



[Note – Not all sections of this Act are yet in force - see commencement notice on final page of this consolidation]

ENVIRONMENT ACT 1990

[Consolidated as at 20 February 2006
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

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Environment Act 1990

An Act to promote the conservation of the natural environment and landscape beauty of Norfolk Island and to maintain environmental health and safety, and for related purposes

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Environment Act 1990*.

Commencement

2. (1) This Act comes into operation on a date, or dates, fixed by the Administrator by notice published in the Gazette.

- (2) The Administrator may fix different dates for the commencement of different provisions of this Act.

- (3) The Administrator may fix different dates for the commencement of different items in a Schedule to this Act.

Objects of Act

3. The objects of this Act are —
 - (a) to promote the conservation of the natural environment and landscape beauty of Norfolk Island and to ensure, so far as is practicable, that physical works and other activities are in harmony with the natural environment;
 - (b) to preserve the way of life and quality of life of the people of Norfolk Island;
 - (c) to prevent so far as is practicable destruction of, damage to and degradation of the natural environment and landscape beauty of Norfolk Island;
 - (d) to provide a unified process for dealing with proposals which may affect the natural environment and landscape beauty of Norfolk Island; and

- (e) to ensure, so far as is practicable, that physical works and other activities do not adversely affect human health or safety.

Act to bind Crown and Administration

4. (1) Subject to this Act, this Act —
- (a) binds the Crown in right of Norfolk Island and the Administration; and
- (b) so far as the legislative powers of the Legislative Assembly permit, binds the Crown in each of its other capacities.

(2) Nothing in this Act makes the Crown in any capacity or the Administration liable to be prosecuted for an offence.

Repeal

5. Each enactment specified in an item in Schedule 1 is repealed.

Application

6. (1) Subject to this Act, this Act applies to the whole of Norfolk Island.

(2) This Act does not apply to the Norfolk Island National Park or the Norfolk Island Botanic Garden.

Location and effect of interpretation provisions

7. (1) Some interpretation provisions are in section 8.

(2) Other interpretation provisions are to be found at the beginning of Parts or Divisions, or, occasionally, within (and not necessarily at the beginning of) an individual section.

(3) However, each interpretation provision referred to in subsection (2) is also listed, for ease of reference, in section 9.

(4) An interpretation provision has effect for the purposes of this Act, except so far as a contrary intention appears in this Act, even though the provision is expressed to have effect for the purposes of a Part, section or other portion of this Act.

(5) In this section, “interpretation provision” means a provision, whether or not in the form of a definition, that gives, or has the effect of giving, a particular meaning to an expression.

General interpretation provisions

8. In this Act, unless the contrary intention appears —

“authorised officer” means a person appointed under section 141;

“authorised surveyor” means the same as in the *Surveys Act 1937*;

“Board” means the Norfolk Island Planning Board established by section 11;

“Chairman” means the person elected under subsection 11(5) to be the Chairman of the Board, and includes a deputy Chairman;

“Code” means the Norfolk Island Planning Code made in accordance with section 150;

“development area” means a development area referred to in the Code;

“member” means a person holding office under section 11 as a member of the Board, and includes the Chairman;

“non-permitted use”, in relation to a development area, means a use specified in the Code as not being a permitted use in respect of that development area;

“non-preferred use”, in relation to a development area, means a use specified in the Code as not being a preferred use in respect of that development area;

“Norfolk Island Botanic Garden” means the same as in the *Norfolk Island National Park and Norfolk Island Botanic Garden Act 1984*;

“Norfolk Island National Park” means the same as in the *Norfolk Island National Park and Norfolk Island Botanic Garden Act 1984*;

“Secretary” means the person appointed under section 11 to be the Secretary to the Board;

“this Act” includes the Regulations.

Cross-references to other interpretation provisions

9. In this Act, unless the contrary intention appears —
- “alter” means the same as in section 39;
 - “alteration” means the same as in section 39;
 - “animal” means the same as in section 81;
 - “application” means the same as in section 19;
 - “application for review” means the same as in section 126;
 - “application for stay” means the same as in section 126;
 - “approval” means the same as in section 19;
 - “approved private forest” means the same as in subsection 120(4);
 - “article dangerous to children” means the same as in subsection 84(2);
 - “bore” means the same as in section 67;
 - “building” means the same as in section 39;
 - “Clerk” means the same as in section 126;
 - “Court” means the same as in section 126;
 - “decision” means, for the purposes of Part 9, the same as in section 126;
 - “development application” means the same as in section 19;
 - “development approval” means the same as in section 19;
 - “drainage easement” means the same as in section 86;
 - “drug” means the same as in section 93;
 - “excreta” means the same as in section 49;
 - “extraordinary application” means the same as in subsection 25(6);
 - “food” means the same as in section 93;
 - “food premises” means the same as in section 93;
 - “garbage” means the same as in section 72;
 - “garbage deposit area” means the same as in section 72;
 - “hairdresser” means the same as in section 93;

- “hairdressing premises” means the same as in section 93;
- “house” means the same as in section 39;
- “interest in land” means the same as in section 86;
- “interpretation provision” means the same as in subsection 7(5);
- “liquor” means the same as in section 93;
- “liquor premises” means the same as in section 93;
- “Magistrate” means the same as in subsection 144(3);
- “mains sewer facility” means the same as in section 49;
- “noxious weed” means the same as in subsection 118(1);
- “nuisance” means the same as in section 77;
- “offence” means the same as in subsection 144(3);
- “official participant” means the same as in subsection 27(7);
- “ordinary application” means the same as in subsection 25(6);
- “owner” means the same as in subsection 20(1);
- “permitted sanitary facility” means the same as in section 49;
- “pine cone” means the same as in subsection 118(1);
- “potable” means the same as in section 67;
- “pre-existing purpose” means the same as in section 39;
- “prescribed garbage receptacle” means the same as in section 72;
- “protected tree” means the same as in subsection 118(1);
- “Public Account” means the same as in section 86;
- “public place” means the same as in section 72;
- “refuse” means the same as in section 72;
- “register”, in relation to a notification under subsection 89(1), means the same as in section 86;
- “Register of Uses” means the same as in section 39;
- “Registrar” means the same as in section 86;
- “relevant building” means the same as in subsection 44(9);
- “respondent” means the same as in section 126;
- “rubbish” means the same as in section 72;
- “sell” means the same as in section 93;
- “septic facility” means the same as in section 49;
- “sewage” means the same as in section 49;
- “sewage deposit area” means the same as in section 49;
- “sewer” means the same as in section 49;
- “sewerage easement” means the same as in section 86;
- “simple application” means the same as in subsection 25(6);
- “structure” means the same as in section 39;
- “sullage” means the same as in section 93;

- “swimming pool” means the same as in subsection 85(5);
- “take” means the same as in subsection 118(1);
- “temporary facility” means the same as in section 49;
- “timber” means the same as in subsection 118(1);
- “tourist accommodation house” means the same as in section 39;
- “trade waste” means the same as in section 49;
- “unreasonable”, in relation to a decision, means, for the purposes of Part 9, the same as in subsection 132(5);
- “Water Assurance Area” means the same as in section 49;
- “water source” means the same as in section 67;
- “well” means the same as in section 67.

Methods of interpretation

10. (1) In the interpretation of this Act by a Court, a construction that would promote the objects expressed in section 3 is to be preferred to a construction that would not promote those objects.

(2) Where this Act includes an example of the operation of a provision

—

- (a) the example shall not be taken to be exhaustive; and
- (b) if the example is inconsistent with the rest of the provision, the rest of the provision prevails.

PART 2 — PLANNING BOARD

Establishment and composition of Board

11. (1) A Board called the Norfolk Island Planning Board is established.

(2) The Board consists of—

- (a) a person, other than the executive member, who is a member of the Legislative Assembly; and
- (b) 4 persons who are not members of the Legislative Assembly,

appointed by the executive member by written instrument in accordance with a resolution of the Legislative Assembly.

(3) Subject to this Act and in spite of section 36 of the *Interpretation Act 1979*, a member—

- (a) holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment; and
- (b) is eligible for re-appointment.

(4) Where no period is specified in an instrument of appointment, a member to whom the instrument relates holds office for 3 years.

(5) The Board, by resolution, is to elect one of the members to be the Chairman of the Board.

(6) The executive member may, by written instrument, appoint a person other than a member to be the Secretary to the Board.

Resignation and termination of appointment of members

12. (1) A member may resign the office of member by written notice given to the executive member.

(2) The executive member may terminate the appointment of a member, after giving the member a reasonable opportunity of making representations, for inability, inefficiency, misbehaviour or physical or mental incapacity.

