

### **119 Environmental offsets framework and guidelines**

- (1) The Minister may establish an environmental offsets framework for the use of environmental offset measures under this Act or an Act prescribed by regulation.
- (2) The Minister may by *Gazette* notice publish guidelines for the purposes of the environmental offsets framework.
- (3) The guidelines may provide for:
- (a) the types of environmental offset measures that may be required; and
  - (b) different requirements for different classes of persons; and
  - (c) different requirements for different areas; and

- (d) different requirements for different kinds of offset measures.

## **120 Environmental offsets register**

- (1) The CEO must establish an environmental offsets register.
- (2) The CEO must record in the environmental offsets register all offset measures that are approved under this Act or an Act prescribed by regulation.
- (3) The environmental offsets register must include the information set out in Schedule 2 for each approved offset measure:

# **Part 9 Financial provisions**

## **Division 1 Environmental protection bonds**

### **121 Application of Division**

This Division applies if a condition of an environmental approval requires a person to provide an environmental protection bond.

### **122 Purpose of environmental protection bond**

The purpose of an environmental protection bond is to secure:

- (a) the approval holder's obligation to comply with this Act and the environmental approval; and
- (b) the payment of the reasonable costs and expenses of the Minister or the CEO taking action to prevent, minimise or remediate environmental harm caused by the action to which the environmental approval applies; and
- (c) the payment of the reasonable costs and expenses of the Minister or the CEO taking action to complete rehabilitation of the site to which the environmental approval applies or any area affected by the action; and
- (d) the payment of any amount payable to the CEO by the approval holder for anything done by the CEO under this Act in relation to the approval holder's obligations under this Act.

### **123 Amount of bond**

- (1) The Minister must determine the amount or value of the environmental protection bond to be provided.

- (2) In determining the amount or value of an environment protection bond, the Minister may consider:
  - (a) the environmental risks and impacts of the action; and
  - (b) the level of uncertainty in assessing those risks and impacts and the management measures to deal with them.
- (3) The Minister may determine the nature of the bond to be provided which may include:
  - (a) cash; or
  - (b) a bank guarantee.
- (4) The conditions of the environmental approval may require the provision of a bond specifying:
  - (a) the amount of the bond or a formula for calculating the amount of the bond; and
  - (b) the form of the bond; and
  - (c) the terms on which the bond must be provided.
- (5) The conditions of an environmental approval may provide for the amount of a bond to be provided to be recalculated at different stages of the action to which the environmental approval applies.
- (6) A condition may require that the availability of an environmental bond extend beyond the period to which the environmental approval relates.

#### **124 Environmental bond account**

- (1) The Minister must establish an environmental bond account.
- (2) The account must be a trust account.
- (3) The Minister must ensure that an amount of bond paid in cash (including by cheque) is paid into the environmental bond account.
- (4) An amount may only be paid from the environmental bond account for one of the following purposes:
  - (a) for a payment as a result of a claim under section 125;
  - (b) for a refund of all or any part of the bond.

**125 Claim on bond**

- (1) The Minister may make a claim on an environmental bond for any purpose mentioned in section 122.
- (2) The claim must be made in accordance with the regulations.
- (3) The amount claimed cannot exceed the reasonable costs and expenses of the Minister or CEO in carrying out any action mentioned in section 122.
- (4) The Minister must give notice to the approval holder of the intention to make a claim on the environmental bond provided under the environmental approval.
- (5) A claim may be made on an environmental bond after a request is made by the approval holder for the return of the bond.

**126 Unused bond refundable**

- (1) Subject to subsection (2), any amount of an environmental bond not used for a purpose mentioned in section 122 is refundable if the remediation or rehabilitation requirements of the environmental approval have been completed to the Minister's satisfaction.
- (2) Any amount owing to the Territory by the approval holder under this Act may be deducted from the environmental bond at the time of the refund of the bond.

**Division 2 Environment protection levy**

**127 Environment protection levy**

- (1) An environment protection levy is established.
- (2) The environment protection levy is a tax that is levied to provide funding for the following purposes:
  - (a) the taking of actions in the event of an environmental emergency;
  - (b) the carrying out of works for the rehabilitation of the environment;
  - (c) the carrying out of works for the remediation of environmental harm;
  - (d) research into the environmental impacts of particular industries;

- (e) research into the management of the environmental impacts of particular industries; and
- (f) other activities relating to protecting or enhancing the environment.

**128 Liability for environment protection levy**

- (1) A person is liable to pay the environment protection levy if the person is in a class of persons determined under the regulations to be liable to pay the levy.
- (2) An environment protection levy must not be imposed on a person for a purpose if a levy has been imposed on the person under another Act for a similar purpose.

**129 Amount of levy**

- (1) The environment protection levy to be paid by a person must be determined in accordance with the regulations.
- (2) The regulations may deal with matters relevant to the determination, payment and collection of the environment protection levy.
- (3) The regulations may provide for the amount of the environment protection levy and the method of calculating the levy to be different in relation to different classes of actions or industries or circumstances.
- (4) An environment protection levy paid by a person is not refundable.

**Division 3 Environment protection funds**

**130 Minister may establish environment protection funds**

- (1) The Minister may establish one or more environment protection funds in accordance with the regulations.
- (2) The Minister must, by *Gazette* notice, specify the purposes of each fund.
- (3) The purposes of an environment protection fund may include providing funds for the following:
  - (a) actions taken in the event of an environmental emergency;
  - (b) works for the remediation of environmental harm;
  - (c) works for the rehabilitation of the environment;

- (d) works for the protection of the environment;
  - (e) research into the environmental impacts of particular industries;
  - (f) research into the management of the environmental impact of particular industries;
  - (g) other activities relating to protecting or enhancing the environment.
- (4) Without limiting subsection (1), the Minister may establish separate environment protection funds for different industries.

### **131 Payments into environment protection funds**

- (1) The Minister must in the notice establishing the environment protection fund state the kinds of funds that may be paid into the fund.
- (2) The following kinds of funds may be paid into environment protection funds:
- (a) amounts or a proportion of amounts of environment protection levy payable under this Act;
  - (b) the amounts of any costs recovered under Part 12, Division 2 or Part 13, Division 2;
  - (c) the amounts or a proportion of amounts paid as financial assurance payable under section 196;
  - (d) fees or a proportion of fees payable under this Act;
  - (e) amounts or a proportion of any amounts required to be paid to the CEO under this Act;
  - (f) any other amount required to be paid into an environment protection fund under this Act.
- (3) Each fund must be invested in a manner approved by the Treasurer.
- (4) The proceeds of the investment of a fund are payable into that fund.

### **132 Expenditure from an environment protection fund**

- (1) The Minister must, by *Gazette* notice, determine the purposes for which the money in an environment protection fund may be expended.

- (2) Subject to subsection (3), a purpose determined for an environmental protection fund must be a purpose specified in section 130.
- (3) The purposes to be determined for an environmental protection fund may also include the following:
  - (a) the reimbursement of fees paid into the fund;
  - (b) the reimbursement of any amount paid into the fund in relation to an enforceable undertaking;
- (4) Any expenditure from an environmental protection fund must be authorised by the Minister.
- (5) If a fund includes an amount of levy paid in respect of a particular industry, that amount cannot be expended for the support of another industry unless the other industry is impacted by the particular industry.

**133 Recovery of amounts paid out of fund**

- (1) This section applies if an amount is paid out of an environment protection fund to undertake works:
  - (a) in an environmental emergency; or
  - (b) for the protection of the environment; or
  - (c) for the remediation of environmental harm; or
  - (d) for the rehabilitation of the environment.
- (2) The CEO may recover the amount expended from the fund from the person who was responsible for:
  - (a) the environmental emergency; or
  - (b) the environmental harm that required the remediation or rehabilitation; or
  - (c) the action from which the environment was protected.
- (3) The amount may be recovered as a debt due to the Territory.
- (4) Any amount recovered under this section must be paid into the fund from which the expenditure was made.



## **Part 10            Review by NT EPA and environmental audits**

### **Division 1        Preliminary**

#### **134            Relationship of this Part to other provisions**

This Part does not affect the operation of any condition of an environmental approval requiring:

- (a) monitoring or testing; or
- (b) reporting on monitoring or testing.

#### **135            Environmental audit**

An environmental audit is a documented evaluation of an action and its impact on the environment (including an evaluation of management practices, systems and plant) for any of the following purposes:

- (a) to provide information to the persons managing the action on compliance with legal requirements, codes of practice and relevant policies relating to the protection of the environment;
- (b) to enable persons to determine whether the way the action is carried out can be improved in order to protect the environment;
- (c) to assess the nature, type, intensity, magnitude and extent of environmental impacts;
- (d) to assess whether environmental impacts have been, or are being, appropriately managed and to support good environmental outcomes for the Territory;
- (e) to assess whether measures to minimise environmental harm or to remediate or rehabilitate the environment have been taken and have been effective;
- (f) to obtain improved information as to the effectiveness and accuracy of the risk management processes and systems used to identify environmental impacts during the environmental impact assessment process.

## **Division 2      Review by NT EPA of actions**

### **136      Review of environmental aspects of actions**

- (1) This section applies while an action to which an environmental approval applies is being carried out or after the action has been carried out.
- (2) The NT EPA may review and assess the environmental aspects of the action, including:
  - (a) the effectiveness of the safeguards or standards for the protection of the environment applied or adopted in relation to the action; and
  - (b) the accuracy of the forecasts of the environmental impacts of the proposed action.
- (3) The NT EPA may require the approval holder or any other person who the NT EPA believes may hold relevant information, to provide information to the NT EPA for the purposes of conducting a review.

### **137      Report to Minister**

- (1) The NT EPA may report to the Minister on the results of a review and assessment under section 136.
- (2) The report may include comments, suggestions and recommendations in relation to safeguards or standards for the protection of the environment in relation to the action and any similar future action.

## **Division 3      Environmental audit requirements**

### **138      Direction by NT EPA to carry out environmental audit**

- (1) The NT EPA may direct a person to cause an environmental audit of an action to be carried out for the purposes of any review by the NT EPA under Division 2.
- (2) The environmental audit must be carried out in accordance with the regulations and to the satisfaction of the NT EPA.
- (3) The environmental auditor must provide a report on the environmental audit to the NT EPA in the manner required by the NT EPA.

