



# **Natural Heritage Trust of Australia Act 1997**

**Act No. 76 of 1997 as amended**

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# **An Act to establish the Natural Heritage Trust of Australia Reserve, and for related purposes**

## **Preamble**

The Parliament of Australia recognises the need for urgent action to redress the current decline, and to prevent further decline, in the quality of Australia's natural environment.

There is a national crisis in land and water degradation and in the loss of biodiversity.

There is a need to conserve Australia's environmental infrastructure, to reverse the decline in Australia's natural environment and to improve the management of Australia's natural resources.

There is a need for the Commonwealth to provide national leadership and work in partnership with all levels of government and the whole community, recognising, among other things, that many environmental issues and problems are not limited by State and Territory borders.

There is a need to integrate the objectives of environmental protection, sustainable agriculture and natural resources management consistent with the principles of ecologically sustainable development.

It is essential that government leadership be demonstrated, and that the Australian community be involved, in relation to these matters.

The Commonwealth Government should work cooperatively with State governments to achieve effective outcomes in matters relating to environmental protection, natural resources management and sustainable agriculture. Those cooperative working relationships should involve entering into inter-governmental agreements which reflect the support of the States for the purposes of the Natural Heritage Trust of Australia Reserve and promote the development of complementary policies and programs.

## Preamble

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Australia's rural community should have a key role in the ecologically sustainable management of Australia's natural resources.

Australia's natural environment is central to Australia's and Australians' health and non-material well-being and to Australia's present and future economic prosperity. Accordingly, present and future generations of Australians will benefit from the ecologically sustainable management of the natural environment.

A comprehensive, integrated response to these matters is necessary.

The above considerations are taken into account by the Parliament of Australia in enacting the law that follows.

The Parliament of Australia enacts:

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## Part 1—Introduction

### 1 Short title [see Note 1]

This Act may be cited as the *Natural Heritage Trust of Australia Act 1997*.

### 2 Commencement [see Note 1]

This Act commences on the day on which it receives the Royal Assent.

### 3 Simplified outline

The following is a simplified outline of this Act:

- This Act establishes the Natural Heritage Trust of Australia Reserve.
- The main source of money for the Reserve is \$1.35 billion from the partial sale of Telstra.
- The main objective of the establishment of the Reserve is to conserve, repair and replenish Australia's natural capital infrastructure.
- Money in the Reserve will be spent on the environment, sustainable agriculture and natural resources management.
- The Natural Heritage Trust Advisory Committee is established.

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## Part 2—The Natural Heritage Trust of Australia Reserve

### 4 Establishment of the Natural Heritage Trust of Australia Reserve

The Natural Heritage Trust of Australia Reserve is established.

### 5 Nature of the Reserve

- (1) After the commencement of the *Financial Management and Accountability Act 1997*, the Reserve is a component of the Reserved Money Fund.
- (2) Before the commencement of the *Financial Management and Accountability Act 1997*, the Reserve is a trust account for the purposes of section 62A of the *Audit Act 1901*.
- (3) The Trust Fund established by the *Audit Act 1901* is appropriated to the extent necessary to achieve the transition of the Reserve from the scheme of the *Audit Act 1901* to the scheme of the *Financial Management and Accountability Act 1997*.

### 6 Investments and income of the Reserve

#### *Investments*

- (1) Amounts equal to income derived from the investment of money in the Reserve are to be transferred to the Reserve from the Consolidated Revenue Fund.

Note 1: Money in the Reserve may be invested in accordance with whichever of the following Acts is applicable:

- (a) the *Financial Management and Accountability Act 1997*;
- (b) the *Audit Act 1901*.

Note 2: Under section 81 of the Constitution, income from investments must be paid into the Consolidated Revenue Fund.

#### *Fixed income—uninvested money*

- (2) Within 28 days after the end of a financial year, there is to be transferred to the Reserve from the Consolidated Revenue Fund, in respect of the financial year, an amount equal to the fixed-income



percentage of the uninvested money in the Reserve as at the end of the financial year.

*Fixed-income percentage*

- (3) For the purposes of the application of subsection (2) to a particular financial year, the ***fixed-income percentage*** is:
- (a) if the financial year begins on or before 1 July 2001:
    - (i) 8%; or
    - (ii) if the Minister for Finance, by written instrument made within 28 days after the end of the financial year, determines a higher percentage—that higher percentage; or
  - (b) if the financial year begins on or after 1 July 2002:
    - (i) the percentage equal to the rate of interest earned by the Commonwealth as at the end of the financial year on deposits held with the Reserve Bank of Australia; or
    - (ii) if the Minister for Finance, by written instrument made within 28 days after the end of the financial year, determines a higher percentage—that higher percentage.