(3) Where a member —

- (a)** is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board; or
- (b)** becomes bankrupt, applies as a debtor to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit,

the executive member must terminate the appointment of the member.

(4) Where a member appointed under paragraph 11(2)(a) becomes the executive member, the member's appointment is to be taken to have been terminated.

(5) Where a member appointed under paragraph 11(2)(b) becomes a member of the Legislative Assembly, the executive member must terminate the appointment of the member.

(6) As soon as practicable after —

- (a)** a member has resigned; or
- (b)** the appointment of a member is terminated or deemed to have been terminated,

under this section, the executive member is to appoint, under subsection 11(2), another person to be a member.

(7) A person whose appointment as a member —

- (a)** is terminated under subsection (2) or (3) - is not eligible to be re-appointed as a member;
- (b)** is to be taken to have been terminated under subsection (4) - is not eligible to be re-appointed as a member while the person holds office as the executive member; or
- (c)** is terminated under subsection (5) - is not eligible to be re-appointed as a member, except under paragraph 11(2)(a), while the person is a member of the Legislative Assembly.

Function of Board

13. The function of the Board is to consider applications referred to the Board under section 25 (including that section in its application under section 34) and to make recommendations to the executive member on applications so referred.

Powers of Board

14. Subject to this Act, the Board has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its function.

Meetings of Board

15. (1) Subject to subsection (2), meetings of the Board are to be held at times and places determined by the Board.

(2) The executive member may, by written instrument, direct the Chairman to convene a meeting of the Board at a time and place specified by the executive member and the Chairman must comply with the direction.

(3) Subject to subsection (4), the Chairman is to preside at a meeting of the Board.

(4) If the Chairman is not present at a meeting, the members present are to elect one of their number to preside at the meeting.

(5) A person so elected may be referred to as a deputy Chairman.

(6) The Board must not meet, or continue to meet, unless at least 3 members are present.

Disclosure of interest

16. (1) A member who has a direct or indirect interest in a matter being considered, or about to be considered, by the Board must, as soon as possible after the relevant facts have come to the knowledge of the member, disclose the nature of the interest to the Board.

(2) Such a disclosure must be recorded in the records of the Board, and the member must not be present during a deliberation or decision of the Board in relation to the matter.

(3) In subsection (1), “interest” includes the holding of a position by a member as an officer (whether or not the member is also a shareholder) of a body corporate that has an interest in a matter.

(4) The failure of a member to comply with this section constitutes misbehaviour for the purposes of subsection 12(2).

Vacancy in membership of Board

17. The exercise of a power or the performance of a function by the Board is not invalid only because there is a vacancy in the membership of the Board, or a vacancy in the office of Chairman.

Minutes of Board

18. (1) The Board must keep minutes or records of its proceedings.

(2) A copy of the minutes or records —

(a) must be provided to the executive member as soon as practicable after the meeting to which it relates; and

(b) so far as it relates to a particular application - must be provided upon request to the applicant, or to a person who provides the written consent of the applicant to the release of the minutes or records.

PART 3 — APPLICATIONS

Division 1 — Preliminary

Interpretation

19. In this Act, unless the contrary intention appears —

“application” means an application under Division 2 to do a thing for which approval is required under this Act;

“approval” means approval of an application;

“development application” means an application under Division 3 for development approval;

“development approval” means approval of a development application.

Meaning of “owner”

20. (1) In this Act, unless the contrary intention appears, “owner”, in relation to land, means for the purposes of this Act —

- (a) a person in whom is vested a freehold estate in the land;
- (b) if the land is held under lease from the Crown under the *Crown Lands Act 1996* - the lessee, or a sublessee for a term of 5 years or more under a sublease approved under section 20 of that Act; or
- (c) if the land is held under lease or sublease from a person (other than the Crown, but including the Administration) for a term of 5 years or more, and the lease or sublease is registered under the *Conveyancing Act 1913* - the lessee or sublessee.

(2) If an estate or interest in land is subject to a mortgage, the person having the equity of redemption is to be taken for the purposes of this Act to be the person in whom is vested the estate or interest that has been mortgaged.

Rights of owners not affected

21. (1) A person who for the purposes of this Act is to be taken to be the owner of land, and who deals with the land under this Act inconsistently with the right, title or interest of another person, is not relieved by this Act from any liability the person may have to the other person.

(2) No action lies against the Crown, the Administration or an official participant, because a person dealt or purported to deal under this Act with land as the owner of it when the person —

- (a) was not the owner of it for the purposes of this Act; or
- (b) in so dealing with the land, acted inconsistently with the right, title or interest of another person.

Division 2 — Applications

Who may make applications

22. (1) Subject to this section, an application that relates to land may only be made by —

- (a) the owner of the land; or
- (b) a person who provides with the application written permission by the owner of the land for the making of the application.

(2) An application under Part 7 for a licence to be issued may be made by any person.

Subsistence of applications and approvals

23. (1) Subject to this section, an application is personal to the applicant and, if an applicant dies or ceases to exist before the application is approved, the application is of no effect.

(2) An application made by a person in accordance with paragraph 22(1)(b) may be taken over by the owner of the land to which the application relates by written notice to the executive member signed by the owner, and, if so taken over, is to be dealt with as if the owner had been the applicant.

(3) An application referred to in subsection 22(1) made by, or with the written permission of, a person who is the owner of the land to which the application relates is of no effect if the person ceases to be the owner, but may be taken over by another owner by written notice to the executive member signed by the other owner and, if so taken over, is to be dealt with as if the other owner had been the applicant.

(4) If an application referred to in subsection 22(1) is approved and, after the giving of the approval, the applicant for the approval, or a person who has taken over the application, dies, ceases to exist or ceases to be the owner of the land to which the application relates, the approval may be acted on by another person who has become the owner of the land, as if the other person were the person to whom the approval was given.

(5) In spite of section 36 of the *Interpretation Act 1979*, an approval is not revocable except with, and in accordance with, the written consent of the person entitled to the benefit of the approval.

Making of applications

24. (1) An application must be made to an authorised officer.

(2) Subject to this Act, an application of a particular kind must include or be accompanied by the information specified in the Code for applications of that kind.

(3) An application of a particular kind must be accompanied by payment of the fee, if any, prescribed for applications of that kind.

(4) Subject to subsection (5), if an application does not comply with this Act the authorised officer to whom the application is made may refuse to deal with, or further deal with, the application until the application does so comply.

(5) If an authorised officer considers that it is unnecessary or impracticable for the information referred to in subsection (2) to be provided in relation to a particular application, the officer may —

- (a) if the officer considers that it is unnecessary for the information to be provided - dispense with the provision of the information; or
- (b) if the officer considers that it is impracticable for the information to be provided - require different information to be provided, or obtain the information from another source.

Disposal of applications

25. (1) After an application has been made, and unless the authorised officer to whom it was made refuses under subsection 24(4) to deal or further deal with it, the application must be dealt with in accordance with this section.

(2) A simple application is to be referred by an authorised officer to the executive member together with a report and recommendation on the application, and the executive member may approve or refuse to approve the application.

(3) Instead of approving or refusing to approve a simple application under subsection (2), the executive member may refer the application back to an authorised officer to be dealt with as an ordinary application under subsection (4).

(4) An ordinary application —

- (a) is to be notified in the Gazette in summary form, together with an invitation for public comment on the application;
- (b) not less than 6 days after the date of that notification, is to be referred by the authorised officer to the Board, together with a report by the officer on the application and a copy of any comments received by the officer;
- (c) may then be considered by the Board, which may make a recommendation about the application to the executive member; and
- (d) after consideration by the Board, is to be referred by the authorised officer, together with the officer's report, any comments received by the officer and the recommendation (if any) of the Board, to the executive member, who may approve or refuse to approve the application.

(5) An extraordinary application —

- (a) is to be referred by the authorised officer to the Board, together with a report by the officer on the application;
- (b) after having been so referred to the Board and after any initial consideration which the Board thinks is necessary, is to be notified in the Gazette in summary form together with —
 - (i) a statement that the application is extraordinary and that the Board will hold a public meeting on the application on a date (not being less than 30 days after the date of the notification) and at a place specified in the notification; and
 - (ii) an invitation for submissions to be made at that meeting, and a statement that written comments may also be made about the application;
- (c) is, at that public meeting, to be considered by the Board, which may make a recommendation about the application to the executive member; and
- (d) after consideration by the Board, is to be referred by the authorised officer, together with the material before the Board during its consideration, or a summary of it, and the recommendation (if any) of the Board, to the executive member, who may approve or refuse to approve the application.