**139 Direction by CEO to carry out environmental audit**

- (1) The CEO may direct an environmental duty holder to cause an environmental audit to be carried out.
- (2) The environmental audit must be carried out in accordance with the regulations and to the satisfaction of the CEO.
- (3) The environmental auditor must provide a report on the environmental audit to the CEO in the manner required by the CEO.

**140 Offences**

- (1) A person commits an offence if:
  - (a) the NT EPA has directed the person under section 138 to cause an environmental audit to be carried out: and
  - (b) the person has contravened the direction.

Maximum penalty:

- (2) A person commits an offence if:
  - (a) the NT EPA has directed the person under section 138 to cause an environmental audit to be carried out: and
  - (b) the person has failed to comply with section 138(2) or (3).

Maximum penalty:

- (3) A person commits an offence if:
  - (a) the CEO has directed the person under section 139 to cause an environmental audit to be carried out: and
  - (b) the person has contravened the direction.

Maximum penalty:

- (4) A person commits an offence if:
  - (a) the CEO has directed the person under section 139 to cause an environmental audit to be carried out: and
  - (b) the person has failed to comply with section 139(2) or (3).

Maximum penalty:

- (5) An offence against subsection (1), (2), (3) or (4) is an offence of strict liability.

- (6) It is a defence to a prosecution for an offence against subsection (1), (2), (3) or (4) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (7) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (6).

## **Division 4      General environmental audit provisions**

### **141      Environmental auditor to be registered**

- (1) A person commits an offence if:
  - (a) the person purports to be an environmental auditor for the purposes of a mandatory environmental audit; and
  - (b) the person is not registered under the regulations as an environmental auditor in relation to an environmental audit of that kind.

Maximum penalty:

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

### **142      Registration of environmental auditors**

- (1) An individual may apply to the CEO for registration as an environmental auditor.
- (2) The regulations may provide for matters relating to the registration of environmental auditors, including:
  - (a) the grant or renewal of registration;
  - (b) the information to be provided to the CEO for applications for the grant or renewal of registration;
  - (c) application fees and renewal fees;
  - (d) conditions of registration;
  - (e) the period of registration or renewal of registration;
  - (f) suspension or cancellation of registration and disqualification from registration;
  - (g) reviews by the Civil and Administrative Tribunal of decisions of the CEO relating to registration.

### 143 Conflict of interest

- (1) A person commits an offence if the person:
- (a) is a registered environmental auditor; and
  - (b) intentionally carries out an environmental audit or part of an environmental audit; and
  - (c) has a conflict of interest and is reckless as to that circumstance; and
  - (d) the person does not have the authorisation of the NT EPA or the CEO to engage in the conduct despite the conflict of interest.

Maximum penalty:

- (2) Strict liability applies to subsection (1)(a) and (d).
- (3) The NT EPA or the CEO may authorise an environmental auditor to carry out an environmental audit or a part of an environmental audit despite a conflict of interest if the NT EPA or the CEO considers it appropriate to do so in the particular circumstances of the case.
- (4) For this section a person has a conflict of interest if the person:
- (a) is an associate of another person by whom any part of the site to which the audit relates is owned or occupied; or
  - (b) has a direct or indirect pecuniary or personal interest in:
    - (i) any part of the site to which the audit relates; or
    - (ii) any action carried out or proposed to be carried out on the site or part of the site; or
  - (c) has been involved in, or is an associate of another person who has been involved in, assessment or remediation under this Act of the site to which the audit relates.
- (5) In this section, a person is an **associate** of another person if:
- (a) they are partners; or
  - (b) one is a spouse, de facto partner, parent or child of the other; or
  - (c) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or

- (d) one is a body corporate or other entity (whether inside or outside Australia) and the other is a director or member of the governing body of the body corporate or other entity; or
  - (e) one is a body corporate or other entity (whether inside or outside Australia) and the other is a person who has a legal or equitable interest in 5% or more of the share capital of the body corporate or other entity; or
  - (f) they are related bodies corporate; or
  - (g) a relationship of a kind prescribed by regulation exists between them; or
  - (h) a chain or relationships can be traced between them under any one or more of paragraphs (a) to (g).
- (6) In subsection (4):

**beneficiary of a trust** includes an object of a discretionary trust.

**related body corporate** has the same meaning as in the *Corporations Act 2001* (Cth).

#### **144 Environmental auditor may require information**

An environmental auditor conducting an environmental audit directed under section 138 or 139 may require the person who has caused the audit to be carried out to provide all relevant information to the auditor for the purposes of conducting the audit.

#### **145 Declarations in relation to environmental audit reports**

A report of an environmental audit by an environmental auditor provided to the NT EPA must be accompanied by:

- (a) a declaration signed by the approval holder or the person who is directed to obtain the audit certifying that the person:
  - (i) has not knowingly provided any false or misleading information to the environmental auditor; and
  - (ii) has provided all relevant information to the auditor; and
- (b) a declaration signed by the registered environmental auditor certifying that:
  - (i) the report is accurate; and

- (ii) the auditor has not knowingly included any false or misleading information in it or failed to include any relevant information in it.

**146 Offence not to provide relevant information**

- (1) A person commits an offence if:
  - (a) the person fails to provide all relevant information to another person under section 144; and
  - (b) the other person is a registered environmental auditor; and
  - (c) the environmental auditor is carrying out an environmental audit and the person has knowledge of that circumstance.

Maximum penalty:

- (2) Strict liability applies to subsection (1)(b).

**147 False or misleading information or missing information in audit report**

- (1) A registered environmental auditor commits an offence if:
  - (a) the auditor intentionally signs a declaration under section 145(b) in relation to an environmental audit report; and
  - (b) the audit report contains false or misleading information or does not contain all relevant information and the auditor is reckless as to that circumstance.

Maximum penalty:.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the registered environmental auditor, when giving the audit report:
  - (a) draws the false or misleading aspect of the document to the NT EPA's or CEO's attention; and
  - (b) to the extent to which the auditor can reasonably do so, gives the NT EPA or CEO the information necessary to remedy the false or misleading aspect of the document.

**148            Retention and production of audit documentation**

- (1) An environmental duty holder must retain the prescribed documents relating to an environmental audit until the end of the last of the following periods after the audit report was produced to the NT EPA or CEO:
  - (a) 5 years;
  - (b) the period prescribed by the regulations for that class of audit;
  - (c) the period (not exceeding 10 years) determined by the NT EPA or CEO in relation to the audit and notified to the environmental duty holder.
- (2) An environmental duty holder commits an offence if the duty holder fails to retain any document for the period the document is required to be retained under subsection (1).

Maximum penalty:

- (3) An environmental duty holder commits an offence if the duty holder fails to produce any document required to be retained under subsection (1) to the NT EPA or CEO on request during the period that the document is required to be retained.

Maximum penalty:

**Part 11            Enforcement**

**Division 1        Environmental officers**

**149            Appointment or authorisation of environmental officers**

- (1) The CEO may appoint or authorise a person as an environmental officer.
- (2) A member of the police force is an environmental officer for this Act.

**150            Identity cards**

- (1) The CEO must give an environmental officer appointed or authorised under section 149(1) an identity card stating the person's name and that the person is an environmental officer.
- (2) The identity card must:
  - (a) show a recent photograph of the environmental officer; and



- (b) show the card's date of issue; and
  - (c) be signed by the environmental officer.
- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.
- (4) An environmental officer to whom an identity card is issued must produce that card for inspection before exercising a power or performing a function:
- (a) in relation to a person, at the request of that person;
  - (b) in relation to land or premises to the person apparently in charge of the land or premises, at the request of that person.

#### **151        Return of identity card**

- (1) A person who ceases to be an environmental officer must return the person's identity card to the CEO within 21 days after the cessation.

Maximum penalty:

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

#### **152        Powers of environmental officers: purposes**

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

- (a) to monitor compliance with this Act;
- (b) to investigate a suspected contravention of this Act.

#### **153        Powers of environmental officers**

- (1) An environmental officer may do any of the following:
- (a) enter any land or premises;
  - (b) search any land or premises entered and anything found there;
  - (c) take photographs and make sketches or other records of land or premises or things found on land or premises;

- (d) take photographs of any person on or in land or premises;
  - (e) make recordings in any medium, including audio, visual and audio-visual recordings, of land or premises or things found on land or premises;
  - (f) inspect and take copies of documents and records;
  - (g) seize any documents and any equipment required to access any documents;
  - (g) dig up any land;
  - (h) bring equipment or materials on to the land or premises;
  - (i) measure anything, or take samples of anything on land or premises;
  - (j) examine or test any equipment or machinery or other thing;
  - (k) require a person to produce an environmental approval, environmental audit report or a class of document prescribed by the regulations or a copy of that document for inspection;
  - (l) require a person on the land or premises to provide the person's name and address and evidence of these;
  - (m) require a person on the land or premises to give the environmental officer reasonable assistance to exercise or perform the environmental officer's powers or functions including:
    - (i) operate any computer or other equipment; and
    - (ii) provide any password or access to any computer or other equipment.
  - (n) authorise a person to provide assistance to an environmental officer in the exercise or performance of the environmental officer's powers or functions;
  - (o) do any other thing necessary for purposes mentioned in section 152.
- (2) If an environmental officer seizes a thing under this section, the officer must, within 7 business days, provide a written receipt that sets out the details of the thing seized to the person the officer believes or suspects to have had possession of the thing immediately before its seizure.

- (3) The power to enter premises given by this section does not apply to residential premises unless:
  - (a) the entry is with the consent of the occupier obtained under section 154; or
  - (b) the entry is under a search warrant issued under section 156.

#### **154        Consent to entry of residential premises**

- (1) An environmental officer seeking an occupier's consent to enter residential premises must:
  - (a) show the officer's identity card to the occupier; and
  - (b) give the occupier the reasons why the entry is sought; and
  - (c) inform the occupier that the occupier may refuse to give consent.
- (2) An environmental officer is not entitled to remain on premises if the environmental officer does not show the identity card to an occupier of those premises.
- (3) Having entered premises, an environmental officer may remain on the premises for as long as is reasonably necessary to enable the officer to perform the officer's functions.
- (4) This section does not affect any powers a police officer may exercise under another law.