*Advances on account of fixed income*

- (4) During a financial year, the Minister for Finance may, by written instrument, determine that a specified amount is to be transferred to the Reserve from the Consolidated Revenue Fund by way of an advance on account of the amount that may become transferable to the Reserve under subsection (2) in respect of the financial year. The determination has effect accordingly.
- (5) For each \$1 transferred under subsection (4) in respect of a financial year, the amount transferred under subsection (2) in respect of the financial year is to be reduced by \$1.
- (6) If:
- (a) at the end of a financial year, the total amount transferred to the Reserve under subsection (4) in respect of the financial year;
- exceeds:
- (b) the amount (if any) that would have been transferred to the Reserve under subsection (2) in respect of the financial year if
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it were assumed that no amounts had been transferred under subsection (4) in respect of the financial year; there is to be transferred to the Consolidated Revenue Fund from the Reserve an amount equal to the excess.

**7 Money and investments not held on trust**

Money and investments of the Reserve are not held on trust (within the ordinary meaning of that expression).

## **Part 3—Purposes of the Reserve**

### **8 Purposes of the Reserve**

The purposes of the Reserve are as follows:

- (a) the National Vegetation Initiative;
- (b) the Murray-Darling 2001 Project;
- (c) the National Land and Water Resources Audit;
- (d) the National Reserve System;
- (e) the Coasts and Clean Seas Initiative;
- (f) environmental protection (as defined by section 15);
- (g) supporting sustainable agriculture (as defined by section 16);
- (h) natural resources management (as defined by section 17);
- (i) a purpose incidental or ancillary to any of the above purposes;
- (j) the making of grants of financial assistance for any of the above purposes;
- (k) an accounting transfer purpose (as defined by section 18).

Note 1: After the commencement of the *Financial Management and Accountability Act 1997*, subsection 20(5) of that Act provides that money in the Reserve may be debited for the purposes of the Reserve.

Note 2: Before the commencement of the *Financial Management and Accountability Act 1997*, subsection 62A(6) of the *Audit Act 1901* provides that money in the Reserve may be expended for the purposes of the Reserve.

### **9 Debits of proceeds from the partial privatisation of Telstra and interest earned from the Trust**

- (1) Money in the Reserve that represents proceeds of the sale of shares in Telstra may only be debited for the following purposes:
  - (a) the National Vegetation Initiative;
  - (b) the Murray-Darling 2001 Project;
  - (c) the National Land and Water Resources Audit;
  - (d) the National Reserve System;
  - (e) the Coasts and Clean Seas Initiative;
  - (f) environmental protection (as defined by section 15), being environmental protection that involves the carrying out of a project, or a program, the primary objective of which is to

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maintain or replenish Australia's environmental infrastructure;

- (g) supporting sustainable agriculture (as defined by section 16), being support that involves the carrying out of a project, or a program, the primary objective of which is to maintain or replenish Australia's environmental infrastructure;
  - (h) natural resources management (as defined by section 17), being natural resources management that involves the carrying out of a project, or a program, the primary objective of which is to maintain or replenish Australia's environmental infrastructure;
  - (i) a purpose incidental or ancillary to any of the above purposes;
  - (j) the making of grants of financial assistance for any of the above purposes.
- (2) Money in the Reserve that represents interest earned by the Trust may be debited for any purpose of the Reserve.

**10 Primary objective of the National Vegetation Initiative**

For the purposes of this Act, the primary objective of the National Vegetation Initiative is to reverse the long-term decline in the extent and quality of Australia's native vegetation cover by:

- (a) conserving remnant native vegetation; and
- (b) conserving Australia's biodiversity; and
- (c) restoring, by means of revegetation, the environmental values and productive capacity of Australia's degraded land and water.

**11 Primary objective of the Murray-Darling 2001 Project**

For the purposes of this Act, the primary objective of the Murray-Darling 2001 Project is to contribute to the rehabilitation of the Murray-Darling Basin, with a view to achieving a sustainable future for the Basin, its natural systems and its communities.

## **12 Primary objectives of the National Land and Water Resources Audit**

For the purposes of this Act, the primary objectives of the National Land and Water Resources Audit are as follows:

- (a) to estimate the direct and indirect causes and effects of land and water degradation on the quality of the Australian environment and to estimate the effects of land and water degradation on Australia's economy;
- (b) to provide a baseline for the purposes of carrying out assessments of the effectiveness of land and water degradation policies and programs.