- (6) Subject to subsection (7), in this section —
- “extraordinary application” means an application to use land or a building for a purpose that is a non-permitted use in the development area in which the land or building is situated;
- “ordinary application” means an application that is not an extraordinary application or a simple application;
- “simple application” means an application that is not —
- (a) an extraordinary application; or
 - (b) an application to use land or a building for a purpose that is a non-preferred use in the development area in which the land or building is situated,
- within a class of applications determined by the executive member not to require consideration by the Board.

(7) Where an application is in accordance with a development approval given in relation to the subject-matter of the application, the application is a simple application for the purposes of this section.

Environmental impact statements

26. (1) Where, in the opinion of the Board or executive member, an application seeks approval of a proposal the scale or nature of which requires the preparation of an environmental impact statement, the Board or executive member may propose to the Legislative Assembly that such a statement be prepared.

(2) If such a proposal is made to the Legislative Assembly, the Assembly may, by resolution, approve or refuse to approve the proposal, and, if it approves the proposal, may determine —

- (a) by whom, and at whose expense, the statement is to be prepared;
- (b) the matters to be dealt with in the statement; and
- (c) the period within which the statement is to be prepared, and the procedure (including the procedure for public consultation) to be followed in the preparation of the statement.

(3) If the Legislative Assembly approves a proposal that an environmental impact statement be prepared in relation to an application, an official participant is not to deal further with the application under section 25 or 27 until the statement has been prepared and provided to the official participant.

Consideration of applications

27. (1) In considering an application of a particular kind, an official participant must have regard to the conservation values specified in the Code for approvals of that kind.

(2) The executive member must not, under section 25, approve an application of a particular kind unless approval of the application would be consistent with the minimum standards specified in the Code for approvals of that kind.

(3) The executive member may, when approving an application under section 25, impose on the approval conditions which, in the opinion of the executive member, will further the objectives of the Code.

(4) A reference elsewhere in this Act to conditions which may be imposed on an approval does not limit by implication the generality of subsection (3).

(5) In considering an application, an official participant may have regard to considerations relevant to the application that are not specified in the Code, but a decision about the application is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in the Code.

(6) Where an application is in accordance with a development approval given in relation to the subject-matter of the application, the application must not be dealt with by an official participant inconsistently with the development approval.

(7) In this section, “official participant” means an authorised officer, the Board or the executive member.

Notice of, and reasons for, decisions on applications

28. (1) As soon as practicable after an application has been dealt with, the executive member must provide to the applicant, or, where an application has been taken over under section 23 by another person, to that person —

- (a) notice of whether the application has been approved, approved subject to a condition or refused; and
- (b) if the application has been refused, or approved subject to a condition (except a condition referred to in subsection 41(2)) - the reasons for the refusal or for the imposition of the condition.

(2) If an application has been dealt with by the Board and the decision of the executive member differs from a recommendation of the Board, the executive member must inform the Board of the executive member's reasons for declining to follow, or for varying, the course of action recommended by the Board.

Time limits on disposal of applications

29. (1) Subject to subsections (3) and (4), if an application has not been approved, approved subject to a condition or refused before the expiration of a time limit specified in subsection (2), the application is to be taken for the purposes of Part 9 to have been refused on the day on which the time limit expired.

(2) The time limits are —

- (a) for a simple application (other than a simple application referred back under subsection 25(3) to be dealt with as an ordinary application) - 30 days beginning on the date on which the application was made;
- (b) for an ordinary application - 60 days beginning on the date on which the application was made; and
- (c) for an extraordinary application - 90 days beginning on the date on which the application was made.

(3) If, in relation to a particular application, the executive member considers that a time limit specified in subsection (2) is too short for proper consideration of the application, the executive member may, before the expiration of the relevant time limit, by written instrument extend or re-extend the time limit for a period or periods not exceeding in the aggregate twice the period specified in subsection (2) in relation to the application.

(4) Where the Legislative Assembly has resolved under section 26 to approve a proposal that an environmental impact statement be prepared in relation to an application, the Assembly may, by resolution, extend or re-extend a time limit for as long as is necessary to permit the preparation and proper consideration of the statement.

(5) As soon as practicable after making an instrument under subsection (3), the executive member must lay a copy of the instrument before the Legislative Assembly.

Division 3 — Development applications

Development applications

30. (1) A person may make a development application in respect of a proposal —

- (a) to construct, erect, alter or use a structure; or
- (b) to use land.

(2) A person is not required to make a development application, but may initially make an application under Division 2 instead.

(3) A development approval does not itself constitute approval to do a thing for which approval is required under this Act, but ensures that a subsequent application under Division 2 —

- (a) will be dealt with as a simple application in accordance with subsection 25(7); and
- (b) will not be dealt with inconsistently with the development approval, in accordance with subsection 27(6).

Who may make development applications

31. A development application that relates to land may only be made by —

- (a) the owner of the land; or
- (b) a person who provides with the application written permission by the owner of the land for the making of the application.

Subsistence of development applications and development approvals

32. Section 23 applies to a development application and development approval as if the development application were an application referred to in that section and the development approval were an approval referred to in that section.

Making of development applications

33. (1) A development application must be made to an authorised officer.

(2) Subject to this Act, a development application of a particular kind must include or be accompanied by the information specified in the Code for development applications of that kind.

(3) A development application of a particular kind must be accompanied by payment of the fee, if any, prescribed for development applications of that kind.

(4) Subsections 24(4) and (5) apply to a development application as if the development application were an application referred to in those subsections.

Disposal of development applications

34. Section 25 (except subsection (7) of that section) and section 26 apply to a development application as if the subject-matter of the development application were included in an application referred to in those sections.

Consideration of development applications

35. Section 27 (except subsection (6) of that section) applies to a development application and development approval as if the development application were an application referred to in that section and the development approval were an approval referred to in that section.

Notice of, and reasons for, decisions on development applications

36. Section 28 applies to a development application as if the development application were an application referred to in that section.

Time limits on disposal of development applications

37. Section 29 applies to a development application as if the development application were an application referred to in that section.

Time limit on development approvals

38. A development approval ceases to have effect for the purposes of this Act at the end of 12 months after the date on which the development approval was given.

PART 4 — BUILDING CONTROL

Interpretation

39. In this Act, unless the contrary intention appears —
- “alter” means to effect an alteration;
 - “alteration”, in relation to a structure, means a physical change made by human agency to the inside or outside of the structure, and includes painting or repainting the structure;
 - “building” means a structure that is designed or intended for use as a shelter for —
 - (a) persons or animals; or
 - (b) things not forming part of the building;
 - “house” means a building that is designed or intended for use as a dwelling for persons and includes a single flat or single apartment, but does not include a tourist accommodation house;
 - “pre-existing purpose”, in relation to a building, means a purpose of use of the building referred to in section 43;
 - “Register of Uses” means the Register referred to in section 44;
 - “structure” means a thing constructed or erected by human agency and attached to, or buried within, land;
 - “tourist accommodation house” means a tourist accommodation house registered under the *Tourist Accommodation Act 1984*.

Construction, etc of structures requires approval

40. (1) Subject to subsection (2), the construction, erection or alteration of a structure requires approval.

- (2) Approval under this Part is not required for —
- (a) matters for which approval is required under —
 - (i) section 51 (which relates to permitted sanitary facilities);
 - (ii) subsection 65(1) (which relates to drainage traps); or
 - (iii) section 68 (which relates to bores and wells);
 - (b) the provision or alteration within or in relation to a structure of plant, within the meaning of the *Electricity Supply Act 1985*, in accordance with that Act;
 - (c) the painting or repainting of the inside of a structure;
 - (d) the construction, erection or alteration of a structure (other than an advertising device, notice or sign) that is not attached to another structure and is less than 1 cubic metre in bulk and 2 metres in height; or
 - (e) a matter specified in Schedule 2.

Conditions

41. (1) Conditions that may be imposed on approval of an application to construct, erect or alter a structure may include —

- (a) a condition restricting the use of the structure to a specified use; and
- (b) a condition relating to the planting and upkeep, or planting or upkeep, of vegetation.

(2) An approval of an application to construct, erect or alter a structure is subject to the condition that the construction, erection or alteration is to be carried out as specified in the application, except to the extent that another condition imposed under this Act is inconsistent with something specified in the application.

Use of buildings requires approval

42. (1) Subject to subsection (2), the use of a building requires approval.

(2) Approval under this Part is not required for the use of a building for a pre-existing purpose.