#### **155        Offence to fail to comply with requirement**

- (1) A person commits an offence if:
  - (a) the person has been required to do a thing under section 153(1); and
  - (b) the person fails to comply with the requirement.

Maximum penalty:

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

## **156            Application for and issue of search warrant**

- (1) An environmental officer may apply to a justice of the peace for a search warrant to enter land or premises:
  - (a) by appearing in person before the justice of the peace; or
  - (b) if it is not practicable to appear in person, by telephone, radio or other means of communication.
- (2) If the justice of the peace is satisfied that there are reasonable grounds to permit the environmental officer to enter the land or premises, the justice may issue a warrant directed to the environmental officer.
- (3) If the justice of the peace issues a warrant on an application made under subsection (1)(b), the justice must:
  - (a) complete and sign the warrant (the **original warrant**); and
  - (b) record on the original warrant the reasons for issuing it; and
  - (c) inform the environmental officer by telephone or radio or other means of communication of its terms.
- (4) When informed of the terms of the warrant under subsection (3)(c), the environmental officer must, as soon as practicable:
  - (a) complete 2 copies of the form of warrant in the terms provided by the justice of the peace; and
  - (b) write on each copy the name of the justice of the peace and the date and time of the issue of the original warrant; and
  - (c) forward one copy to the justice of the peace.
- (5) The environmental officer may use the remaining copy of the warrant to exercise the powers granted by the original warrant.
- (6) If the justice of the peace is satisfied, after comparing the forwarded copy with the original warrant, that the copy is in substance identical to the original warrant, the justice must certify the copy as being in substance identical to the original warrant.

## **157            Effect and term of warrant**

- (1) A warrant permits the environmental officer to whom it is directed, and any person assisting the environmental officer, to:
  - (a) enter the land or premises specified in the warrant; and

- (b) exercise the powers of the environmental officer under this Act.
- (2) A warrant remains in force for 30 days from its date of issue.

**158        Entry on Aboriginal land**

The power of an environmental officer to enter land or premises may be exercised under this Act, despite:

- (a) the land or premises being Aboriginal land as defined in section 3 of the *Aboriginal Land Act*, and
- (b) the officer not holding a permit under that Act to enter or remain on Aboriginal land.

**159        Directions by environmental officer**

- (1) An environmental officer may issue a direction to an environmental duty holder to do any of the following:
- (a) take an action to prevent, minimise, manage or remediate any environmental harm by the method, and within the time, specified in the direction;
  - (b) cease taking any action that may impact on the environment;
  - (c) do any of the following within the time specified in the direction:
    - (i) take photographs and make sketches or other records of land or premises or things found on land or premises;
    - (ii) take photographs of any person on land or premises;
    - (iii) make recordings in any medium, including audio, visual and audio-visual recordings, of land or premises or things found on land or premises;
    - (iv) inspect and take copies of documents and records;
    - (v) measure anything, or take samples of anything on land or premises;
    - (vi) provide the photographs, sketches, records, recordings, documents, measurements or samples mentioned in subparagraphs (i) to (v) to the environmental officer or a person nominated by the environmental officer for analysis.

- (2) A direction must not be inconsistent with this Act or any relevant environmental approval.
- (3) A direction may be given orally but must be confirmed by written notice to the environmental duty holder as soon as practicable.
- (4) In this section:

***land or premises*** means land or premises owned, occupied or managed by the environmental duty holder.

**160        Offence to fail to comply with direction**

- (1) A person commits an offence if:
  - (a) the person has been directed to do a thing under section 159(1); and
  - (b) the person fails to comply with the direction.

Maximum penalty:

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

**161        Offence to hinder or obstruct environmental officer**

- (1) A person commits an offence if:
  - (a) the person intentionally obstructs another person; and
  - (b) the other person is an environmental officer; and
  - (c) the environmental officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty:

- (2) Strict liability applies to subsection (1)(b).

**162        Compliance with requirement to provide information**

- (1) This section applies in relation to:
  - (a) a requirement to provide information under section 153; or

- (b) a direction to provide information under section 159.
- (2) It is not an excuse for a person to refuse or fail to provide the information in response to the requirement or direction on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.
- (3) Information provided by an individual in response to a requirement or direction that might tend to incriminate the individual or make the individual liable to a penalty is not admissible in evidence against the individual in proceedings for an offence or the imposition of a penalty.
- (4) Subsection (3) does not prevent the use of information provided by an individual in response to a requirement or direction to locate or identify further evidence that may be used in evidence against the individual in proceedings for an offence or the imposition of a penalty.
- (5) Subsection (3) does not apply to proceedings in relation to the making of a false or misleading statement.

## **Division 2            Environment protection notices**

### **163            Environment protection notices – purpose**

The CEO may issue an environment protection notice under this Division for the purpose of securing compliance with:

- (a) the general environmental duty; or
- (b) the conditions of an environmental approval; or
- (c) a requirement prescribed by regulation.

### **164            Issue of environment protection notice**

- (1) Subject to section 167, an environment protection notice must be in writing served on the person to whom it is issued.
- (2) The environment protection notice must:
  - (a) specify the person to whom it is issued (whether by name or a description sufficient to identify the person); and
  - (b) if the notice is issued for the purpose of securing compliance with the general environmental duty, state the purpose and specify the environmental harm that must be prevented or minimised; and

- (c) if the notice is issued for the purpose of securing compliance with the conditions of an environmental approval, state the purpose and specify the conditions; and
  - (d) if the notice is issued for the purpose of securing compliance with a requirement prescribed by the regulations, state the purpose and specify the requirement; and
  - (e) specify a matter prescribed by the regulations.
- (3) The environment protection notice must state that the person may, apply to the Civil and Administrative Tribunal to review the decision to issue the notice.

### **165        Requirements of environment protection notices**

- (1) An environment protection notice may impose any requirement reasonably required for the purpose for which the notice is issued including one or more of the following:
- (a) a requirement (a ***cease work requirement***) that the person discontinue, or not commence, a specified activity or specified part of an activity;
  - (b) a requirement that the person not undertake or continue a specified activity except at specified times or subject to specified conditions;
  - (c) a requirement that the person undertake a specified activity within a specified period or at specified times or in specified circumstances;
  - (d) a requirement that the person prepare, in accordance with specified requirements and to the satisfaction of the CEO, a plan to prevent, minimise, manage or remediate environmental harm;
  - (e) a requirement that the person comply with the plan mentioned in paragraph (d);
  - (f) a requirement that the person undertake specified tests or environmental monitoring;
  - (g) a requirement that the person submit to the CEO specified testing, monitoring or compliance reports;
  - (h) a requirement that the person appoint or engage a qualified person to prepare a plan or report or undertake tests or monitoring required by the notice;



- (i) a requirement prescribed by the regulations.
- (2) An environment protection notice that includes a cease work requirement remains in force until it is revoked by the CEO.
- (3) The CEO may include in an environment protection notice a requirement for an act or omission that might otherwise constitute a contravention of this Act if the CEO considers that it is reasonably necessary in the circumstances to do so.
- (4) A person incurs no liability to a penalty under this Act for compliance with a requirement under subsection (3).
- (5) In this section **qualified person** means:
  - (a) a registered environmental auditor; or
  - (b) an environmental practitioner registered under the regulations; or
  - (c) a person who has the qualifications and experience set out in the environment protection notice.

**166        Notice to prescribed statutory decision-maker of proposed notice**

- (1) The CEO must:
  - (a) give notice of a proposed environment protection notice or a proposed variation of an environment protection notice to a statutory decision-maker if an action required by the notice or variation would require the consent of the statutory decision-maker but for the effect of a statutory provision prescribed by the regulations; and
  - (b) consider any comments of the statutory decision-maker given within the period specified in the notice.
- (2) The notice must be given before the environment protection notice is issued or varied.
- (3) The period specified in the notice must be:
  - (a) for an order to confirm an emergency environment protection order – at least 24 hours;
  - (b) otherwise – at least 14 days.
- (5) This section does not apply to the issue of an emergency environment protection notice.

**167            Emergency environment protection notice**

- (1) An environmental officer may issue an emergency environment protection notice if the officer considers that urgent action is required for the protection of the environment.
- (2) The emergency environment protection notice may impose any requirements set out in section 165(1) that are reasonably required for the protection of the environment.
- (3) An emergency environment protection notice may be issued orally in accordance with the regulations.
- (4) If an emergency environment protection notice is issued orally, the person to whom it is issued must be advised immediately of the person's right to apply to the Civil and Administrative Tribunal for review of the notice.
- (5) An application to the Civil and Administrative Tribunal for review of an emergency environment protection notice that imposes a requirement mentioned in section 165(1)(a), (b) or (c) or a requirement specified by the regulations does not stay the operation of the notice.
- (6) An emergency environment protection notice issued to a person ceases to have effect at the end of 72 hours from the time it is issued unless the notice is confirmed by written notice issued by the CEO and served on the person.

**168            Variation or revocation of environment protection notice**

The CEO may vary or revoke an environment protection notice by written notice served on each person to whom the environment protection notice applies.

**169            Copy of environment protection notice may be lodged with the Registrar-General**

- (1) The CEO may lodge with the Registrar-General a copy of any environment protection notice issued or confirmed by the CEO in relation to land.
- (2) The CEO must lodge with the copy of the notice any additional information required to identify the land to which the notice relates.
- (3) The Registrar-General must record an environment protection notice a copy of which is lodged under subsection (1) in the Land Register.

**170            Recorded notice applies to owners and occupiers of land**

- (1) This section applies if an environment protection notice relating to land is recorded under section 169.
- (2) The notice is binding on each owner and occupier for the time being of the land.
- (3) This Division applies as if the notice had been issued to each owner and occupier of the land.

**171            Notice to owners and occupiers of land**

- (1) This section applies if an environment protection notice relating to land is recorded under section 169.
- (2) The CEO must, as soon as practicable after the notice is recorded, give written notice to each owner and occupier of the land of:
  - (a) the recording of the environment protection notice; and
  - (b) the obligations of the owner or occupier under sections 170 and 172.
- (3) The notice given under subsection (2) must state that the owner or occupier may apply to the Civil and Administrative Tribunal against the recording of the environment protection notice.
- (4) A notice to an occupier under this section may be given by addressing it to "the occupier" and posting it to, or leaving it at, the land.
- (5) A notice is not required to be given under this section to an owner or occupier of land to whom the environment protection notice was issued under section 164.