## **13 Primary objective of the National Reserve System**

For the purposes of this Act, the primary objective of the National Reserve System is to assist with the establishment and maintenance of a comprehensive, adequate and representative system of reserves.

## **14 Primary objectives of the Coasts and Clean Seas Initiative**

For the purposes of this Act, the primary objectives of the Coasts and Clean Seas Initiative are as follows:

- (a) to ameliorate pollution problems in Australia's coastal areas;
- (b) to protect the environment in Australia's coastal areas;
- (c) to ameliorate threats to Australia's marine biodiversity;
- (d) to develop an oceans policy for Australia.

## **15 Meaning of *environmental protection***

For the purposes of this Act, *environmental protection* means:

- (a) maintaining, conserving, preserving or protecting components of the natural environment of Australia; or
- (b) restoring, improving or replenishing components of the natural environment of Australia; or
- (c) conserving or restoring Australia's biodiversity; or
- (d) developing or promoting waste minimisation in Australia; or
- (e) developing or promoting clean production in Australia; or
- (f) preventing, combating or rectifying pollution of the environment (whether natural or otherwise) of Australia; or

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- (g) carrying on research, or disseminating information, about:
  - (i) the natural environment of Australia; or
  - (ii) Australia's biodiversity.

**16 Meaning of *sustainable agriculture***

- (1) For the purposes of this Act, *sustainable agriculture* means the use of agricultural practices and systems that maintain or improve the following:
  - (a) the economic viability of agricultural production;
  - (b) the social viability and well-being of rural communities;
  - (c) the ecologically sustainable use of Australia's biodiversity;
  - (d) the natural resource base;
  - (e) ecosystems that are influenced by agricultural activities.
- (2) To avoid doubt, for the purposes of this Act, property management planning in relation to the farm unit is taken to be sustainable agriculture.

**17 Meaning of *natural resources management***

For the purposes of this Act, *natural resources management* means:

- (a) any activity relating to the management of the use, development or conservation of one or more of the following natural resources:
  - (i) soil;
  - (ii) water;
  - (iii) vegetation; or
- (b) any activity relating to the management of the use, development or conservation of any other natural resources for the purposes of an activity mentioned in paragraph (a).

**18 Meaning of *accounting transfer purpose***

For the purposes of this Act, each of the following is an *accounting transfer purpose*:

- (a) making payments under section 5 of the *Natural Resources Management (Financial Assistance) Act 1992*;

- (b) after the commencement of the *Financial Management and Accountability Act 1997*—crediting amounts to the Natural Resources Management Reserve established under the *Natural Resources Management (Financial Assistance) Act 1992*;
- (c) before the commencement of the *Financial Management and Accountability Act 1997*—crediting amounts to the Natural Resources Management Fund established under the *Natural Resources Management (Financial Assistance) Act 1992*;
- (d) making payments under agreements in force under Part 3 of the *Rural Adjustment Act 1992*, to the extent to which those payments are in connection with property management planning in relation to the farm unit.

## **19 Grant of financial assistance to a State**

- (1) This section applies if an amount is to be debited from the Reserve for the purpose of making a grant of financial assistance to a State.
- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the State.
- (3) An agreement under subsection (2) may be entered into:
  - (a) by either of the following Ministers on behalf of the Commonwealth:
    - (i) the Minister;
    - (ii) the Minister for Primary Industries and Energy; or
  - (b) jointly by both of the following Ministers on behalf of the Commonwealth:
    - (i) the Minister;
    - (ii) the Minister for Primary Industries and Energy.
- (4) An agreement under subsection (2) may establish a framework under which the Commonwealth and the State are to work cooperatively to achieve both common and complementary outcomes in relation to:
  - (a) environmental protection; and
  - (b) natural resources management; and
  - (c) sustainable agriculture.

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- (5) Subsection (4) does not limit subsection (2).
- (6) This section does not affect the operation of Part 2 of the *Natural Resources Management (Financial Assistance) Act 1992*.
- (7) This section does not affect the operation of Part 3 of the *Rural Adjustment Act 1992*.

Note: *State* is given an extended meaning by section 54.

**20 Grant of financial assistance to a person, or a body, other than a State**

- (1) This section applies if an amount is to be debited from the Reserve for the purpose of making a grant of financial assistance to a person, or a body, other than a State.
- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the person or body.
- (3) An agreement under subsection (2) may be entered into:
  - (a) by either of the following Ministers on behalf of the Commonwealth:
    - (i) the Minister;
    - (ii) the Minister for Primary Industries and Energy; or
  - (b) jointly by both of the following Ministers on behalf of the Commonwealth:
    - (i) the Minister;
    - (ii) the Minister for Primary Industries and Energy.
- (4) This section does not affect the operation of Part 3 of the *Rural Adjustment Act 1992*.