Pre-existing uses

43. (1) A building is to be taken to be used for a pre-existing purpose if and only if —

- (a) the building is a house, or a building ancillary to a house, that was used as such before the commencement of this section and the building is used only for that purpose; or
- (b) the building is used only for a purpose specified in relation to the building in the Register of Uses.

(2) A reference in subsection (1) to a building includes a reference to a building constructed or erected as a replacement for another building in the same location, the floor area of which does not exceed by more than 10% the floor area of the building which was replaced.

Register of Uses

44. (1) Within 3 months after the commencement of this section, the executive member must approve and publish a Register of Uses.

(2) Notice of the executive member's approval of the Register of Uses must be published in the Gazette.

(3) The Register of Uses, before being approved by the executive member, must be made available in draft form for not less than 30 days.

(4) Any person may inspect the draft Register of Uses during that period.

(5) The availability for inspection of the draft Register of Uses must be notified in the Gazette.

(6) The Register of Uses must state the executive member's opinion as to the purpose for which a relevant building was predominantly used immediately before the commencement of this section.

(7) A person who is the owner of a relevant building —

- (a) referred to in the draft Register of Uses - may make representations to the executive member about the use specified in the draft Register of Uses in relation to the building; or
- (b) not referred to in the draft Register of Uses - may make representations to the executive member about the inclusion of the building in the draft Register of Uses, and about the use to be specified in relation to the structure.

(8) For the purposes of Part 9 —

- (a) the omission of a relevant building from the Register of Uses after the receipt by the executive member of representations under paragraph (7)(b); or
- (b) the inclusion in the Register of Uses of an inaccurate statement of the purpose for which a relevant building was predominantly used immediately before the commencement of this section,

is unreasonable.

(9) In this section, "relevant building" means a building other than a building referred to in paragraph 43(1)(a).

Conditions

45. Conditions that may be imposed on approval of an application to use a building for a particular purpose may include a condition that the building be used for that purpose only within, or at, specified times of the day, or on specified days of the week.

PART 5 — LAND USE

Application

46. (1) This Part does not apply to the use of Crown land or land owned by the Administration, other than land held under lease from the Crown or Administration.

(2) This Part does not apply to the use of a building.

Some uses of land require approval

47. (1) Subject to this Part, the use of land requires approval under this Part if the land is used —

- (a) for storing building or demolition materials;
 - (b) for storing or displaying vehicles or machinery intended for sale or hire;
 - (c) for storing scrap metal, or derelict or abandoned vehicles or machinery;
 - (d) for any other commercial or industrial purpose;
 - (e) for organised sporting activities (for example, cricket, football or other team games); or
 - (f) in relation to land for which a use is specified in the Code - for a use other than a use so specified.
- (2) Approval under this Part is not required for —
- (a) the storing of building or demolition materials in connection with, and at the same place as, a structure which is being, or is about to be, constructed, erected, altered or demolished;
 - (b) the storing of building materials in connection with the maintenance of, and at the same place as, a structure;
 - (c) the storing or displaying of vehicles or machinery (except derelict or abandoned vehicles or machinery) intended for sale or hire otherwise than in the course of a business regularly carried on by the person storing or displaying the vehicles or machinery; or
 - (d) the use of land for organised sporting activities where that use is not the purpose for which the land is mainly used or intended mainly to be used.

Some earthworks require approval

48. (1) Subject to this section, the removal or excavation from an area of land, or the shifting or depositing on an area of land, of earth, topsoil, spoil or fill requires approval under this Part if —

- (a) on one or more occasions a total of more than 50 cubic metres of earth, topsoil, spoil or fill are removed, excavated, shifted or deposited; or
- (b) the removal, excavation, shifting or depositing extends over an area or areas totalling more than 50 square metres.

(2) Subsection (1) does not apply to the ploughing, or other treatment for agricultural purposes, of land.

(3) Subsection (1) applies to an area of land, even though the removal, excavation, shifting or depositing takes place on different occasions or in different places, if the purpose of the removal, excavation, shifting or depositing is common to each of those occasions or places.

PART 6 — ENVIRONMENTAL HEALTH*Division 1 — Sanitation***Interpretation**

49. In this Act, unless the contrary intention appears —

“excreta” means human faeces or urine and includes —

- (a) material mixed with excreta; and
- (b) sludge from a septic facility;

“mains sewer facility” means a facility directly or indirectly connected, or intended to be connected, to a sewer, and includes the pipes, fittings and fixtures used, or intended to be used, in connection with the conveyance of sewage from the facility to the sewer;

“permitted sanitary facility” means —

- (a) a mains sewer facility;
- (b) a septic facility; or
- (c) a temporary facility;

“septic facility” —

- (a) means a chamber or chambers through which sewage passes, or is intended to pass, for the purpose of being broken down by digestion, disintegration and sedimentation;
- (b) includes pipes, fittings and fixtures, absorption trenches and holding tanks used, or intended to be used, in connection with the passage of sewage through, or out of, the facility; and
- (c) does not include a mains sewer facility or temporary facility;

“sewage” means excreta, slops and other liquid refuse of a domestic nature, but does not include stormwater, unpolluted water or trade waste;

“sewage deposit area” means a place approved under section 61 as a place where sewage or trade waste may be deposited;

“sewer” means a public sewer operated, or to be operated, by the Administration;

“temporary facility” means a facility connected to a container for the temporary reception of sewage, or for temporary connection to a mains sewer facility or septic facility;

“trade waste” means liquid waste that includes chemicals, oil or other impurities derived from a trade or manufacturing process or activity, but does not include excreta, slops or other liquid refuse of a domestic nature;

“Water Assurance Area” means an area or areas specified in accordance with section 62.

Prohibited facilities

50. (1) A person shall not construct (including by digging a hole), erect, alter or use a temporary or permanent facility for the reception, collection or treatment of sewage, unless the facility is a permitted sanitary facility.

(2) Subsection (1) does not apply to —

- (a) a sewer, or the sewer's associated facilities;
- (b) facilities operated by the Administration at a sewage deposit area;
- (c) portable facilities for the use of children or invalids; or
- (d) a sullage cart licensed under Part 7.

Construction etc of permitted sanitary facilities requires approval

51. The construction, erection or alteration of a permitted sanitary facility requires approval.

Restrictions on approvals

52. (1) The executive member must not approve an application to construct or erect a permitted sanitary facility in the Water Assurance Area unless the facility is a mains sewer facility or temporary facility.

(2) The executive member must not approve an application to construct or erect a temporary facility unless the executive member is satisfied that the temporary facility —

- (a) is necessary for temporary purposes in connection with building or other temporary works; and
- (b) a mains sewer facility or septic facility is not reasonably available in relation to those purposes.

Who may make applications

53. In spite of section 22, an application for approval to construct, erect or alter a temporary facility may be made by a person who has, or will have, control of the temporary facility.

Conditions

54. Conditions that may be imposed on approval of an application to construct, erect or alter a permitted sanitary facility may include —

- (a) a condition requiring written clearance to be obtained from an authorised officer before the facility is used, or, in the case of a mains sewer facility, connected to a sewer;
- (b) for an application relating to a mains sewer facility - a condition relating to —
 - (i) the connection of the facility to a sewer within a time specified in the notice; and
 - (ii) the provision in relation to the facility of a supply of water sufficient to enable the proper operation of the facility and of the sewer;
- (c) for an application relating to a septic facility - a condition relating to removal by a process or method specified in the approval, at intervals specified in the approval, of sewage collected in the facility; and

- (d) for an application relating to a temporary facility - a condition specifying a period for which the facility may be used.

Some uses of permitted sanitary facilities require approval

55. The use of a permitted sanitary facility for the disposal of trade waste requires approval.

Requirement to provide permitted sanitary facilities

56. (1) Subject to this section, the executive member may, by written notice served on the owner of land or a building, require the owner to provide permitted sanitary facilities on the land or in relation to the building.

(2) Such a notice may require —

- (a) the provision, within a time specified in the notice, of specified permitted sanitary facilities in specified locations on the land or in relation to the building; or
- (b) the making, within a time specified in the notice, of an application in respect of the provision of permitted sanitary facilities referred to in general terms in the notice.

(3) A notice under paragraph (2)(a) is to be taken to be an approval of the construction, erection or alteration required in order to comply with the notice.

(4) A notice under paragraph (2)(b) ceases to have effect if the executive member refuses to approve the application made as a result of the notice, but an approval that is given subject to conditions does not constitute a refusal of the relevant application.

(5) In considering whether to issue a notice under subsection (1) the executive member must have regard to —

- (a) the number of persons occupying or using, or likely to occupy or use, the land or building;
- (b) the use, or intended use, of the land or building;
- (c) whether permitted sanitary facilities are already provided in relation to the land or building and the extent to which any such facilities comply with the minimum standards specified in the Code for the construction, erection or alteration of permitted sanitary facilities; and
- (d) the conservation values specified in the Code for the construction, erection or alteration of permitted sanitary facilities.