**172            Notice by owner or occupier to CEO**

- (1) This section applies if an environment protection notice relating to land is recorded under section 169.
- (2) An owner or occupier of the land must give written notice to the CEO as soon as practicable after the owner or occupier ceases to own or occupy the land.
- (3) The notice must state the name and address of the new owner or occupier of the land.
- (4) A person commits an offence if the person:
  - (a) is required to give a notice to the CEO under this section; and

(b) fails to give the required notice.

Maximum penalty:

**173        Cancellation of recording of environment protection notice**

- (1) The CEO may apply to the Registrar-General to cancel the recording of an environment protection notice in relation to land in the Land Register.
- (2) The CEO must apply to the Registrar-General to cancel the recording of an environment protection notice in relation to land in the Land Register:
  - (a) on revocation of the notice; or
  - (b) on full compliance with the requirements of the notice; or
  - (c) at the direction of the Civil and Administrative Tribunal on an application to review the recording of the notice.
- (3) The CEO must lodge with the application any additional information required to identify the land to which the application relates.
- (4) On receipt of an application under subsection (1) or (2), the Registrar-General must cancel the recording of the environment protection notice in the Land Register.

**174        Compliance with environment protection notice**

- (1) A person commits an offence if:
  - (a) the person has been issued with an environment protection notice; and
  - (b) the person contravenes the notice.

Maximum penalty: .

- (2) A person commits an offence if:
  - (a) the person has been issued with an environment protection notice; and
  - (b) the person directs or instructs or permits any other person to contravene the notice.

Maximum penalty: .

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

- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (5) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (4).

**175      Offence to hinder or obstruct compliance with notice**

- (1) A person commits an offence if:
  - (a) the person intentionally obstructs another person; and
  - (b) the other person is complying with an environment protection notice and the person has knowledge of that circumstance; and
  - (c) the obstruction interferes with the other person's compliance with the environment protection notice and the person is reckless as to that result.

Maximum penalty:

**Division 3      Stop work notices**

**176      NT EPA may issue stop work notice**

- (1) The NT EPA may issue a stop work notice to a proponent who has referred an action, or is required to refer an action, to the NT EPA under Part 6, Division 3 directing the proponent to stop taking the action while:
  - (a) a decision is being made as to whether the action requires an environmental impact assessment; and
  - (b) if the NT EPA considers it necessary, the assessment and environmental approval processes relating to the action are completed.
- (2) A stop work notice may be issued at any stage in the assessment and environmental approval process for an action if the proponent has commenced the action.
- (3) A stop work notice may be issued if the NT EPA has issued a call-in notice to the proponent under Part 6, Division 3 if the action called-in has commenced.

**177      Purpose of stop work notice**

The purpose of a stop work notice is to:

- (a) prevent or minimise the environmental impact of an action;  
and
- (b) minimise any financial benefit to the proponent of proceeding with an action without an environmental approval.

**178      Requirements of stop work notice**

A stop work notice may impose any conditions the NT EPA considers necessary to:

- (a) prevent or minimise the environmental impact of the action;  
and
- (b) provide for the remediation of environmental harm or the rehabilitation of the site.

**179      Stop work notice where failure to comply with call-in notice**

- (1) This section applies to a stop work notice that is issued as a consequence of a failure by a proponent to comply with a call-in notice in relation to an action.
- (2) The stop work notice remains in force until:
  - (a) the last of the following to occur:
    - (i) the proponent provides any information required under regulations in relation to the call-in notice;
    - (ii) the NT EPA has made a decision as to whether or not an environmental impact assessment or environmental approval are required;
    - (iii) if an environmental approval is required, the environmental approval has been granted or refused; or
  - (b) the NT EPA revokes the stop work notice.

**180      Stop work notice may be issued even if other statutory approval granted**

The NT EPA may issue a stop work notice in relation to an action even if a relevant statutory decision-maker has issued an authorisation for the action.

## **181      Compliance with stop work notice**

- (1) A person commits an offence if:
  - (a) the person has been issued with a stop work notice; and
  - (b) the person contravenes the notice.

Maximum penalty:
- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

## **Division 4      Closure notices**

### **182      Closure notice**

- (1) This section applies if the Minister considers on reasonable grounds that as a result of anything done or that has occurred at a site to which an environmental approval applies before the expiration or revocation of an environmental approval relating to the site, ongoing investigation, monitoring or management is or will be required at the site following the expiry or revocation.
- (2) The Minister may issue a closure notice in relation to a site.
- (3) If the environmental approval is in force, the closure notice must be given to the approval holder.
- (4) If the environmental approval is not still in force, the closure notice must be given to the person who was the approval holder or to the occupier or owner of the site.
- (5) If a person who is the owner of the site is not given a closure notice under subsection (3) or (4), a copy of the closure notice must be given to the person.
- (6) If a person who is the occupier of the site is not given a closure notice under subsection (3) or (4), a copy of the closure notice must be given to the person.

### **183 Contents of closure notice**

- (1) A closure notice may require any person bound by the notice to do any one or more of the following in relation to the site to which the notice applies:
  - (a) take specified investigation and monitoring action;
  - (b) prepare a management plan;
  - (c) take specified management action;
  - (d) report on specified matters in a specified form at specified times;
  - (e) arrange for:
    - (i) an environmental audit of the site to be carried out by a registered environmental auditor; and
    - (ii) a report to be given to the Minister on the findings of the audit.
  
- (2) A closure notice must specify the following:
  - (a) the name and address of the person to whom it is issued;
  - (b) the reason for which it is given;
  - (c) a description of the site and the location of the site sufficient to identify both;
  - (d) the things mentioned in subsection (1) that are required to be done;
  - (e) if applicable, the period within which the things are to be done.

### **184 Effect of closure notice**

A closure notice binds each person to whom it is issued.

### **185 Copy of closure notice may be lodged with the Registrar-General**

- (1) The Minister may lodge with the Registrar-General a copy of any closure notice issued by the Minister in relation to land.
  
- (2) The Minister must lodge with the copy of the notice any additional information required to identify the land to which the notice relates.



- (3) The Registrar-General must record a closure notice, a copy of which is lodged under subsection (1), in the Land Register.

**186        Recorded notice applies to owners and occupiers of land**

- (1) This section applies if a closure notice relating to land is recorded under section 185.
- (2) The notice is binding on each owner and occupier for the time being of the land while the closure notice is recorded.
- (3) This Division applies as if the notice had been issued to each owner and occupier of the land.

**187        Notice to owners and occupiers of land**

- (1) This section applies if a closure notice relating to land is recorded under section 185.
- (2) The CEO must, as soon as practicable after the notice is recorded, give written notice to each owner and occupier of the land of:
  - (a) the recording of the closure notice; and
  - (b) the obligations of the owner or occupier under sections 186 and 188.
- (3) The notice given under subsection (2) must state that the owner or occupier may apply to the Civil and Administrative Tribunal to review the recording of the closure notice.
- (4) A notice to an occupier under this section may be given by addressing it to "the occupier" and posting it to, or leaving it at, the land.
- (5) A notice is not required to be given under this section to an owner or occupier of land to whom the closure notice was issued under section 182.

**188        Notice by owner or occupier to CEO**

- (1) This section applies if closure notice relating to land is recorded under section 185.
- (2) An owner or occupier of the land must give written notice to the CEO as soon as practicable after the owner or occupier ceases to own or occupy the land.
- (3) The notice must state the name and address of the new owner or occupier of the land.

- (4) A person commits an offence if the person:
- (a) is required to give a notice to the CEO under this section; and
  - (b) fails to give the required notice.

Maximum penalty:

**189      Cancellation of recording of closure notice**

- (1) The CEO may apply to the Registrar-General to cancel the recording of closure notice in relation to land in the Land Register.
- (2) The CEO must apply to the Registrar-General to cancel the recording of a closure notice in relation to land in the Land Register:
- (a) on revocation of the notice; or
  - (b) on full compliance with the requirements of the notice; or
  - (c) at the direction of the Civil and Administrative Tribunal on an application for review of the recording of the notice.
- (3) The CEO must lodge with the application any additional information required to identify the land to which the application relates.
- (4) On receipt of an application under subsection (1) or (2), the Registrar-General must cancel the recording of the closure notice in the Land Register.

**190      Compliance with closure notice**

- (1) A person commits an offence if:
- (a) the person is bound by a closure notice; and
  - (b) the person contravenes the notice.

Maximum penalty:

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

**191      Offence to hinder or obstruct compliance with notice**

A person commits an offence if:

- (a) the person intentionally obstructs another person; and
- (b) the other person is complying with a closure notice and the person has knowledge of that circumstance; and
- (c) the obstruction interferes with the other person's compliance with the closure notice and the person is reckless as to that result.

Maximum penalty:

**192      If closure notice not complied with**

- (1) If an action required by a closure notice to be taken has not been taken, the CEO may:
  - (a) cause that action to be taken; and
  - (b) recover the cost of the taking of that action from any person bound by the notice by action as a debt due to the Territory.
- (2) Any cost recovered under subsection (1) must be paid into the environmental protection fund determined by the Minister.

**Division 5      Closure certificates**

**193      Criteria for closure certificate**

- (1) The Minister may by *Gazette* notice determine criteria to be met by an approval holder before a closure certificate can be issued in relation to an action.
- (2) The Minister may determine different closure criteria for different classes of action.
- (3) This section does not prevent the Minister from imposing different or additional criteria in relation to a particular closure certificate.

**194      Application for closure certificate**

- (1) An approval holder of environmental approval for an action may apply to the Minister for a closure certificate for an action if the approval holder:
  - (a) has completed the rehabilitation and remediation requirements of the environmental approval; and

- (b) intends to sell the land or transfer the land to another person, or to return the land to the owner of the land or to transfer the land to the Territory or a local government of the Territory.
- (2) An application must:
- (a) be in the form approved by the Minister; and
  - (b) contain the information prescribed by the regulations.
- (3) The Minister may require an applicant to provide any further information required by the Minister to determine the application.