Note: *State* is given an extended meaning by section 54.

**21 Principles of ecologically sustainable development**

- (1) This section applies to a decision of a Minister to approve a proposal to spend money in the Reserve for a purpose of the Reserve.
- (2) In making that decision, the Minister concerned must have regard to:



- (a) the principles of ecologically sustainable development; and
  - (b) such other matters as the Minister concerned considers relevant.
- (3) For the purposes of this section, the *principles of ecologically sustainable development* consist of:
- (a) the following core objectives:
    - (i) to enhance individual and community well-being and welfare by following a path of economic development that safeguards the welfare of future generations;
    - (ii) to provide for equity within and between generations;
    - (iii) to protect biological diversity and maintain essential ecological processes and life-support systems; and
  - (b) the following guiding principles:
    - (i) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations;
    - (ii) 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;
    - (iii) the global dimension of environmental impacts of actions and policy should be recognised and considered;
    - (iv) the need to develop a strong, growing and diversified economy that can enhance the capacity for environmental protection should be recognised;
    - (v) the need to maintain and enhance international competitiveness in an environmentally sound manner should be recognised;
    - (vi) cost-effective and flexible measures should be adopted;
    - (vii) decisions and actions should provide for broad community involvement on issues which affect the community.

Note: The principles of ecologically sustainable development that are set out in this subsection are based on the core objectives and guiding principles that were endorsed by the Council of Australian Governments in December 1992.

## **Part 4—Crediting of amounts to the Reserve**

### **22 \$1.1 billion derived from the initial partial sale of Telstra**

- (1) For each \$1 that is received by the Commonwealth, in a particular month beginning before the date of commencement of section 22A, by way of proceeds of the sale of shares in Telstra, \$1 is to be transferred to the Reserve from the Consolidated Revenue Fund before the end of the next following month.
- (2) The total amount transferred to the Reserve under this section is not to exceed \$1.1 billion.

### **22A \$250 million derived from the subsequent partial sale of Telstra**

- (1) For each \$1 that is received by the Commonwealth, in a particular month beginning on or after the date of commencement of this section, by way of proceeds of the sale of shares in Telstra, \$1 is to be transferred to the Reserve from the Consolidated Revenue Fund before the end of the next following month.
- (2) The total amount transferred to the Reserve under this section is not to exceed \$250 million.

### **23 Budget appropriations**

- (1) This section applies if another Act appropriates an amount from the Consolidated Revenue Fund for credit to the Reserve.
- (2) The amount is to be credited to the Reserve.

### **24 Gifts and bequests**

- (1) This section applies if a gift or bequest is given or made for the purposes of the Reserve.
- (2) An amount equal to the amount of the gift or bequest is to be transferred to the Reserve from the Consolidated Revenue Fund.

### **25 Repayments of grants**

- (1) This section applies if:

- (a) money in the Reserve is spent in making a grant of financial assistance; and
  - (b) the grant is repaid, in whole or in part.
- (2) An amount equal to the repayment is to be transferred to the Reserve from the Consolidated Revenue Fund.

## **26 Commonwealth receipts under funding agreements**

- (1) This section applies if:
- (a) the Commonwealth enters into an agreement with a person or body in relation to the spending of money debited from the Reserve; and
  - (b) the agreement contains a provision requiring money to be paid or repaid to the Commonwealth in specified circumstances; and
  - (c) the Commonwealth receives money under the agreement.
- (2) An amount equal to the receipt is to be transferred to the Reserve from the Consolidated Revenue Fund.

## **27 Income from assets acquired using Reserve money**

- (1) This section applies if:
- (a) money in the Reserve is spent in acquiring property or interests; and
  - (b) an amount is received by the Commonwealth by way of income derived from the property or interests.
- (2) An amount equal to the receipt is to be transferred to the Reserve from the Consolidated Revenue Fund.

## **28 Proceeds of disposal of assets acquired using Reserve money**

- (1) This section applies if:
- (a) money in the Reserve is spent in acquiring property or interests; and
  - (b) an amount is received by the Commonwealth from the disposal of the property or interests.

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- (2) An amount equal to the receipt is to be transferred to the Reserve from the Consolidated Revenue Fund.