(6) In considering whether to issue a notice under subsection (1), the executive member may have regard to relevant considerations that are not specified in subsection (5), but a decision to issue a notice is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection (5).

(7) The executive member must not issue a notice under paragraph (2)(a) requiring a person to provide, in a place in the Water Assurance Area, a permitted sanitary facility that is not a mains sewer facility or a temporary facility.

Cleansing, etc of permitted sanitary facilities

57. (1) Subject to this section, the executive member may, by written notice served on the owner or occupier of a place where permitted sanitary facilities are situated, require the owner or occupier to cleanse or repair the sanitary facilities.

- (2) Such a notice may specify —
- (a) that particular sanitary facilities, or all sanitary facilities situated at the place, are to be cleansed or repaired;
 - (b) the method of cleansing to be used or the nature of the repairs to be done; and
 - (c) the time within which the cleansing or repairs are to be done.

Closure of permitted sanitary facilities

58. (1) Subject to this section, the executive member may, by written notice served on the owner or occupier of a place where permitted sanitary facilities are situated, prohibit the use of the sanitary facilities.

- (2) Such a notice may —
- (a) relate to a particular permitted sanitary facility, or all such facilities situated at the place; and
 - (b) prohibit the use of such a sanitary facility —
 - (i) for a period specified in the notice;
 - (ii) until a notice under section 56 or 57 has been complied with; or
 - (iii) permanently.

(3) A notice that permanently prohibits the use of a permitted sanitary facility may include a requirement that the facility be removed, demolished or made inoperable by a method, and within a period, specified in the notice.

(4) In considering whether to issue a notice under subsection (1) the executive member must have regard to —

- (a) the extent to which the facilities comply with the minimum standards specified in the Code for the construction, erection or alteration of permitted sanitary facilities;
- (b) the conservation values specified in the Code for the construction, erection or alteration of permitted sanitary facilities; and
- (c) the extent of compliance with any notice issued under section 56 or 57 in respect of the facilities.

(5) In considering whether to issue a notice under subsection (1), the executive member may have regard to relevant considerations that are not specified in subsection (4), but a decision to issue a notice is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection (4).

Closure of prohibited facilities

59. (1) The executive member may, by written notice served on the owner or occupier of a place, require the owner or occupier to remove, demolish or make inoperable a temporary or permanent facility situated at the place (other than a permitted sanitary facility), for the reception, collection or treatment of sewage.

(2) Subsection (1) does not apply to a facility referred to in subsection 50(2).

(3) A notice under subsection (1) may include a requirement that the facility be removed, demolished or made inoperable by a method, and within a period, specified in the notice.

(4) The executive member must strive to locate facilities referred to in this section, and must, when such a facility is located, issue a notice under subsection (1) in respect of it.

(5) Unless the executive member considers in a particular case that there are extraordinary circumstances, the executive member must not specify in a notice under subsection (1) a period of more than 3 months within which the notice must be complied with.

Closure of permitted sanitary facilities in Water Assurance Area

60. (1) The executive member may, by written notice served on the owner or occupier of a place in the Water Assurance Area, require the owner or occupier to remove, demolish or make inoperable a permitted sanitary facility that is not a mains sewer facility or temporary facility.

(2) Such a notice may include a requirement that the sanitary facility be removed, demolished or made inoperable by a method, and within a period, specified in the notice.

(3) The executive member must strive to locate facilities referred to in this section, and must, where such a facility is located, issue a notice under subsection (1) in respect of it.

(4) Unless the executive member considers in a particular case that there are extraordinary circumstances, the executive member must not specify in a notice under subsection (1) a period of more than 6 months within which the notice must be complied with.

Sewage deposit area

61. (1) Subject to subsection (2), the executive member may, by notice in the Gazette, approve a place to be a place where sewage or trade waste may be deposited.

(2) The executive member must not approve as a sewage deposit area a place that is in the Water Assurance Area.

(3) A notice under subsection (1) may make the use of a sewage deposit area subject to such conditions as the executive member considers necessary having regard to public health and the amenities of the area in which the sewage deposit area is, or is to be, situated, including conditions relating to compliance with the directions of a person or class of persons in relation to the use of the area.

(4) A person using a sewage deposit area (whether for the depositing of sewage or trade waste, or for another purpose) must comply with conditions referred to in subsection (3).

Water Assurance Area

62. (1) Subject to this section, the executive member may, by notice in the Gazette, specify an area or areas to be a Water Assurance Area.

(2) The executive member must not specify an area to be a Water Assurance Area unless —

- (a) the area is served by a sewer; and
- (b) the executive member is satisfied that it is practicable for sanitary facilities within, or likely to be constructed within, the area to be connected to the sewer.

Prohibitions

63. (1) A person must not deposit sewage, or permit sewage to be deposited, except —

- (a) in a permitted sanitary facility;
- (b) in a portable facility for the use of children or invalids;
- (c) in a sullage cart licensed under Part 7; or
- (d) in a sewage deposit area.

(2) A person must not deposit trade waste, or permit trade waste to be deposited, except —

- (a) in a permitted sanitary facility in accordance with an approval under section 55;
- (b) in a drainage trap in accordance with an approval under section 65;
- (c) in a sullage cart licensed under Part 7; or
- (d) in a sewage deposit area.

(3) A person must not deposit, or permit to be deposited —

- (a) in a permitted sanitary facility - stormwater; or
- (b) in a mains sewer facility or sewer - grease, hair or other animal matter (other than waste from the human body), or ashes, garbage, mud, rags, refuse, salt, soil or other solid matter.

Drainage

64. (1) Land or a structure must be adequately drained.

(2) Without limiting the generality of subsection (1), land or a structure is not adequately drained if liquid (other than stormwater) or slurry from the land or building enters or is likely to enter a water source.

(3) The executive member may, by written notice served on the owner or occupier of land or a structure, require the owner or occupier to take such measures as are specified in the notice, within a period specified in the notice —

- (a) to construct drains on the land or in relation to the structure; or
- (b) to cleanse or repair a drain on the land or in relation to the structure.

Construction, etc of drainage traps requires approval

65. (1) The construction or alteration of a drainage trap requires approval.

(2) A notice under subsection 64(3) is to be taken to be an approval of the construction or alteration of a drainage trap required in order to comply with the notice.

(3) The construction or alteration of a drain that is not a drainage trap does not require approval except —

- (a) under Part 4 if the drain constitutes part of, or is constructed or altered in relation to, a building to which that Part applies;
- (b) under section 51 if the drain constitutes part of a permitted sanitary facility; or
- (c) under Division 2 if the drain constitutes part of a bore or well to which that Division applies.

Some uses of drainage traps require approval

66. The use of a drainage trap for depositing trade waste requires approval.

*Division 2 — Water supply***Interpretation**

67. In this Act, unless the contrary intention appears —
- “bore” includes equipment associated with the use of the bore as a water source;
 - “potable”, in relation to water, means safe for human consumption in accordance with the potability criteria for water specified in the Code;
 - “water source” means an aquifer, bore, creek, dam, reservoir, spring, tank, watercourse or well;
 - “well” includes equipment associated with the use of the well as a water source.

Closure, etc of water sources

70. (1) Subject to this section, the executive member may, by written notice served on the owner or occupier of a place where a water source is situated, require the owner or occupier to comply with the notice.

(2) Such a notice —

- (a) may relate to a particular water source, or all water sources situated at the place;
- (b) may prohibit the use of water from the water source for a purpose specified in the notice, or for any purpose —
 - (i) for a period specified in the notice;
 - (ii) until a condition specified in the notice has been complied with;
or
 - (iii) permanently;

- (c) may require the installation and use of filtration or other equipment for the purification of water from the water source; or
- (d) may require other work to be done, or conditions to be complied with, in relation to the water source or the use of water from it.

(3) A notice that permanently prohibits the use of a water source may include a requirement that, so far as is practicable, the water source and any equipment associated with it be removed, demolished or made inoperable by a method, and within a period, specified in the notice.

(4) In considering whether to issue a notice under subsection (1) the executive member must have regard to —

- (a) the extent to which water from the water source complies with the potability criteria for water specified in the Code;
- (b) the extent to which the water source and its associated equipment complies with the minimum standards specified in the Code for the construction and alteration of water supply works; and
- (c) the conservation values specified in the Code for the preservation of natural water resources and for the construction and alteration of water supply works.