### **195      Decision of Minister**

The Minister may issue the closure certificate to the approval holder if the Minister is satisfied that:

- (a) all rehabilitation and remediation requirements in relation to the action have been completed in accordance with this Act and the environmental approval; and
- (b) the approval holder has met the relevant closure criteria; and
- (c) the approval holder has complied with any requirements of section 196.

### **196      Requirement to provide financial assurance**

- (1) The Minister may require an applicant for a closure certificate to pay an amount as financial assurance.
- (2) The amount must be determined taking into consideration the potential future liability and costs of remediation if the remediation carried out by the approval holder fails.
- (3) The amount paid is not refundable.
- (4) All money paid under this section must be paid into the environment protection fund determined by the Minister.
- (5) The money paid into in the fund in relation to a site must be held on trust for a minimum period of 20 years for the purpose of responding to any future environmental liability associated with the site.
- (6) At the end of the period of 20 years, the Minister may apply the money held in relation to the site to another environmental liability if the money in the fund has not been required for the site.

- (7) If an amount is applied under subsection (6) and an environmental impact on the site for which the money was held occurs, the Minister must ensure that any remediation or management of the site is carried out and paid for as if the amount applied were still available.

**197            Effect of closure certificate**

If a closure certificate is issued, the approval holder ceases to be liable for any future environmental impact associated with the former use of the land and that liability becomes a liability of the Territory.

**Division 6            Enforceable undertakings**

**198            CEO may accept enforceable undertaking**

- (1) The CEO may accept an enforceable undertaking made by a proponent of an action or an approval holder to:
- (a) carry out specified remediation or rehabilitation work to rectify environmental harm resulting from an action taken by the proponent or the approval holder that is allegedly in contravention of this Act or an environmental approval; or
  - (b) to do any other specified act or thing approved by the CEO.
- (2) An enforceable undertaking must be in writing and signed by the CEO and the proponent or the approval holder.
- (3) An enforceable undertaking may require the proponent or approval holder to publish notice of the alleged contravention and any act or thing done by the proponent or the approval holder.

**199            Enforcement**

- (1) The CEO may apply to the court for an enforcement order if the CEO considers that a proponent or an approval holder has failed to comply with an enforceable undertaking accepted by the CEO.
- (2) The court may make any of the following enforcement orders if the court is satisfied that the proponent or the approval holder has failed to comply with an enforceable undertaking:
- (a) an order directing the proponent or the approval holder to comply with the undertaking;
  - (b) an order directing the proponent or the approval holder do any specified act or thing for the purpose of complying with the enforceable undertaking;

- (c) an order directing the proponent or the approval holder do any specified act or thing to minimise environmental harm resulting from the failure to comply with the enforceable undertaking;
- (d) an order that the proponent or the approval holder pay an amount to the CEO for any costs reasonably incurred by the CEO in taking action to minimise environmental harm resulting from the failure to comply with the enforceable undertaking, including any investigation, legal or court costs;
- (e) an order that the proponent or the approval holder pay an amount in compensation to any other person who has suffered loss or damage as a result of the failure to comply with the enforceable undertaking;
- (f) an order revoking the enforceable undertaking;
- (g) any other order the court considers appropriate in the circumstances.

## **200 CEO may do specified acts or things**

- (1) The CEO may do any act or thing specified in an enforcement order if the proponent or the approval holder fails to comply with the order.
- (2) The CEO must not do the specified act or thing unless:
  - (a) the CEO gives the proponent or the approval holder written notice that the CEO intends to do the specified act or thing; and
  - (b) the CEO invites the proponent or the approval holder to provide either of the following within the specified response period:
    - (i) proof that satisfies the CEO that the proponent or the approval holder has done the specified act or thing;
    - (ii) reasons that satisfy the CEO that the proponent or the approval holder will do the specified act or thing within the specified action period; and
  - (c) the proponent or the approval holder fails within the specified response period to:
    - (i) provide the required proof; or

- (ii) satisfy the CEO that the proponent or the approval holder will do the specified act or thing within the specified action period.
- (3) In doing a specified act or thing, the CEO may:
  - (a) do anything that is necessary or expedient to be done for that purpose; and
  - (b) publish notice of the failure of the proponent or the approval holder to comply with the enforcement order.
- (4) The CEO may recover any cost reasonably incurred in doing a specified act or thing under this section from the proponent or the approval holder as a debt due to the Territory.
- (5) In this section:

***specified action period*** in relation to a notice under subsection (2), means the period (being not less than 10 business days) specified as the action period in the notice.

***specified response period*** in relation to a notice under subsection (2), means the period (being not less than 10 business days) specified as the response period in the notice.

## **201        Withdrawal or variation of enforceable undertaking by proponent or approval holder**

- (1) A proponent or an approval holder may withdraw or vary an enforceable undertaking accepted by the CEO with the consent of the CEO.
- (2) An enforceable undertaking is revoked on the withdrawal of the undertaking.

## **202        Withdrawal of acceptance of enforceable undertaking by CEO**

- (1) The CEO may withdraw the CEO's acceptance of an enforceable undertaking if the CEO considers it is no longer in the interests of the Territory to accept the undertaking.
- (2) The CEO must not withdraw the acceptance of an enforceable undertaking unless the CEO:
  - (a) gives notice to the proponent or the approval holder of the intention to withdraw the acceptance; and

- (b) gives the proponent or the approval holder the opportunity to make submissions to the CEO within the period (being not less than 10 business days) specified in the notice; and
  - (c) considers any submissions made by the proponent or the approval holder within the period specified in the notice.
- (3) An enforceable undertaking is revoked on the withdrawal of the CEO's acceptance.

**203      No criminal proceedings while enforceable undertaking is in force**

If the CEO accepts an enforceable undertaking in relation to an alleged contravention of this Act, the CEO must not commence criminal proceedings for an offence that is constituted by the alleged contravention while the enforceable undertaking is in force.

**204      Proceedings following revocation of enforceable undertaking**

If an enforceable undertaking in relation to an alleged contravention of this Act is revoked under this Division before the CEO is satisfied that the enforceable undertaking has been complied with, the CEO may commence criminal proceedings for an offence that is constituted by the alleged contravention.

**205      No further proceedings if enforceable undertaking complied with**

If the CEO is satisfied that an enforceable undertaking in relation to an alleged contravention of this Act has been complied with, the CEO must not commence criminal proceedings for an offence that is constituted by the alleged contravention.

**Division 7      Emergency authorisations**

**206      Emergency authorisations**

- (1) The CEO may give a written authorisation to a person authorising an act or omission that might otherwise constitute a contravention of this Act or an environmental approval if the CEO is satisfied that:
- (a) urgent circumstances exist that make it impracticable for the person to obtain an exemption under this Act; and
  - (b) the act or omission is justified by the need to protect the environment; and
  - (c) unless the CEO waives this requirement, the person has paid the fee prescribed by regulation.



- (2) In determining whether urgent circumstances exist, the CEO may take into account whether the circumstances arose from a failure of the person to comply with the duties and obligations placed on the person under this Act or the environmental approval.
- (3) An emergency authorisation may be issued subject to any conditions that the CEO considers appropriate and specifies in the authorisation.
- (4) A person is not criminally liable under this Act in respect of an act or omission that is authorised under this section.
- (5) A person who would, but for an emergency authorisation, have contravened a provision of this Act is, despite the authorisation, taken to have contravened that provision for the purposes of:
  - (a) any proceedings for a civil penalty under Part 12 in relation to the contravention; and
  - (b) the issuing or enforcement of an environment protection notice in relation to the contravention.

## **Division 8            Duty to notify environmental incidents**

### **207            Application of Division**

- (1) This Division applies if:
  - (a) an incident occurs or has occurred on land on which an action is being carried out; and
  - (b) that incident causes or threatens material environmental harm.

- (2) In this section:

***material environmental harm*** means environmental harm that:

- (a) is not trivial or negligible in nature; or
- (b) results in actual or potential loss of not more than the amount prescribed by the regulations.

### **208            Duty of responsible persons to notify**

- (1) An approval holder who is responsible for the action must, immediately after the holder becomes aware of the incident, notify the CEO of the incident and all relevant information about it.

- (2) A person, other than an approval holder, who is conducting or participating in the action with responsibility for the action must, immediately after the person becomes aware of the incident, notify the CEO of the incident and all relevant information about it.
- (3) A person who is providing equipment or facilities for use on the land in carrying out the action must, immediately after the person becomes aware of the incident, notify the CEO of the incident and all relevant information about it.
- (4) The owner or occupier of the land on which the action is being carried out the action must, immediately after the owner or occupier becomes aware of the incident, notify the CEO of the incident and all relevant information about it.

**209        Duty of environmental auditor to notify**

An environmental auditor carrying out an environmental audit of a site at which an incident occurs or has occurred must, immediately after the auditor becomes aware of the incident, notify the CEO of the incident and all relevant information about it if the impact of the incident is continuing.

**210        Manner and form of notice**

A notice of an incident given under this Division, must comply with the requirements of the regulations.

**211        Incidents not required to be reported**

- (1) A person referred to in section 208(2), (3) or (4) is not required to notify an incident under this Division if the person is aware that the incident has already come to the notice of the CEO.
- (2) A person is not required to notify an incident under this Division if the incident is an ordinary result of an action required to be taken to comply with an environmental approval or another requirement under this Act.

**212        Offences**

- (1) An approval holder commits an offence if the approval holder, without reasonable excuse, fails to comply with a duty under section 208(1).

Maximum penalty:

- (2) A person commits an offence if the person, without reasonable excuse, fails to comply with a duty under section 208(2).

Maximum penalty:

- (3) A person commits an offence if the person, without reasonable excuse, fails to comply with a duty under section 208(3) or (4).

Maximum penalty:

- (4) An environmental auditor must not, without reasonable excuse, fail to comply with a duty under section 209.

Maximum penalty:

- (5) An offence against subsection (1), (2), (3) or (4) is an offence of strict liability.

- (6) It is a defence to a prosecution for an offence against subsection (1), (2), (3) or (4) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

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

## **213        Incriminating information**

- (1) A person is required to notify an incident under this Division even if to do so might incriminate the person or make the person liable to a penalty.

- (2) Any relevant information prescribed by the regulations that is given by a person in a notice under this Division is not admissible in evidence against the person for an offence or for the imposition of a penalty.