**29 Income from projects and related activities funded with Reserve money**

- (1) This section applies if:
  - (a) money in the Reserve is spent in carrying out a project; and
  - (b) income is received by the Commonwealth from the project or from activities carried out in relation to the project.
- (2) An amount equal to the receipt is to be transferred to the Reserve from the Consolidated Revenue Fund.

## **Part 5—Natural Heritage Trust Advisory Committee**

### **30 Establishment of Committee**

- (1) There is to be a Natural Heritage Trust Advisory Committee, which is to consist of the following members:
  - (a) a Chairman;
  - (b) not more than 9, but not fewer than 5, other members.
- (2) Among the persons appointed as Committee members, there are to be at least 5 persons who appear to the Natural Heritage Ministerial Board to have knowledge of, or experience in, one or more of the following fields:
  - (a) biodiversity conservation;
  - (b) land and/or water management;
  - (c) native vegetation sciences;
  - (d) river and/or wetland ecology;
  - (e) coastal and/or marine systems.

### **31 Functions of Committee**

The functions of the Committee are as follows:

- (a) to advise the Natural Heritage Ministerial Board about the integration of the objectives of environmental protection, natural resources management and sustainable agriculture;
- (b) to advise the Natural Heritage Ministerial Board about the effectiveness of agreements entered into under subsection 19(2) in achieving integrated outcomes for the operations of the Reserve;
- (c) when requested by the Natural Heritage Ministerial Board to do so—to advise the Natural Heritage Ministerial Board about other matters.

### **32 Appointment of Committee members**

- (1) The Committee members are to be appointed by the Natural Heritage Ministerial Board by written instrument.

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- (2) A Committee member is to be appointed for the period specified in the instrument of appointment. The period must not exceed 3 years.
- (3) A Committee member holds office on a part-time basis.
- (4) The performance of the functions of the Committee is not affected only because of there being a vacancy or vacancies in the membership of the Committee.

### 33 Procedures

The Natural Heritage Ministerial Board may give the Committee written directions as to:

- (a) the way in which the Committee is to carry out its functions;  
and
- (b) procedures to be followed in relation to meetings.

### 34 Disclosure of interests

- (1) A Committee member who has a material personal interest in a matter being considered by the Committee must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a meeting of the Committee.
- (2) A disclosure must be recorded in the minutes of the meeting and the Committee member must not, unless the Natural Heritage Ministerial Board otherwise determines:
  - (a) be present during any deliberation by the Committee about that matter; or
  - (b) take part in any decision of the Committee relating to that matter.

### 35 Remuneration and allowances

- (1) A Committee member is to be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) If no determination of that remuneration is in operation, a Committee member is to be paid such remuneration as is prescribed.
- (3) A Committee member is to be paid such allowances as are prescribed.

- (4) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **36 Leave of absence**

The Natural Heritage Ministerial Board or the Chairman may grant leave to a Committee member to be absent from a meeting or meetings of the Committee.

### **37 Resignation**

A Committee member may resign by writing signed by the Committee member and sent to the Natural Heritage Ministerial Board.

### **38 Termination of appointment**

- (1) The Natural Heritage Ministerial Board may terminate the appointment of a Committee member if the Natural Heritage Ministerial Board is of the opinion that the performance of the Committee member has been unsatisfactory for a significant period of time.
- (2) The Natural Heritage Ministerial Board may terminate the appointment of all of the Committee members if the Natural Heritage Ministerial Board is of the opinion that the performance of the Committee has been unsatisfactory for a significant period of time.
- (3) The Natural Heritage Ministerial Board may terminate the appointment of a Committee member because of misbehaviour or physical or mental incapacity.
- (4) If:
  - (a) a Committee member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
  - (b) a Committee member is absent, except on leave of absence, from 3 consecutive meetings of the Committee; or
  - (c) a Committee member fails, without reasonable excuse, to comply with section 34;

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the Natural Heritage Ministerial Board may terminate the appointment of the Committee member.

**39 Other terms and conditions**

A Committee 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 Natural Heritage Ministerial Board.



