



Environment Protection (Alligator Rivers Region) Amendment Act 1993

No. 17 of 1994

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SCHEDULE

FURTHER AMENDMENTS OF THE PRINCIPAL ACT



Environment Protection (Alligator Rivers Region) Amendment Act 1993

No. 17 of 1994

An Act to amend the Environment Protection (Alligator Rivers Region) Act 1978, and for related purposes

[Assented to 19 January 1994]

The Parliament of Australia enacts:

Short title etc.

1.(1) This Act may be cited as the *Environment Protection (Alligator Rivers Region) Amendment Act 1993*.

(2) In this Act, “Principal Act” means the *Environment Protection (Alligator Rivers Region) Act 1978*¹.

Interpretation

2. Section 3 of the Principal Act is amended:

- (a) by omitting from subsection (1) the definitions of “appointed member of the Committee”, “appointed member”, “Co-ordinating Committee”, “Committee”, “member of the Committee” and “member” and substituting the following definitions:

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“**‘appointed member’** means a member of the Advisory Committee other than the Supervising Scientist or the Director of National Parks and Wildlife;

‘Committee’ means the Advisory Committee or the Technical Committee, as the context requires;

‘member’ means a member of the Advisory Committee, or a member of the Technical Committee, as the context requires;”;

(b) by inserting in subsection (1) the following definitions:

“**‘Advisory Committee’** means the Advisory Committee established under section 16;”;

‘Chairperson’ means the Chairperson of the Advisory Committee, or the Chairperson of the Technical Committee, as the context requires;

‘Technical Committee’ means the Technical Committee established under section 22A;”.

Insertion of new section

3. After section 5A of the Principal Act the following section is inserted:

Function of the Supervising Scientist in relation to environmental matters outside the Region

“5B.(1) The Supervising Scientist has the function of giving to the Minister, on the Minister’s request, scientific and technical advice on environmental matters outside the Region.

“(2) The Supervising Scientist may perform that function to the extent only that it is not in excess of the functions that may be conferred on him or her by virtue of any of the legislative powers of the Parliament, and, in particular, may perform that function:

- (a) in so far as it is appropriate for the function to be performed by the Supervising Scientist on behalf of the Government of the Commonwealth as the national Government of Australia; or
- (b) for purposes for which it is appropriate for the Parliament as the national Parliament of Australia to authorise the Supervising Scientist to perform functions; or
- (c) by way of expenditure of money that is available for the purposes of the Supervising Scientist in accordance with an appropriation made by the Parliament; or
- (d) in the course of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State; or
- (e) for purposes related to external affairs; or

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(f) for purposes in or in relation to a Territory.”.

Substitution of new section

4. Section 8 of the Principal Act is repealed and the following section is substituted:

Appointment

“8. The Supervising Scientist is to be appointed under the *Public Service Act 1922*.”.

Repeal of sections

5. Sections 9, 10, 11, 12, 13 and 14 of the Principal Act are repealed.

Substitution of heading to Part III

6. The heading to Part III is omitted and the following heading is substituted:

“PART III—COMMITTEES”.

Insertion of Division heading

7. Before section 16 of the Principal Act the following heading is inserted:

“Division 1—Advisory Committee”.

Repeal and substitution of sections

8. Sections 16 and 17 of the Principal Act are repealed and the following sections are substituted:

Advisory Committee

“16. There is to be an Advisory Committee.

Functions of the Advisory Committee

“17. The functions of the Advisory Committee are:

- (a) to provide a formal forum for consultation with persons and bodies on:
 - (i) matters relating to the effects on the environment in the Alligator Rivers Region of uranium mining operations in the Region; and
 - (ii) matters relating to environmental research conducted in the Region that are referred to it by the Technical Committee; and

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(b) such other functions as are conferred on it by this Act.”.

Membership of the Advisory Committee

9. Section 18 of the Principal Act is amended:

- (a) by omitting from subsection (1) “Co-ordinating Committee shall consist of” and substituting “Advisory Committee consists of the following members”;
- (b) by inserting before paragraph (1)(a) the following paragraph:
“(aa) a Chairperson appointed by the Minister;”;
- (c) by inserting after paragraph (1)(d) the following paragraph:
“(da) one member nominated by an environmental organisation which has been nominated by the Minister; and”.
- (d) by inserting after subsection (1) the following subsection:
“(1A) The Minister must not appoint as the Chairperson:
 - (a) the Supervising Scientist or a member of the staff referred to in section 26; or
 - (b) the Director of National Parks and Wildlife or a person who is one of the persons who constitute the Australian National Parks and Wildlife Service under section 34 of the *National Parks and Wildlife Conservation Act 1975*.”.