(5) In considering whether to issue a notice under subsection (1), the executive member may have regard to relevant considerations that are not specified in subsection (4), but a decision to issue a notice is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in that subsection.

Contamination of water sources

71. (1) A person must not permit effluent from —

- (a) a drain through which sewage or trade waste flows; or
- (b) a permitted sanitary facility, or prohibited sanitary facility referred to in section 59,

to discharge, directly or indirectly, into a water source.

(2) It is a defence to proceedings for an offence against subsection (1) that the defendant was not aware that the effluent was discharging into the water source.

(3) A person must not bathe or wash in a water source from which water is drawn for domestic purposes.

(4) If an animal becomes bogged or caught on the banks of, or in, a water source, a person who has the control of the animal must immediately remove the animal.

(5) A person must not drown or attempt to drown an animal in a water source.

(6) A person must not deposit, or cause to be deposited, refuse, earth, glass, paper or offensive matter (including the body of a dead animal) within 30 metres of a water source from which water is drawn for domestic purposes, or in such a water source.

*Division 3 — Garbage***Interpretation**

72. In this Act, unless the contrary intention appears —

“garbage” —

- (a) includes refuse and rubbish; and
- (b) does not include sewage or trade waste;

“garbage deposit area” means a place approved under section 74 as a place where garbage may be deposited;

“prescribed garbage receptacle” means —

- (a) a receptacle made of metal or plastic and having a close-fitting cover; and
- (b) such other receptacles, if any, as are specified in the Code;

“public place” means a place that is open to members of the public, whether or not on payment of a fee;

“refuse” means dung, offal or other matter that is unwholesome or from which an offensive odour arises;

“rubbish” means litter or domestic or commercial waste.

Removal, etc of garbage

73. (1) The occupier of a building must provide for use in relation to the building such number of prescribed garbage receptacles as is sufficient for the reception of garbage from, and in relation to, the building.

(2) The occupier of a building must, in relation to the building —

- (a) cause all garbage to be put in a prescribed garbage receptacle;
- (b) cause all garbage receptacles to be kept clean and maintained in good order and condition;
- (c) not permit a garbage receptacle to become a nuisance;
- (d) keep all garbage receptacles covered; and
- (e) cause each garbage receptacle to be emptied when full and the contents removed to a garbage deposit area.

(3) The executive member may, by written notice served on the occupier of land or a building, require the occupier —

- (a) to provide such number of prescribed garbage receptacles for use in relation to the land or building as is specified in the notice; or
- (b) to remove to a garbage deposit area garbage that is on the land or in the building,

before a date specified in the notice.

(4) A person on whom such a notice has been served must comply with the notice.

Garbage deposit area

74. (1) The executive member may, by notice in the Gazette, approve a place to be a place where garbage may be deposited.

(2) Such a notice may make the use of a garbage deposit area subject to such conditions as the executive member considers necessary having regard to public health and the amenities of the area in which the garbage deposit area is, or is to be, situated, including conditions relating to compliance with the directions of a person or class of persons in relation to the use of the area.

(3) A person using a garbage deposit area (whether for the depositing of garbage or for another purpose) must comply with conditions referred to in subsection (2).

Leaving garbage in public places

75. A person must not deposit garbage in a public place except —

- (a) in a receptacle provided for the reception of garbage; or
- (b) in a garbage deposit area.

Carriage of garbage in public places

76. A person must not convey garbage into or through a public place except in a vehicle or receptacle covered so as to hold securely the contents, and, if the contents include a liquid, so as to prevent the escape of the liquid.

Division 4 — Nuisances, etc

Meaning of “nuisance”

77. In this Act, unless the contrary intention appears, “nuisance” means —

- (a) land or a structure kept in a state that is, or is likely to become, injurious or prejudicial to health or an eyesore;
- (b) an animal or bird so kept as to be, or be likely to become, injurious or prejudicial to health;
- (c) an accumulation or deposit of material that is, or is likely to become, injurious or prejudicial to health or an eyesore;
- (d) the infestation of land, a structure or a water source by rats, mice, flies, mosquitoes or other vermin;
- (e) land or a structure from which is emitted smoke, soot, dust, effluvia or a smell that is, or is likely to become —
 - (i) injurious or prejudicial to health; or
 - (ii) offensive or gravely inconvenient to persons near the place;
- (f) a building that is so overcrowded as to be, or be likely to become, injurious or prejudicial to health; or
- (g) the emission from a place of noise that is, or is likely to become, injurious or prejudicial to health, or that is offensive or gravely inconvenient to persons near the place.

Nuisance abatement notices

78. The executive member may, by written notice served on the owner or occupier of a place, require the owner or occupier to take such measures as are specified in the notice, within a period specified in the notice, to abate a nuisance occurring or existing at the place.

Vermin breeding grounds

79. Where, in the opinion of the executive member, there exist at a place conditions favourable to the breeding or existence of rats, mice, flies, mosquitoes or other vermin, the executive member may, by written notice served on the owner or occupier of the place, require the owner or occupier to take such measures as are specified in the notice, within a period specified in the notice, to remedy those conditions.

Spitting

80. A person must not, in a public place, spit out sputum from the person's respiratory passages.

*Division 5 — Animals***Meaning of “animal”**

81. In this Act, unless the contrary intention appears, “animal” includes a bird or fish.

Keeping of animals

82. (1) Subject to this section, the executive member may, by written notice served on the owner or occupier of land or a building, require the owner or occupier to take such measures as are specified in the notice, within a period specified in the notice, to comply with the minimum standards specified in the Code —

- (a) in relation to a building - for approval of use of the building; or
- (b) in relation to land - for approval of use of the land,

for or in relation to the keeping of live animals.

(2) Subsection (1) applies to a building even though the keeping of live animals in the building is a pre-existing purpose.

(3) In considering whether to issue a notice under subsection (1) the executive member must have regard to the extent to which the use of the land or building complies with the minimum standards specified in the Code for approval of the use of land or buildings for or in relation to the keeping of live animals, and to the amenities of the area in which the land or building is situated.

(4) In considering whether to issue a notice under subsection (1) the executive member may have regard to relevant considerations that are not specified in subsection (3), but a decision to issue such a notice is not unreasonable for the purposes of Part 9 because regard was had only to matters referred to in subsection (3).

Dead animals

83. (1) Subject to subsection (2), if an animal dies —

- (a) in a public place - the owner of the animal; or
- (b) in a place that is not a public place - the occupier of the place,

must dispose of the animal's dead body.

(2) If an animal's dead body —

- (a) is not disposed of in accordance with subsection (1); or

- (b) is disposed of in a manner which, in the opinion of the executive member or an authorised officer, is offensive,

the executive member may cause the animal's dead body to be removed and dealt with as the executive member directs.

(3) In spite of section 142, an authorised officer may enter land or a building, with such assistance as is necessary, for the purpose of removing an animal's dead body (but for no other purpose).

(4) The reasonable cost of removing an animal's dead body and of dealing with it under this section is a debt due and payable to the Administration by —

- (a) in the case of an animal that died in a public place - the owner of the animal; or
- (b) in the case of an animal that died in a place other than a public place - the occupier of the place.

Division 6 — Miscellaneous

Disused refrigerators, etc

84. (1) A person must not place an article dangerous to children in a position that is accessible (whether or not lawfully) to children unless the article is in use by the person or by another person.

(2) In subsection (1), “article dangerous to children” means a receptacle or container (for example, a refrigerator or freezer) that has a capacity of 40 litres or more and that is capable of being closed from the inside or outside.

Swimming pool safety

85. (1) The executive member may, by written notice served on the owner or occupier of land on which, or a building in which, a swimming pool is situated, require the owner or occupier to take such measures as are specified in the notice, within a period specified in the notice, to comply with the minimum standards specified in the Code for the construction and maintenance of swimming pools.

(2) Subsection (1) applies to a swimming pool even though the pool was constructed before the commencement of Part 4 (and therefore did not require approval under that Part for its construction).

(3) In considering whether to issue a notice under subsection (1), the executive member must have regard to the extent to which the swimming pool complies with the minimum standards specified in the Code for the construction and maintenance of swimming pools.

(4) In considering whether to issue a notice under subsection (1), the executive member may have regard to relevant considerations that are not specified in subsection (3), but a decision to issue a notice is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection (3).

(5) In this section, “swimming pool” means an excavation or structure that is —

- (a) capable of holding water; and
- (b) designed or intended to be solely or principally used by one or more persons for the purpose of swimming, wading or paddling.