## **Part 6—Miscellaneous**

### **40 Natural Heritage Ministerial Board**

- (1) There is to be a Natural Heritage Ministerial Board, which is to consist of:
  - (a) the Minister; and
  - (b) the Minister for Primary Industries and Energy.
- (2) The functions of the Natural Heritage Ministerial Board are as follows:
  - (a) to provide a forum in which the Minister and the Minister for Primary Industries and Energy are to consult with each other about all matters relating to the Reserve;
  - (b) to prepare estimates under section 41;
  - (c) to monitor the effectiveness of the administration of this Act in achieving:
    - (i) the primary objective of the National Vegetation Initiative; and
    - (ii) the primary objective of the Murray-Darling 2001 Project; and
    - (iii) the primary objectives of the National Land and Water Resources Audit; and
    - (iv) the primary objective of the National Reserve System; and
    - (v) the primary objectives of the Coasts and Clean Seas Initiative; and
    - (vi) environmental protection; and
    - (vii) sustainable agriculture; and
    - (viii) natural resources management.
- (3) For the purposes of this section, each of the following decisions is taken to be a matter that relates to the Reserve:
  - (a) a decision about a proposal to spend money in the Reserve;
  - (b) a decision relating to the investments of the Reserve;
  - (c) a decision to make a recommendation to the Governor-General about the making of regulations under this Act;

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- (d) a decision under this Act;
- (e) a decision under any other law of the Commonwealth, to the extent that that law relates to the Reserve.

**41 Estimates**

- (1) The Natural Heritage Ministerial Board must prepare estimates of debits from the Reserve that are to be made for purposes of the Reserve.
- (2) The estimates are to be prepared for:
  - (a) each financial year; and
  - (b) such other periods (if any) as the Natural Heritage Ministerial Board determines.
- (3) In exercising its powers under this section, the Natural Heritage Ministerial Board must have regard to:
  - (a) the investment strategy for the Reserve; and
  - (b) such other matters as the Natural Heritage Ministerial Board considers relevant.
- (4) Money must not be debited from the Reserve for a purpose of the Reserve otherwise than in accordance with estimates prepared under this section.

**42 Minimum balance in the Reserve after 30 June 2001**

- (1) This section applies to a financial year that begins on or after 1 July 2001.
- (2) The Minister must take all reasonable steps to ensure that, throughout each financial year, the balance of the Reserve does not fall below the base amount for that year (worked out under subsection (3) or (4)).
- (3) The **base amount** for the financial year that begins on 1 July 2001 is \$300 million.
- (4) This is how to work out the **base amount** for a subsequent financial year:
  - (a) multiply \$300 million by the indexation factor for that year;

- (b) if the result of that multiplication is not an amount of whole dollars—round up the result to the nearest whole dollar.
- (5) For the purposes of this section, the *indexation factor* for a financial year is the factor (being a number not less than 1) specified in relation to that year in a written determination made by the Minister for Finance for the purposes of this subsection.

#### **43 Annual report about the Reserve**

- (1) For the purposes of this Act, the Minister must, as soon as practicable after the end of 30 June in each year, cause to be prepared an annual report. The annual report must include (but is not limited to):
  - (a) a report about the operations of the Reserve during the financial year ended on that date; and
  - (b) financial statements relating to those operations; and
  - (c) the Auditor-General's report or reports under section 44 on the financial statements; and
  - (d) a report on the effectiveness of the administration of this Act during the financial year ended on that date in achieving the outcomes sought in agreements entered into under subsection 19(2).
- (2) The report mentioned in paragraph (1)(a) must comply with written guidelines issued by the Minister for Finance.
- (3) The financial statements must comply with written guidelines issued by the Minister for Finance.
- (4) The Minister must cause copies of the annual report to be laid before each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the annual report.
- (5) The Minister for Primary Industries and Energy must give the Minister such information as the Minister requires to enable the Minister to comply with the Minister's obligations under subsection (1).
- (6) The obligations imposed by this section are in addition to, and not instead of, obligations imposed by any other law of the Commonwealth.

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**44 Audit of annual financial statements of the Reserve**

- (1) As soon as practicable after financial statements are prepared in accordance with subsection 43(1), the statements must be given to the Auditor-General.
- (2) As soon as practicable after receiving the financial statements, the Auditor-General must examine the statements and report in accordance with this section to the Minister.
- (3) In the report, the Auditor-General must state whether, in the Auditor-General's opinion, the financial statements:
  - (a) have been prepared in accordance with guidelines in force under subsection 43(3); and
  - (b) give a true and fair view of the matters required by those guidelines.

If the Auditor-General is not of that opinion, the Auditor-General must state the reasons.

- (4) If the Auditor-General is of the opinion that failing to prepare the financial statements in accordance with the guidelines has a quantifiable financial effect, the Auditor-General must quantify that financial effect and state the amount.
- (5) If the Auditor-General is of the opinion that the Secretary to a Department has contravened an obligation relating to the keeping of accounts or records, the Auditor-General must state particulars of the contravention.
- (6) If the Auditor-General is of the opinion that the Auditor-General did not obtain all necessary information and explanations, the Auditor-General must state particulars of the shortcoming.
- (7) Instead of preparing a single report, the Auditor-General may prepare an initial report and one or more later supplementary reports.