- (3) Subsection (2) does not prevent the use of information given by a person in a notice under this Division to locate or identify further evidence that may be used in evidence against the person in proceedings for an offence or the imposition of a penalty.

- (4) Subsection (2) does not apply in relation to:

- (a) an offence relating to the provision of false or misleading information; or
- (b) relevant information given in relation to an incident by a person who intentionally caused the incident.

## Part 12 Civil proceedings

### Division 1 Injunctions and other orders

#### 214 Who may bring proceedings

(1) An eligible applicant may apply to the court for an injunction or another order under this Division in relation to an alleged act or omission that contravenes this Act.

(2) In this section:

**eligible applicant** means any of the following:

- (a) a person who is directly or indirectly affected by the alleged act or omission;
  - (b) a member of an environmental, community or industry organisation, whether incorporated or not;
  - (c) an Aboriginal Land Council;
  - (d) a Registered Native Title Prescribed Body Corporate or a registered claimant under the *Native Title Act 1993* (Cth);
  - (e) a local government body;
  - (f) a person who has made a genuine and valid submission during an assessment or approval process under this Act.
- (3) For subsection (2)(f), a **genuine and valid submission** by a person does not include:
- (a) a submission by the person in the form of a form letter or petition prepared by another body or organisation; or
  - (b) a submission made after the end of the submission period, unless the court considers that in the circumstances it should be considered a genuine and valid submission.

#### 215 Prohibitory injunctions

- (1) If a person has engaged, is engaging or is proposing to engage in conduct constituting a contravention of this Act, the court may grant an injunction restraining the person from engaging in the conduct.
- (2) If the court grants an injunction restraining a person from engaging in conduct and in the opinion of the court it is desirable to do so, the court may make an order requiring the person to do a specified act or thing.

**216 Mandatory injunctions**

If a person has refused or failed, or is refusing or failing, or is proposing to refuse or fail to do an act or thing, and the refusal or failure did, does or would constitute a contravention of this Act, the court may grant an injunction requiring the person to do the thing.

**217 Interim injunctions**

- (1) Before deciding an application for an injunction under this Division, the court may grant an interim injunction:
  - (a) restraining a person from engaging in conduct; or
  - (b) requiring a person to do an act or thing.
- (2) The court must not require an applicant for an injunction to give an undertaking as to damages as a condition of granting an interim injunction.

**218 Certain considerations for granting injunctions not relevant**

- (1) The court may grant an injunction restraining a person from engaging in conduct:
  - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
  - (b) whether or not the person has previously engaged in conduct of that kind; and
  - (c) whether or not there is imminent danger of environmental harm if the person engages, or continues to engage, in conduct of that kind.
- (2) The court may grant an injunction requiring a person to do a particular act or thing:
  - (a) whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
  - (b) whether or not the person has previously refused or failed to do that act or thing; and
  - (c) whether or not there is an imminent danger of environmental harm if the person refuses or fails to do that act or thing.

**219 Discharge of injunctions**

On application, the court may discharge or vary an injunction.

**220 Other civil orders**

On an application by an eligible applicant, the Minister or the CEO in relation to a contravention of this Act, the court may make:

- (a) if the contravention of this Act has resulted in environmental harm – an order requiring the person who committed the contravention to:
  - (i) do a specified act or thing to make good any specified environmental harm; and
  - (ii) if appropriate, to do a specified act or thing to prevent or mitigate further environmental harm;
- (b) if the Minister or the CEO has incurred costs or expenses in doing an act or thing to prevent or mitigate environmental harm resulting from the contravention of this Act or to make good resulting environmental harm – an order against the person who committed the contravention for payment of the reasonable costs and expenses incurred in doing the act or thing;
- (c) if a person has suffered injury or loss or damage to property as a result of the contravention of this Act, or incurred costs and expenses in doing an act or thing to prevent or mitigate that injury, loss or damage – an order against the person who committed the contravention:
  - (i) for payment of compensation for the injury, loss or damage; or
  - (ii) for the payment of the reasonable costs and expenses incurred in doing the act or thing.

**221 Court may vary or revoke order**

The court may, if it considers it appropriate to do so, either on its own initiative or on the application of a party, vary or revoke an order made under section 220.

## **222 Security and undertakings**

- (1) Subject to section 223(2), the court may order an applicant in proceedings under this Part:
  - (a) to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed; and
  - (b) to give an undertaking as to the payment of any amount of damages that may be awarded under section 224.
- (2) Without limiting its discretion under subsection (1), the court may determine not to require a security or undertaking if the court considers that the proceeding is in the public interest.

## **223 Orders as to costs**

- (1) In any proceedings under this Division, the court may make any order as to costs that it considers just and reasonable.
- (2) Without limiting its discretion under subsection (1), the court may determine not to require an applicant to pay costs if the court considers that the proceeding is in the public interest.

## **224 Orders as to damages on application of respondent**

- (1) The court may make an order under this section if in a proceeding under this Division in relation to an alleged contravention of this Act, the court determines:
  - (a) that the respondent has not contravened this Act; and
  - (b) that the respondent has suffered loss or damage as a result of the actions of the applicant; and
  - (c) that in the circumstances it is appropriate to make an order under this section.
- (2) The court may, on the application of the respondent, and in addition to any order as to costs, require the applicant to pay to the respondent the amount determined by the court to compensate the respondent for the loss or damage suffered by the respondent.

## **225 Time for bringing proceedings under this Division**

- (1) A proceeding under this Division may be brought at any time within 3 years after the date of the alleged contravention of this Act.

- (2) The court, on application, may extend the period specified in subsection (1).
- (3) An application under subsection (2) may be brought before or after the end of the period specified in subsection (1).
- (4) In considering an application under subsection (2), the court must consider the following where information is available:
  - (a) when the alleged contravention occurred;
  - (b) whether the impact of the alleged contravention ought to have been discovered by the applicant if the applicant had exercised due diligence in finding the impact and whether the applicant exercised that due diligence;
  - (c) whether extending the limitation period would prejudice the proposed respondent's ability to maintain a defence to the proceeding on the merits;
  - (d) any other criteria the court considers relevant.

**226 Powers conferred are in addition to other powers of court**

The powers conferred on the court under this Division are in addition to any other powers of the court.

**Division 2 Civil penalties and directions**

**227 CEO may recover civil penalty**

- (1) The CEO may recover an amount as a civil penalty from a person if the CEO is satisfied that the person has committed an offence by contravening a provision of this Act that is a strict liability offence.
- (2) The amount may be recovered as an alternative to criminal proceedings.
- (3) The amount may be recovered by negotiation or by application to the court under this Division.

**228 CEO may give certain directions**

- (1) The CEO may give a direction under this section to a person if the CEO is satisfied that the person has contravened a provision of this Act that is a strict liability offence.
- (2) The CEO may direct the person to take specified steps to remediate environmental harm or to rehabilitate the environment.



- (3) The CEO may direct a person to publicise the contravention and the environmental consequences in a specified manner.
- (4) The direction may be given as an alternative to criminal proceedings.

**229 CEO to have regard to certain matters**

In determining whether to start proceedings for an offence or to take action under this Division, the CEO must have regard to:

- (a) the seriousness of the contravention; and
- (b) the previous record of the offender in complying with this Act; and
- (c) any other relevant matters.

**230 Maximum amount of civil penalty that may be recovered by negotiation**

The maximum amount of civil penalty that the CEO may recover by negotiation is the amount specified by this Act as the criminal penalty in relation to the contravention

**231 Notice of proposed application to court**

- (1) The CEO must not apply to the court to recover an amount from a person as a civil penalty in relation to a contravention unless the CEO has served on the person a notice of the CEO's intention to make that application.
- (2) The notice must:
  - (a) be in the approved form; and
  - (b) include a statement advising the person that the person may elect to be prosecuted for the contravention by written notice given to the CEO within the period specified in the notice.
- (3) The period specified in the notice must not be less than 21 business days.
- (4) The CEO must not apply to the court to recover an amount from a person as a civil penalty in relation to a contravention if the person serves a written notice within the specified period on the CEO electing to be prosecuted for the contravention.

**232 Court order**

- (1) On the application of the CEO, the court may order a person to pay to the CEO an amount as a civil penalty if the court is satisfied on the balance of probabilities that the person has contravened a provision of this Act.
- (2) The amount of civil penalty ordered must not exceed the amount specified by this Act as the criminal penalty in relation to the contravention.

**233 Court to have regard to certain matters**

In determining the amount to be paid by a person as a civil penalty, the court must have regard to:

- (a) the nature and extent of the contravention; and
- (b) any environmental harm resulting from the contravention; and
- (c) any financial saving or benefit the person stood to gain by committing the contravention; and
- (d) whether the person has previously been found, in proceedings under this Act, to have engaged in any similar conduct; and
- (e) any other matter it considers relevant.

**234 Jurisdiction is civil jurisdiction**

The jurisdiction conferred by this Division is part of the civil jurisdiction of the court.

**235 Contravention of 2 or more provisions**

If the conduct of a person constitutes a contravention of 2 or more provisions of this Act, an amount may be recovered from the person under this Division in relation to the contravention of any one or more of the provisions but the person is not liable to pay more than one amount as a civil penalty in relation to the same conduct.

**236 Proceeding to be stayed if criminal proceedings commenced**

- (1) This section applies to proceedings for:
  - (a) an order under this Division that a person pay an amount as a civil penalty in relation to a contravention of this Act; or
  - (b) enforcement of an order mentioned in paragraph (a).

- (2) The proceedings are stayed if criminal proceedings are commenced or have already commenced against the person for an offence constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.
- (3) The stayed proceedings may only be resumed if the criminal proceedings do not result in a formal finding of guilt being made against the person.

### **237 Evidence not admissible in criminal proceedings**

- (1) Evidence of information given or evidence of the production of documents by a person is not admissible in criminal proceedings against the person if:
  - (a) the person gave the evidence or produced the documents in the course of negotiations or proceedings under this Division for the recovery of an amount as a civil penalty in relation to a contravention of this Act; and
  - (b) the conduct alleged to constitute the offence is substantially the same as the conduct that was alleged to constitute the contravention.
- (2) Subsection (1) does not apply to criminal proceedings in respect of the making of a false or misleading statement.