*Division 7 — Sewerage and drainage easements***Interpretation**

86. In this Act, unless the contrary intention appears —

“drainage easement” means an easement in gross in favour of the Administration conferring on the Administration, and its officers, servants and agents, the right to —

- (a) enter land on foot, or with vehicles or machinery;
- (b) construct, erect or place on or below the land pipelines, culverts and other facilities for the channelling and dispersion of surface water;
- (c) take from, or deposit on, the land sand, clay, stone, earth, gravel, timber, wood or other materials or goods; and
- (d) make cuttings or excavations on the land,

for or in connection with the drainage, channelling or dispersion of surface water from, or on, a road that is maintained by the Administration (whether or not the road is owned by the Crown or Administration);

“interest in land” means —

- (a) a legal or equitable estate or interest in land;
- (b) a restriction on the use of land, whether or not annexed to other land; or
- (c) another right (including a right under an option and a right of redemption), charge, power or privilege over or in connection with land or an interest in land,

and includes the interest of a lessee in land held under lease from the Crown under the *Crown Lands Act 1996*;

“Public Account” means the same as in the *Public Moneys Act 1979*;

“register”, in relation to a notification under subsection 89(1), means kept of record by the Registrar in the same way as the notification would have been kept if it were an instrument executed in accordance with section 4 of the *Conveyancing Act 1913*;

“Registrar” means the Registrar of Lands holding office under the *Conveyancing Act 1913*, and includes the Deputy Registrar of Lands;

“sewerage easement” means an easement in gross in favour of the Administration conferring on the Administration, and its officers, servants and agents, the right to —

- (a) enter land on foot, or with vehicles or machinery;
- (b) construct, erect or place on or below the land pipelines, pumping stations, valvegear or equipment;
- (c) take from, or deposit on, the land sand, clay, stone, earth, gravel, timber, wood or other materials or goods;
- (d) make roadways, cuttings or excavations on the land; and

- (e) construct or erect on or above the land plant within the meaning of the *Electricity Supply Act 1985*,
for or in connection with the construction, proposed construction, maintenance, operation, repair or replacement, or for access to, a sewer.

Acquisition by agreement of sewerage or drainage easements

87. The Administration may, by agreement with a person who has an interest in land, acquire from the person a sewerage or drainage easement in respect of the land.

Compulsory acquisition of sewerage or drainage easements

88. (1) Subject to this section, the executive member may, by written notice, declare that the executive member is considering the compulsory acquisition of a sewerage or drainage easement in respect of land specified in the declaration.

(2) The executive member must serve a copy of the notice on each person whom the executive member believes, after diligent enquiry, to be a person affected by the declaration.

(3) A person is to be taken to be affected by such a declaration if and only if —

- (a) the person has an interest in the land that is the subject of the declaration; and
- (b) if the sewerage or drainage easement referred to in the declaration were acquired, the interest of the person would in whole or in part be divested, extinguished or diminished because of the acquisition.

(4) As soon as practicable after serving under subsection (3) a copy of a notice on every person whom the executive member believes to be affected by the declaration, the executive member must publish the notice in the Gazette.

(5) A declaration becomes final at the end of 21 days after the date of the notice's publication under subsection (4).

(6) On an application for review of a decision to make a declaration, the Court must not take into consideration, in determining whether or not the decision is unreasonable, the amount of compensation that may be payable if the acquisition referred to in the declaration proceeds.

Vesting in Administration

89. (1) Where a declaration under section 88 has, in accordance with subsection 88(5), become final, then, subject to any decision of the Court under Part 9 on an application for stay or application for review, the executive member may, by written notification published in the Gazette, notify that the land referred to in the declaration is the subject of a sewerage or drainage easement.

(2) Subject to subsection (3), on publication of such a notification, the sewerage or drainage easement referred to in the notification is vested in the Administration, to the exclusion of all interests in land that are inconsistent with the easement.

(3) A notification under subsection (1) made in relation to land held under lease from the Crown under the *Crown Lands Act 1996* does not affect the interests of the Crown in right of the Commonwealth in respect of the land.

(4) As soon as practicable after the publication of a notification under subsection (1), the Registrar must —

- (a) if the notification relates to a freehold estate or interest in land - register in relation to the land a copy of the notification; or
- (b) if the notification relates to land held under lease from the Crown under the *Crown Lands Act 1996* - keep of record in relation to the land a copy of the notification.

Obligations of Administration in use of sewerage and drainage easements

90. (1) The Administration must, so far as is practicable, ensure —

- (a) that land that is the subject of a sewerage or drainage easement, and structures on the land (other than structures constructed, erected or placed on the land by the Administration) are reinstated or repaired after the completion of works undertaken by the Administration on the land or in relation to the structure; and
- (b) that the occupier of land that is the subject of a sewerage or drainage easement is given adequate notice of the Administration's intention to use the easement for the purposes of undertaking works, and of the general nature of the works to be undertaken.

(2) The obligations imposed on the Administration under subsection (1) also apply to officers, servants and agents of the Administration.

Compensation

91. (1) Subject to this section, a person is entitled to compensation in accordance with this Division if —

- (a) the person had, immediately before the acquisition under section 89 of a sewerage or drainage easement, an interest in land that is the subject of the easement; and
- (b) the interest was in whole or in part divested, extinguished or diminished because of the acquisition.

(2) A person entitled to compensation may, by written notice to the executive member, waive the person's right to compensation.

(3) A person (other than a person who has so waived the person's right to compensation) who considers that the person is entitled to compensation under this Division, may make a written claim to the executive member for a specified amount of compensation to be paid to the person.

(4) The executive member may, by written notice served on the person, accept or reject the person's claim.

(5) If the executive member accepts the person's claim —

- (a) the Administration must, within 60 days after the date of service of the executive member's notice of acceptance, pay the amount claimed to the person; and

- (b) if the amount is not so paid, the amount is a debt payable to the person by the Administration and is recoverable by the person in a Court of competent jurisdiction.

(6) If the executive member does not, within 60 days after a claim has been made under subsection (3), accept or reject the claim, the executive member is to be taken to have rejected the claim.

Assessment of compensation by Court

92. (1) If the executive member under section 91 rejects, or is taken to have rejected, a claim, the person who made the claim or the executive member may apply to the Court for assessment of the compensation, if any, payable to the person.

(2) If, on such an application, the Court is satisfied that the person who made the claim is entitled to compensation in accordance with this Division, the Court must, subject to section 149, assess the compensation as the sum of —

- (a) the amount that would have been paid for the interest in land that was divested or extinguished, or for that proportion or part by which the interest was diminished, by a willing but not anxious buyer to a willing but not anxious seller; and
- (b) the amount (other than an amount referred to in paragraph (a)) that would reasonably compensate the person for any loss, injury or damage suffered, or expense reasonably incurred, as a direct and natural consequence of the events which gave rise to the entitlement to compensation.

(3) If the person who made an application to the Court under subsection (1), or the executive member, is dissatisfied with the decision of the Court in relation to the application, the person or executive member may appeal to the Supreme Court against the decision.

(4) On such an appeal, the Supreme Court must, if the Court is satisfied that the person who made the claim is entitled to compensation in accordance with this Division, and subject to section 149, assess the compensation as the sum of the amounts referred to in paragraphs (2)(a) and (b).

(5) Such an appeal is to be by rehearing de novo.

(6) An amount of compensation assessed under this section is payable by the Administration to the person entitled to the compensation, as if the assessment were a judgment or order made or given against the Administration by the Court which made the assessment.

PART 7 — LICENSED ACTIVITIES

Division 1 — Preliminary

Interpretation

93. In this Act, unless the contrary intention appears —

“drug” means —

- (a) a dangerous drug or narcotic substance within the meaning of the *Dangerous Drugs Act 1927*; or
- (b) a poison or dangerous substance within the meaning of the *Poisons and Dangerous Substances Act 1957*;

“food” means an article, matter or compound (including a liquid) ordinarily consumed or intended to be consumed by humans, and includes —

- (a) chewing gum; and
- (b) an ingredient, food additive, matter, compound or other substance that enters into, is capable of entering into or is used in the composition or preparation of, food,

but does not include water, liquor or a drug;

“food premises” means a building where food is sold or prepared or processed for sale;

“hairdresser” means a person who, for reward, shaves, cuts, trims, arranges, cleanses, dresses, waves, curls, singes, bleaches, tints, colours or otherwise treats the hair or beard of a person;

“hairdressing premises” means a building where a person carries on business as a hairdresser;

“liquor” means a liquid, ordinarily consumed or intended for consumption by humans, that contains not less than 2% of proof spirit;

“liquor premises” means a building where liquor is sold;

“sell” means sell for human consumption, and includes —

- (a) offer or attempt to sell, receive for sale, have in possession for sale, expose or advertise for sale, send, forward or deliver for sale, or cause or permit to be sold or offered for sale, for human consumption or use;
- (b) sell for resale for human consumption or use; and
- (c) except in relation to water - supply for human consumption or use under a contract, together with accommodation, service or entertainment, in consideration of an inclusive charge for the article supplied and the accommodation, service or entertainment;

“sullage” means sewage or trade waste.