**45 Delegation by Minister**

- (1) The Minister may, by writing, delegate to:
  - (a) the Secretary to the Department; or

- (b) the Director of National Parks (within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999*); or
  - (c) an SES employee or acting SES employee (whether or not in the Department);
- all or any of the Minister's powers under:
- (d) this Act (other than section 40 or 41); or
  - (e) any other law of the Commonwealth, to the extent that that law relates to the Reserve.

- (2) The delegate is, in the exercise of the power delegated under subsection (1), subject to the directions of the Minister.

#### **46 Delegation by Minister for Primary Industries and Energy**

- (1) The Minister for Primary Industries and Energy may, by writing, delegate to:
  - (a) the Secretary to the Department of Primary Industries and Energy; or
  - (b) an SES employee or acting SES employee (whether or not in the Department of Primary Industries and Energy);all or any of the powers conferred on the Minister for Primary Industries and Energy by:
  - (c) this Act (other than section 40 or 41); or
  - (d) any other law of the Commonwealth, to the extent that that law relates to the Reserve.

- (2) The delegate is, in the exercise of the power delegated under subsection (1), subject to the directions of the Minister for Primary Industries and Energy.

#### **47 Acceptance of gifts etc.**

- (1) The Commonwealth must not accept a gift or bequest given or made for the purposes of the Reserve if:
  - (a) the gift or bequest is given or made subject to a condition (other than the condition that the gift or bequest be applied for the purposes of the Reserve); or
  - (b) the gift or bequest is required to be held on trust (within the ordinary meaning of that expression).

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- (2) If:
- (a) an advertisement solicits gifts or bequests for the purposes of the Reserve; and
  - (b) the advertisement is authorised by the Commonwealth;
- the advertisement must include a statement to the effect that the proceeds of the gift or bequest will be applied to a government program.

**48 Appropriations**

- (1) After the commencement of the *Financial Management and Accountability Act 1997*, the Reserved Money Fund is appropriated as necessary for the purposes of this Act.
- (2) Subsection (1) has effect only to the extent (if any) to which the *Financial Management and Accountability Act 1997* does not already provide for a sufficient appropriation.
- (3) Before the commencement of the *Financial Management and Accountability Act 1997*, the Trust Fund established by the *Audit Act 1901* is appropriated as necessary for the purposes of this Act.
- (4) Subsection (3) has effect only to the extent (if any) to which the *Audit Act 1901* does not already provide for a sufficient appropriation.

**49 Appropriations for the purposes of the *Natural Resources Management (Financial Assistance) Act 1992* and the *Rural Adjustment Act 1992***

- (1) A reference in subsection 5(6) of the *Natural Resources Management (Financial Assistance) Act 1992* to money appropriated by the Parliament for the purpose mentioned in that subsection includes a reference to money debited from the Reserve in accordance with paragraphs 8(k) and 18(a) of this Act.
- (2) After the commencement of the *Financial Management and Accountability Act 1997*, a reference in paragraph 11(4)(a) of the *Natural Resources Management (Financial Assistance) Act 1992* to amounts appropriated from time to time by the Parliament includes a reference to money debited from the Reserve in accordance with paragraphs 8(k) and 18(b) of this Act.

- (3) Before the commencement of the *Financial Management and Accountability Act 1997*, a reference in paragraph 11(4)(a) of the *Natural Resources Management (Financial Assistance) Act 1992* to amounts appropriated from time to time by the Parliament includes a reference to money debited from the Reserve in accordance with paragraphs 8(k) and 18(c) of this Act.
- (4) A reference in subsection 20A(3) of the *Rural Adjustment Act 1992* to money appropriated by the Parliament for the purposes mentioned in that subsection includes a reference to money debited from the Reserve in accordance with paragraphs 8(k) and 18(d) of this Act.
- (5) A reference in subsection 21(1) of the *Rural Adjustment Act 1992* to money appropriated by the Parliament for the purpose mentioned in that subsection includes a reference to money debited from the Reserve in accordance with paragraphs 8(k) and 18(d) of this Act.

## **50 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **51 Transitional—transfers from the Consolidated Revenue Fund**

- (1) This section applies if a provision of this Act requires an amount to be transferred to the Reserve from the Consolidated Revenue Fund.
- (2) The Consolidated Revenue Fund is appropriated for the transfer by force of this subsection.
- (3) Subsections (1) and (2) cease to have effect on the commencement of the *Financial Management and Accountability Act 1997*.