### **238 Orders as to costs**

In any proceedings under this Division, the court may make any order as to costs that it considers just and reasonable, including an order requiring the reimbursement of the costs and expenses incurred by the CEO in investigating the alleged offence.

### **239 Time for bringing proceedings under this Division**

Proceedings for an order under this Division may be commenced at any time within 3 years after the date of the alleged contravention.

## **Part 13 Offences, penalties and criminal proceedings**

### **Division 1 Offences**

#### **240 Offence to provide false or misleading information**

- (1) A person commits an offence if:
  - (a) the person intentionally gives information to another person; and

- (b) the other person is a relevant person; and
- (c) the information is false or misleading and the person has knowledge of that circumstance; and
- (d) the relevant person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty:.

(2) A person commits an offence if:

- (a) the person intentionally gives a document to another person; and
- (b) the other person is a relevant person; and
- (c) the document contains false or misleading information and the person has knowledge of that circumstance; and
- (d) the relevant person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty:.

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

(4) It is a defence to a prosecution for an offence against subsection (2) if the person, when giving the document:

- (a) draws the misleading aspect of the document to relevant person's attention; and
- (b) to the extent to which the person can reasonably do so, gives the relevant person the information necessary to remedy the misleading aspect of the document.

(5) In this section an environmental auditor is acting in an official capacity when carrying out an environmental audit directed to be carried out under Part 10, Division 3 or a function under section 165.

(6) In this section:

***relevant person*** means:

- (a) the Minister; or
- (b) the CEO; or
- (c) the NT EPA; or

- (d) an environmental officer; or
- (e) an environmental auditor

**241 Offence to fail to comply with court order**

A person commits an offence if the person fails to comply with an order under section 199 or 220.

**242 Continuing offences**

- (1) This section applies if a court has found a person guilty of a specified environmental offence or an offence against section 174.
- (2) The court may, in addition to any penalty imposed for the offence, impose a penalty not exceeding 10 penalty units for each day during which the offence continues after the offence was committed.

**243 Liability of occupier**

- (1) An occupier of land must take reasonable steps and exercise due diligence, having regard to the nature and extent of the occupation, to prevent a relevant offence occurring on the land.
- (2) An occupier of land is taken to have committed a relevant offence if:
  - (a) a person (the offender) commits a specified environmental offence; and
  - (b) the offence occurs wholly or partly on the land or part of the land.
- (3) It is a defence to a prosecution for an offence taken to have been committed under subsection (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).
- (5) This section does not affect the liability of the offender.
- (6) This section applies whether or not the offender is prosecuted for, or found guilty of, the relevant offence.
- (7) In this section:

**relevant offence** means:

- (a) a specified environmental offence; or

- (b) an offence against section 175.

#### **244 Liability of owner**

- (1) For section 243, an owner of land is taken to be an occupier of the land unless the owner proves that at the time the offence was committed:
- (a) the owner was not the occupier of the land; and
- (b) the owner was not an associated person of the occupier.
- (2) The defendant has the legal burden of proof in relation to a matter mentioned in subsection (1).
- (3) In this section:

**associated person** means an employee, agent, licensee, contractor or subcontractor.

#### **245 Criminal liability of executive officer of body corporate**

- (1) An executive officer of a body corporate commits an offence if:
- (a) the body corporate commits an offence by contravening a declared provision of this Act (a **relevant offence**) and the officer was reckless about whether the contravention would happen; and
- (b) the officer was in a position to influence to conduct of the body corporate in relation to the contravention; and
- (c) the officer recklessly failed to take reasonable steps to prevent the contravention.

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

- (2) Strict liability applies to subsection (1)(b).
- (3) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the contravention, a court must consider the following:
- (a) any action the officer took directed towards ensuring the following (to the extent the action is relevant to the contravention):
- (i) the body corporate arranged regular professional assessments of the body corporate's compliance with the contravened provisions;

- (ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);
  - (iii) the body corporate's representatives and contractors had a reasonable knowledge and understanding of the requirement to comply with the contravened provision;
- (b) any action the officer took when the officer became aware that the contravention was, or could be, about to happen.
- (4) Subsection (3) does not limit the matters the court may consider.
- (5) This section does not affect the liability of the body corporate.
- (6) This section applies whether or not the body corporate is prosecuted for, or convicted of, the relevant offence.
- (7) This section does not apply if the body corporate would have a defence to a prosecution for the relevant offence.

- (8) In this section:

**declared provision** means:

- (a) a specified environmental offence; or
- (b) a provision of the regulations prescribed by regulation.

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

#### **246 Court may order reimbursement of investigation costs**

- (1) This section applies if a person is found guilty of an offence against this Act.
- (2) The court may, in addition to any other order it may make under this Act or the *Sentencing Act 1995*, make an order requiring the offender to reimburse the costs and expenses incurred by the CEO in investigating the offence.

#### **247 Alternative verdicts**

- (1) This section applies if, in a proceeding against a person charged with an offence against a provision mentioned in Schedule 4 (the **prosecuted offence**), the trier of fact:
  - (a) is not satisfied beyond reasonable doubt that the person committed the prosecuted offence; but

- (b) is satisfied beyond reasonable doubt that the person committed the offence specified in Schedule 4 as the alternative offence for the prosecuted offence.
- (2) The trier of fact may find the person not guilty of the prosecuted offence but guilty of the alternative offence.

## **Division 2 Specified environmental offences**

### **248 Principles to be applied in imposing a penalty for specified environmental offences**

When imposing a penalty on a person for a specified environmental offence, the court must have regard to the following to the extent that they are relevant:

- (a) any benefit or likely benefit obtained by the offender in committing the offence and the desirability of fixing a penalty that outweighs the benefit or potential benefit of the conduct;
- (b) the extent of the environmental harm caused, including whether the harm is long-term or irreversible;
- (c) whether there is a need to deter cumulative impacts of conduct of this kind by the offender and others;
- (d) whether there is a need to send a message to a particular industry that common industry practices do not comply with the environmental duty;
- (e) the extent of any efforts by the offender to minimise or remediate the environmental harm;
- (f) the extent to which the offender made efforts to comply with the environmental duty and the environmental approval;
- (g) any history of non-compliance with warnings by the NT EPA, including warnings related to the conduct specifically and warnings related to the environmental duty generally;
- (h) whether the offender ignored risks identified by employees and others;
- (i) whether there was deliberate concealment of the conduct or of the illegal nature of the conduct;
- (j) any other matters the court considers relevant.



**249 Additional court orders where specified environmental offence proved**

If a person is found guilty of a specified environmental offence, the court, in addition to any other order that it may make under this Act or the *Sentencing Act 1995*, may having regard to the nature of the offence and the circumstances of the offence make any orders it considers appropriate including the following:

- (a) an order that the offender must take specified measures within a specified time:
  - (i) to prevent the offence occurring again; or
  - (ii) to remediate any environmental harm resulting from the offence; or
  - (iii) to enhance the environment in an area for public benefit;
- (b) an order requiring the offender to reimburse the costs and expenses incurred by the CEO or the NT EPA in investigating the offence;
- (c) an order requiring the offender to compensate the CEO for the costs of taking any remedial or preventive action that was made necessary as a result of the act or omission that constituted the offence;
- (d) an order directing the offender to pay to the CEO an amount that the court estimates will not exceed the financial, monetary or economic benefit that the offender or a person associated with the offender has gained or can reasonably be expected to gain as a result of the commission of the offence;
- (e) an order directing the offender to pay an amount in compensation to any person who has suffered loss or damage as a result of the commission of the offence;
- (f) an order requiring the offender to publicise the offence and the environmental consequences in a specified manner.

**250 CEO may take measures if offender does not**

- (1) If the offender fails to take any measures specified by order under section 249(a), the CEO may take those measures.
- (2) The CEO may recover the reasonable costs of taking any measures under subsection (1) in a court of competent jurisdiction as a debt due to the Territory.

- (3) A debt mentioned in subsection (2) may be recorded under the *Land Title Act 2000* as a charge on any land owned by the offender.

### **Division 3 Criminal proceedings**

#### **251 Who can commence proceedings**

- (1) An environmental officer may commence a proceeding for an offence against this Act.
- (2) An environmental officer other than a member of the police force must obtain the consent of the following before commencing the proceeding:
- (a) the NT EPA in relation to an offence under the following provisions:
    - (i) section 47;
    - (ii) section 48;
    - (iii) section 69;
    - (iv) section 140(1);
    - (v) section 146(1) if the audit was directed by the NT EPA under section 138;
    - (vi) section 147 if the audit was directed by the NT EPA under section 139;
    - (vii) section 148(3) if the request was made by the NT EPA;
    - (viii) section 181;
    - (ix) section 241 if the relevant person is the NT EPA;
    - (x) section 245 if the relevant offence was an offence referred to in subparagraphs (i) to (ix); or
  - (b) the CEO in any other case.

#### **252 Time for commencing prosecution**

A prosecution for a specified environmental offence must be commenced not more than 3 years after the later of:

- (a) the date on which the offence was committed; and
- (b) the date on which evidence of the offence first came to the attention of the CEO or the NT EPA, as the case requires.

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

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

**Part 14 Review of decisions****254 Standing for judicial review**

Any person may seek judicial review of a decision of the Minister, the CEO, the NT EPA or an environmental officer under this Act whether or not any right of the person has been affected by the or as a consequence of the decision.

**255 Review by Civil and Administrative Tribunal**

- (1) The Civil and Administrative Tribunal has jurisdiction to review a decision (a **reviewable decision**) specified in Schedule 3.
- (2) An affected person, for a reviewable decision, is a person (including an eligible person) specified in Schedule 3 for that decision.
- (3) An affected person for a reviewable decision may apply to the Civil and Administrative Tribunal for review of the decision.
- (4) In this section **eligible person** means any of the following:
  - (a) a person who is directly or indirectly affected by the decision;
  - (b) a member of an environmental, community or industry organisation, whether incorporated or not;
  - (c) an Aboriginal Land Council;
  - (d) a Registered Native Title Prescribed Body Corporate or a registered claimant under the *Native Title Act 1993* (Cth);
  - (e) a local government body;
  - (f) a person who has made a genuine and valid submission during an assessment or approval process under this Act.