Meetings of the Advisory Committee

10. Section 22 of the Principal Act is amended:

- (a) by omitting from subsection (1) “Co-ordinating Committee” and substituting “Advisory Committee”;
- (b) by omitting from subsections (3), (5) and (6) “Supervising Scientist” and substituting “Chairperson”;
- (c) by inserting in subsection (8) “summary” after “cause a”.

Insertion of Division

11. After Division 1 of Part III of the Principal Act the following Division is inserted in Part III:

“Division 2—Technical Committee

Technical Committee

“22A. There is to be a Technical Committee.

Functions of the Technical Committee

“22B.(1) The functions of the Technical Committee are:

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- (a) to consider programs for research into, and programs for the collection and assessment of information relating to, the effects on the environment in the Alligator Rivers Region of uranium mining operations in the Region; and
- (b) to keep under review programs and the carrying out of programs, referred to in paragraph (a); and
- (c) to make recommendations to the Minister on:
 - (i) the nature and extent of research necessary to protect and restore the environment in the Alligator Rivers Region; and
 - (ii) the most appropriate organisations to undertake the research referred to in subparagraph (i); and
- (d) to refer to the Advisory Committee matters relating to programs, and the carrying out of programs, referred to in paragraph (a).

“(2) The Technical Committee must, within 15 days of making a recommendation to the Minister under paragraph (1)(c), give to the Advisory Committee a copy of the recommendation.

“(3) The Advisory Committee may give to the Minister written comments on any such recommendations.

Membership of the Technical Committee

“22C.(1) The Technical Committee is to consist of:

- (a) a Chairperson appointed by the Minister; and
- (b) one member, with scientific or technical qualifications, appointed by the Minister on the nomination of the appropriate Aboriginal Land Council; and
- (c) such other members as are from time to time appointed by the Minister.

“(2) The Chairperson must have scientific or technical qualifications.

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

“(4) The Minister must not appoint as the Chairperson:

- (a) the Supervising Scientist or a member of the staff referred to in section 26; or
- (b) the Director of National Parks and Wildlife or a person who is one of the persons who constitute the Australian National Parks and Wildlife Service under section 34 of the *National Parks and Wildlife Conservation Act 1975*.

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Resignation

“22D. A member of the Committee may resign his or her office by writing signed and delivered to the Minister.

Termination of appointment

“22E.(1) If a member of the Committee fails, without reasonable excuse, to comply with subsection (2), the Minister must terminate his or her appointment.

“(2) A member of the Committee who has a direct or indirect pecuniary interest in a matter being considered by the Committee otherwise than as a member of, and in common with the other members of, an incorporated company that consists of more than 25 persons and of which he or she is not a director must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Committee.

“(3) A disclosure under subsection (2) must be recorded in the minutes of the meeting.

Meetings of the Technical Committee

“22F.(1) The Technical Committee must hold such meetings as are necessary for the performance of its functions.

“(2) Subject to this section, meetings of the Committee must be held at such times and places as the Committee from time to time determines.

“(3) The Chairperson may at any time convene a meeting of the Committee.

“(4) The members required to constitute a quorum at a meeting of the Committee, and all matters relating to procedures at meetings of the Committee (other than matters expressly provided for in this section), are as determined by the Minister by instrument in writing.

“(5) The Chairperson is to preside at all meetings of the Committee at which he or she is present.

“(6) If the Chairperson is not present at a meeting of the Committee, the members present must elect one of their number to preside at the meeting.

“(7) If the Minister is of the opinion that it would not, because of the direct or indirect pecuniary interests of a particular member or otherwise, be proper for the member to be present during the consideration by the Committee of particular matters, he or she may, by instrument in writing, direct that that member is not to be present during the consideration by the Committee of those matters.

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“(8) The Committee must cause a summary record of its proceedings to be kept.

“(9) The Committee may invite a person to attend a meeting of the Committee for the purpose of advising or informing the Committee on any matter.”.

Insertion of new section

12. After section 24A of the Principal Act the following section is inserted:

Institute may undertake other environmental research

“24B.(1) The Institute may undertake, on a commercial basis, research on environmental matters for other persons.

“(2) The Institute may undertake the research to the extent only that it is not in excess of the powers that may be conferred on the Institute by virtue of any of the legislative powers of the Parliament, and, in particular, may undertake the research:

- (a) in so far as it is appropriate for the research to be performed by the Institute on behalf of the Government of the Commonwealth as the national Government of Australia; or
- (b) for purposes for which it is appropriate for the Parliament as the national Parliament of Australia to authorise the Institute to undertake the research; or
- (c) in the course of, or in relation to, trade and commerce with other countries, among the States, between Territories or between a Territory and a State; or
- (d) for purposes related to external affairs; or
- (e) for purposes in or in relation to a Territory.”.