Note: After the commencement of the *Financial Management and Accountability Act 1997*, subsection 20(7) of that Act will appropriate the Consolidated Revenue Fund for the purposes of such a transfer.

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**52 Transitional—expenses of investment**

- (1) Expenses of investment of money in the Reserve are to be debited from the Reserve.
- (2) Subsection (1) ceases to have effect on the commencement of the *Financial Management and Accountability Act 1997*.

Note: After the commencement of the *Financial Management and Accountability Act 1997*, subsection 39(2) of that Act will provide for investment expenses to be debited from the Reserve.

**53 External Territories**

This Act extends to all the external Territories.

**54 Interpretation**

In this Act:

***accounting transfer purpose*** has the meaning given by section 18.

***agriculture*** includes:

- (a) the cultivation of land; or
- (b) the maintenance of animals for the purposes of selling them or their bodily produce, including natural increase; or
- (c) fishing or aquaculture operations; or
- (d) forest operations; or
- (e) horticulture.

***Australia***, when used in a geographical sense, includes:

- (a) the external Territories; and
- (b) the exclusive economic zone.

***Committee*** means the Natural Heritage Trust Advisory Committee established by section 30.

***Committee member*** means a member of the Committee.

***environmental protection*** has the meaning given by section 15.

***exclusive economic zone*** means the exclusive economic zone (within the meaning of the *Seas and Submerged Lands Act 1973*),



adjacent to the coast of Australia or the coast of an external Territory.

**horticulture** includes the production of horticultural products (within the meaning of the *Australian Horticultural Corporation Act 1987*).

**Natural Heritage Ministerial Board** means the Natural Heritage Ministerial Board established by section 40.

**natural resources management** has the meaning given by section 17.

**proceeds of the sale of shares in Telstra** includes:

- (a) an amount received by the Commonwealth directly or indirectly from:
  - (i) the sale-scheme trustee (within the meaning of the *Telstra Corporation Act 1991*); or
  - (ii) an investor in Telstra;  
under a Telstra sale scheme (within the meaning of that Act);  
and
- (b) an amount received by the Commonwealth by way of the redemption of redeemable preference shares in Telstra held by the Commonwealth, where the redemption was in accordance with a Telstra sale scheme (within the meaning of the *Telstra Corporation Act 1991*).

**Reserve** means the Natural Heritage Trust of Australia Reserve established by this Act.

**State** includes the Australian Capital Territory and the Northern Territory.

**sustainable agriculture** has the meaning given by section 16.

**Telstra** has the same meaning as in the *Telstra Corporation Act 1991*.

**waste minimisation** includes reduction of use, re-use and recycling.



**Table of Acts****Notes to the *Natural Heritage Trust of Australia Act 1997*****Note 1**

The *Natural Heritage Trust of Australia Act 1997* as shown in this compilation comprises Act No. 76, 1997 amended as indicated in the Tables below.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Natural Heritage Trust of Australia Act 1997</i>	76, 1997	18 June 1997	18 June 1997	
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (item 1055): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (a)	—
<i>Telstra (Further Dilution of Public Ownership) Act 1999</i>	53, 1999	5 July 1999	5 July 1999	—
<i>Environmental Reform (Consequential Provisions) Act 1999</i>	92, 1999	16 July 1999	Schedule 4 (item 73): 16 July 2000 (b)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 683-685): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (c)	—

## Act Notes

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- (a) The *Natural Heritage Trust of Australia Act 1997* was amended by Schedule 2 (item 1055) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (b) The *Natural Heritage Trust of Australia Act 1997* was amended by Schedule 4 (item 73) only of the *Environmental Reform (Consequential Provisions) Act 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences when the *Environment Protection and Biodiversity Conservation Act 1999* commences.
- (c) The *Natural Heritage Trust of Australia Act 1997* was amended by Schedule 1 (items 683-685) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.

**Table of Amendments**

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

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Provision affected                      How affected

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**Table of Amendments**

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

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<b>Provision affected</b>	<b>How affected</b>
S. 3 .....	am. No. 53, 1999
Heading to s. 22 .....	am. No. 53, 1999
S. 22 .....	am. No. 53, 1999
S. 22A .....	ad. No. 53, 1999
S. 45 .....	am. Nos. 92 and 146, 1999
S. 46 .....	am. No. 146, 1999
Note to s. 52 .....	am. No. 152, 1997
S. 54 .....	am. No. 146, 1999