- (5) For subsection (4)(f), a ***genuine and valid submission*** by a person does not include:
- (a) a submission by the person in the form of a form letter or petition prepared by another body or organisation;
  - (b) a submission made after the end of the submission period, unless the Civil and Administrative Tribunal considers that in the circumstances it should be considered a genuine and valid submission.

*Note for section 246*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to the Tribunal for review and other relevant matters in relation to reviews.*

## **Part 15            General matters**

### **Division 1        Delegation**

#### **256            Delegation by Minister**

Subject to section 55, the Minister may delegate any of the Minister's powers and functions under this Act to the CEO or another person.

#### **257            Delegation by CEO**

The CEO may delegate any of the CEO's powers and functions under this Act to a person.

### **Division 2        Public register**

#### **258            Public register**

- (1) The CEO must keep a public register for the purposes of this Act.
- (2) The public register may be kept in a form determined by the CEO.
- (3) The NT EPA may include information in the public register if required by this Act or the regulations.
- (4) The public register must include the information and documents prescribed by the regulations in relation to the matters mentioned in Schedule 1.

### **Division 3      Directions to provide information**

#### **259      Direction notice**

- (1) The Minister may by instrument direct proponents of actions or approval holders to provide information for the following purposes:
  - (a) to assist the assessment of an action;
  - (b) to assist the environmental approval process;
  - (c) to assist the monitoring of actions;
  - (d) to assist in identifying and understanding the current quality of the environment;
  - (e) to assist in identifying changes to the quality of the environment over time;
  - (f) to assist in identifying and monitoring impacts on the environment.
- (2) The direction instrument must specify:
  - (a) the time or times for providing the information; and
  - (b) the periods to which the information must relate; and
  - (c) the required methodology for collecting the information; and
  - (d) the required methods for reporting the information and the methodology used; and
  - (e) the person to whom the information must be provided; and
  - (f) the prescribed matters.
- (3) The direction instrument may make different directions for:
  - (a) different classes of proponents or approval holders; or
  - (b) different classes of actions; or
  - (c) different parts of the Territory.
- (4) A direction instrument made under this section must be published in the *Gazette*.

## **260      Methodologies**

- (1) The CEO or the NT EPA may specify methodologies to be used for the purposes of section 259.
- (2) A methodology may refer to a published standard.
- (3) The CEO or NT EPA must publish a methodology specified under this section.

## **261      Proponent or approval holder to provide information**

- (1) A proponent of an action or an approval holder commits an offence if the proponent or the approval holder fails to comply with a direction notice under section 259.

Maximum penalty:

- (2) Subsection (1) does not apply to a proponent or an approval holder in relation to information if an exemption is granted under section 262 in relation to that information.

## **262      Proponent or approval holder may seek exemption**

- (1) A proponent or an approval holder may apply to the Minister for an exemption from compliance with a direction notice under section 259 on the ground that it would be unreasonable for the proponent or approval holder to provide the required information.
- (2) The Minister may grant or refuse an application under subsection (1).
- (3) The Minister must publish a decision under subsection (2) and the reasons for the decision.

## **263      Publication of information**

The Minister or the CEO may publish any information provided by a proponent or an approval holder under this Division.

## **Division 4      Report by CEO**

### **264      CEO to report on enforcement and compliance**

- (1) The CEO must publish a report on all enforcement measures and compliance measures taken under this Act.
- (2) The CEO may determine the form of the report which may include:
  - (a) a separate published report;

- (b) a report recorded on the public register;
- (c) a report included in the annual report of the Agency.

## **Division 5      Guidance and procedural documents**

### **265      Guidance documents**

- (1) The Minister and the CEO may publish guidance documents in relation to any requirements or processes under this Act.
- (2) The purpose of a guidance document is to provide advice on the operation of this Act.
- (3) A guidance document must not be inconsistent with this Act.
- (4) A guidance document may refer to or adopt a published standard as in force at a specified time or as in force from time to time.

### **266      Approved forms**

The CEO may approve forms for this Act.

## **Division 6      Regulations**

### **267      Regulations**

- (1) The Administrator may make regulations under this Act.
- (2) A regulation may:
  - (a) prescribe fees for this Act; or
  - (b) provide for an offence against a regulation to be an offence of strict or absolute liability; or
  - (c) subject to paragraph (d), provide for a fine not exceeding 200 penalty units for an offence against a regulation; or
  - (d) for an offence against a regulation that is an offence of strict or absolute liability, provide for a fine not exceeding 100 penalty units; or
  - (e) provide for the application, adoption or incorporation (with or without changes) of the whole or part of a document as in force or existing at a particular time or from time to time; or

- 
- (f) exempt a person or class of person from complying with this Act or a specified provision of this Act.

*Note for section 267*

*See also Part VII, Division 2 of the Interpretation Act.*

## **Part 16 Transitional provisions**

### **268 Transitional regulations**

- (1) A regulation may provide for a matter of a transitional nature:
  - (a) because of the enactment of this Act; or
  - (b) to otherwise allow or facilitate the transition from the operation of the repealed Act to this Act.
- (2) The regulation may have retrospective operation to a day not earlier than the commencement day.
- (3) However, to the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Territory or a statutory authority) by:
  - (a) decreasing the person's rights; or
  - (b) imposing liabilities on the person.
- (4) The regulation must declare it is made under this section.
- (5) This section, and each regulation made under it, expire 12 months after the commencement day.

## **Part 17 Repeal**

### **269 Act repealed**

The *Environmental Assessment Act 1982* is repealed.



## **Schedule 1 Public register**

section 258

The public register must include the documents and information prescribed by the regulations in relation to:

- (a) environmental referrals; and
- (b) environmental approvals; and
- (c) mandatory environmental audits; and
- (d) environmental bonds;
- (e) environment protection notices.

## **Schedule 2 Environmental offsets register**

section 120

The offsets register must include the following information in relation to each offset measure mentioned in section 120(2):

- (a) the approval or condition requiring the offset;
- (b) the proponent of the action for which the approval is required;
- (c) the area or region in which the action is or is to be located;
- (d) the type of offset;
- (e) the environmental impacts being offset;
- (f) any applicable offset area;
- (g) the timeframe for implementation of the offset;
- (h) the information required by regulation.

## Schedule 3 Reviewable decisions and affected persons

section 255

Reviewable decision	Affected person
Decision of the Minister to declare a Territory environmental objective under section 36	An eligible person
Decision of the Minister to declare an environmental trigger under section 37	An eligible person
Decision of the Minister to amend or revoke a Territory environmental objective under section 46	An eligible person
Decision of the Minister to amend or revoke an environmental trigger under section 46	An eligible person
Decision of the Minister to declare a protected environmental area under section 49	An eligible person
Decision of the Minister to declare a prohibited action under section 50	An eligible person
Decision of the Minister to revoke a declaration under section 54	An eligible person
A decision of the Minister to issue an approval notice under section 76	The proponent An eligible person
A decision of the Minister to refuse to issue an approval notice under section 76	The proponent An eligible person
A decision of the Minister to grant an environmental approval under section 86	The proponent An eligible person
A decision of the Minister to refuse to grant an environmental approval under section 86	The proponent An eligible person

Reviewable decision	Affected person
A decision of the Minister to grant an environmental approval under section 88	The proponent An eligible person
A decision of the Minister to refuse an environmental approval under section 88	The proponent An eligible person
A decision of the Minister to refuse to grant an environmental approval under section 91	The proponent An eligible person
A decision of the Minister to grant an environmental approval under section 93	The proponent An eligible person
A decision of the Minister to impose a condition on an environmental approval under section 94	The approval holder An eligible person
A decision of the Minister to extend a time under section 100	The approval holder An eligible person
A decision of the Minister not to extend a time under section 100	The approval holder An eligible person
A decision of the Minister to amend an environmental approval under section 104	The approval holder An eligible person
A decision of the Minister to refuse a request to amend an environmental approval under section 104	The approval holder An eligible person
A decision of the Minister to revoke an environmental approval under section 105	The approval holder An eligible person
A decision of the Minister to suspend an environmental approval under section 106	The approval holder An eligible person
A decision of the Minister under section 109 to waive compliance with	The approval holder

Reviewable decision	Affected person
section 109(2)	An eligible person
A decision of the Minister under section 109 not to waive compliance with section 109(2)	The approval holder An eligible person
A decision of the Minister under section 110 to revoke an environmental approval	The approval holder An eligible person
A decision of the Minister under section 110 not to revoke an environmental approval	The approval holder An eligible person
A decision of the Minister under section 112 to revoke an entitlement to be an approval holder	The approval holder An eligible person
A decision of the Minister under section 112 to suspend an entitlement to be an approval holder	The approval holder An eligible person
A decision of the Minister to approve an application for the transfer of an environmental approval under section 118	The approval holder The proposed transferee An eligible person
A decision of the Minister to refuse an application for the transfer of an environmental approval under section 118	The approval holder The proposed transferee An eligible person
A decision by the NT EPA to give a direction to carry out an environmental audit under section 138	A person to whom the direction is given
A decision by the CEO to give a direction to carry out an environmental audit under section 139	A person to whom the direction is given

<b>Reviewable decision</b>	<b>Affected person</b>
A decision of the CEO to issue an environment protection notice under section 164	The person to whom the notice is issued  An eligible person
A decision of an environmental officer to issue an environment protection notice under section 167	The person to whom the notice is issued  An eligible person
A decision under section 169 to record an environment protection notice in the Land Register	An owner or occupier of the land
A decision of the NT EPA to issue a stop work notice under section 176	The person to whom the notice is issued
A decision of the Minister to issue a closure notice under section 182/182	The person to whom the notice is issued
A decision under section 185 to record a closure notice in the Land Register	An owner or occupier of the land
A decision of the Minister to issue a closure certificate under section 195	The approval holder  An eligible person
A decision of the Minister not to issue a closure certificate under section 195	The approval holder  An eligible person
A decision of the CEO to give an authorisation under section 206	The applicant for the authorisation  An eligible person
A decision of the CEO to refuse to give an authorisation under section 206	The applicant for the authorisation  An eligible person
A decision under this Act prescribed by the regulations	A person prescribed by the regulations in relation to that decision



**Schedule 4 Alternative verdicts**

---

**Prosecuted offence**

**Alternative offence**

---