Staff

13.(1) Section 26 of the Principal Act is amended:

- (a) by omitting from subsection (1) “Subject to subsection (2), the staff” and substituting “The staff”;
- (b) by omitting subsections (2), (3) and (4).

(2) Any contract entered into under subsection 26(4) of the Principal Act that was in force immediately before the commencement of this Act continues in force after that commencement as if it had been entered into by the Commonwealth as a party to the agreement.

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Secrecy

14. Section 31 of the Principal Act is amended by inserting in subsection (6) “(as in force immediately before the commencement of the *Environment Protection (Alligator Rivers Region) Amendment Act 1993*)” after “subsection 26(4)”.

Reports

15. Section 36 of the Principal Act is amended:

- (a) by omitting from subsection (5) “The” (first occurring) and substituting “Subject to subsection (5A), the”;
- (b) by inserting after subsection (5) the following subsection:

“(5A) Subsection (5) does not apply to a report furnished to the Minister in connection with the performance by the Supervising Scientist of the function under section 5B.”.

Further amendments of the Principal Act

16. The Principal Act is further amended as set out in the Schedule.

SCHEDULE

Section 16

FURTHER AMENDMENTS OF THE PRINCIPAL ACT

Section 3 (definition of “appropriate Aboriginal Land Council”):

After “his” insert “or her”.

Section 3 (definition of “environment”):

Omit the definition, substitute:

“ ‘environment’ includes all aspects of the surroundings of people, whether affecting people as individuals or as social groupings;”.

Paragraph 5(f):

After “him” insert “or her”.

Section 6:

After “his” insert “or her”.

Section 7:

(a) After “him” insert “or her”.

(b) After “his” (twice occurring) insert “or her”.

Subsection 18(2):

After “his” insert “or her”.

Paragraph 18(5)(a):

After “he” insert “or she”.

Subsection 18(7):

Omit “his”, substitute “the”.

Section 19:

(a) After “his” (first occurring) insert “or her”.

(b) Omit “under his hand”, substitute “signed and”.

Subsection 20(1):

Omit “his”, substitute “the”.

Subsection 20(2):

(a) After “he” insert “or she”.

(b) After “his” (twice occurring) insert “or her”.

Subsection 21(3):

After “his” insert “or her”.

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Subsection 21(4):

After “he” insert “or she”.

Paragraph 21(6)(a):

After “he” insert “or she”.

Subsection 21(7):

- (a) After “his” (first occurring) insert “or her”.
- (b) Omit “under his hand”, substitute “signed and”.

Subsection 22(4):

Omit “under his hand”, substitute “in writing”.

Subsection 22(5):

After “he” insert “or she”.

Subsection 22(7):

- (a) After “he” insert “or she”.
- (b) Omit “under his hand”, substitute “in writing”.

Paragraphs 27(1)(a) and (b):

After “him” insert “or her”.

Subsection 27(1):

After “his” (wherever occurring) insert “or her”.

Subsection 27(2):

After “him” insert “or her”.

Subsection 29(1):

After “his” (wherever occurring) insert “or her”.

Subsection 30(3):

After “his” insert “or her”.

Subsection 31(2):

- (a) After “him” insert “or her”.
- (b) After “his” insert “or her”.

Subsection 31(3):

After “him” insert “or her”.

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Subsection 31(4):

- (a) After “him” (twice occurring) insert “or her”.
- (b) After “his” insert “or her”.

Section 32:

After “his” (wherever occurring) insert “or her”.

Paragraphs 33(a) and (b):

After “his” insert “or her”.

Section 34:

After “his” (twice occurring) insert “or her”.

Subsection 35(1):

- (a) After “him” insert “or her”.
- (b) After “his” insert “or her”.

Paragraph 36(2)(c):

After “his” insert “or her”.

Paragraph 36(5)(a):

After “him” (twice occurring) insert “or her”.

Paragraph 36(5)(b):

After “him” insert “or her”.

NOTE

1. No. 28, 1978, as amended. For previous amendments, see No. 39, 1983; Nos. 63 and 72, 1984; Nos. 65 and 166, 1985; No. 17, 1987; and No. 179, 1991.

*[Minister’s second reading speech made in—
Senate on 28 October 1993
House of Representatives on 21 December 1993]*