Application

94. The requirement to obtain and keep in force a licence under this Part in respect of a place or activity does not affect the application, in relation to the place or activity, of any other provision of this Act.

Division 2 — Licences to sell water

Licences to sell water

95. (1) A person must not sell water —

- (a) unless the person holds a licence for the sale of water; and
- (b) in accordance with any conditions to which the licence is subject.

(2) A person who wishes to obtain a licence for the sale of water must apply in writing to the executive member.

(3) Such an application must be accompanied by the information for sale of water licence applications specified in the Code and by the prescribed fee, if any.

(4) The executive member may require an applicant for a licence for the sale of water to provide, in addition to the information referred to in subsection (3), such other information as the executive member considers necessary.

(5) After considering such an application, the executive member may issue to the applicant a licence for the sale of water, either unconditionally or subject to conditions specified in the licence, or may refuse to do so.

(6) In considering whether to issue a licence for the sale of water, the executive member must have regard to —

- (a) the extent to which water from the water source used, or to be used, for obtaining the water proposed to be sold complies with the potability criteria for water specified in the Code;
- (b) the extent to which that water source and its associated equipment complies with the minimum standards specified in the Code for the construction and alteration of water supply works; and
- (c) the nature of the containers (including vehicles) proposed to be used for the transporting of the water, and of any other equipment associated with the loading or delivery of the water.

(7) In considering whether to issue a licence for the sale of water, the executive member may have regard to relevant considerations that are not specified in subsection (6), but a decision to refuse to issue a licence, or to specify conditions in a licence, is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection (6).

Cancellation of licences to sell water

96. (1) Subject to this section, the executive member may, by written notice served on the holder of a licence issued under section 95, cancel the licence.

(2) In considering whether to cancel a licence, the executive member must have regard to the matters specified in subsection 95(6).

(3) In considering whether to cancel a licence, the executive member may have regard to relevant considerations that are not specified in subsection 95(6), including the extent of compliance by the holder of a licence with conditions specified in the licence, but a decision to cancel a licence is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection 95(6).

Period of effect of licences to sell water

97. A licence to sell water has effect, unless the licence is cancelled under section 96, from the date on which the licence is issued until the next following 30 June.

Division 3 — Licences to operate sullage carts

Licences to operate sullage carts

98. (1) A person must not operate a conveyance or vehicle for the carriage of sullage —

- (a) unless the person holds a sullage cart licence; and
- (b) in accordance with any conditions to which the licence is subject.

(2) A person who wishes to obtain a sullage cart licence must apply in writing to the executive member.

(3) Such an application must be accompanied by the information for sullage cart licence applications specified in the Code and by the prescribed fee, if any.

(4) The executive member may require an applicant for a sullage cart licence to provide, in addition to the information referred to in subsection (3), such other information as the executive member considers necessary.

(5) After considering such an application, the executive member may issue to the applicant a sullage cart licence, either unconditionally or subject to conditions specified in the licence, or may refuse to do so.

(6) In considering whether to issue a sullage cart licence, the executive member must have regard to the nature of the conveyance or vehicle proposed to be used for the carriage of sullage, and of any other equipment associated with the loading or unloading of the sullage.

(7) In considering whether to issue a sullage cart licence, the executive member may have regard to relevant considerations that are not specified in subsection (6), but a decision to refuse to issue a sullage cart licence, or to specify conditions in a licence, is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection (6).

Cancellation of sullage cart licences

99. (1) Subject to this section, the executive member may, by written notice served on the holder of a licence issued under section 98, cancel the licence.

(2) In considering whether to cancel a licence, the executive member must have regard to matters specified in subsection 98(6).

(3) In considering whether to cancel a licence, the executive member may have regard to relevant considerations that are not specified in subsection 98(6), including the extent of compliance by the holder of the licence with conditions specified in the licence or with conditions specified under subsection 61(3), but a decision to cancel a licence is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection 98(6).

Period of effect of sullage cart licences

100. A sullage cart licence has effect, unless the licence is cancelled under section 99, from the date on which the licence is issued until the next following 30 June.

*Division 4 — Licences, etc to sell food***Licences, etc to sell food**

- 101. (1)** Subject to this section, a person must not sell food —
- (a) unless the person is the holder of an itinerant food sellers permit; or
 - (b) if the food is sold in food premises - unless a food premises licence is in force in respect of the premises,

and in accordance with any conditions specified in the permit or licence.

- (2)** Subsection (1) does not apply to —
- (a) the sale by a person of packaged food incidentally to a business, other than a business for the sale of food, regularly carried on by the person (for example, the sale of packaged chewing gum, crisps or nuts in a garage or service station);
 - (b) the sale of raw fruit or raw vegetables grown in Norfolk Island;
 - (c) the sale of live animals; or
 - (d) the sale by a person of food in accordance with an exemption under section 102.

Exemptions

102. (1) The executive member may, by written notice published in the Gazette, exempt a person or class of persons from the requirement to obtain an itinerant food sellers permit or food premises licence in respect of the sale, by the person or a person included in the class of persons, of —

- (a) any food; or
 - (b) food within a specified class of food.
- (2)** An exemption under subsection (1) —
- (a) may be issued subject to conditions specified in the exemption; and
 - (b) may be varied or revoked by notice published in the Gazette.

Itinerant food sellers permits

103. (1) A person who wishes to sell food otherwise than in food premises (for example, from a temporary stall or from a vehicle) may apply, in writing or orally, to an authorised officer for an itinerant food sellers permit to be issued to the person.

(2) The authorised officer may issue to the applicant an itinerant food sellers permit, either unconditionally or subject to conditions (including conditions relating to the period or periods for which the permit is effective), or may refuse to do so.

(3) An authorised officer may at any time cancel such a permit.

(4) The refusal to issue, or cancellation, of such a permit does not affect a person's right under section 104 to apply for a food premises licence.

Food premises licences

104. (1) A person who wishes to obtain a food premises licence must apply in writing to the executive member.

(2) Such an application must be accompanied by the information for food premises licence applications specified in the Code and by the prescribed fee, if any.

(3) The Regulations may make different provision in relation to fees for applications in respect of different classes of food premises.

(4) The executive member may require an applicant for a food premises licence to provide, in addition to the information referred to in subsection (2), such other information as the executive member considers necessary.

(5) After considering such an application, the executive member may issue to the applicant a food premises licence, either unconditionally or subject to conditions, or may refuse to do so.

(6) In considering whether to issue a food premises licence, the executive member must have regard to —

- (a) the extent to which the food premises comply with the constructional standards for food premises specified in the Code; and
- (b) the extent to which the food protection standards specified in the Code are capable of being complied with in, or in relation to, the food premises.

(7) In considering whether to issue a food premises licence, the executive member may have regard to relevant considerations that are not specified in subsection (6), but a decision to refuse to issue a licence, or to specify conditions in a licence, is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection (6).

Cancellation of food premises licences

105. (1) Subject to this section, the executive member may, by written notice served on the holder of a licence issued under section 104, or on the occupier of the food premises to which the licence relates, cancel the licence.

(2) In considering whether to cancel a licence, the executive member must have regard to the matters specified in subsection 104(6).

(3) In considering whether to cancel a licence, the executive member may have regard to relevant considerations that are not specified in subsection 104(6), including —

- (a) the extent of compliance, in relation to the food premises, by the holder of the licence or by other persons, with conditions specified in the licence; and
- (b) the extent of compliance, in relation to the food premises, by the holder of the licence or by other persons, with the food protection standards specified in the Code,

but a decision to cancel a licence is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection 104(6).

Period of effect of food premises licences

106. A food premises licence has effect, unless the licence is cancelled under section 105, from the date on which the licence is issued until the next following 30 June.

Food protection standards

107. (1) A person who sells food must, in relation to the storage, keeping or serving of the food, comply with the food protection standards specified in the Code.

(2) A person must not sell food which does not comply with the food protection standards specified in the Code.

(3) The executive member may, by written notice served on a person, condemn food in the possession of, or under the control of, the person if the food does not comply with the food protection standards specified in the Code.

(4) Such a notice is effective even if the person to whom the notice is directed is not the owner of the food.

(5) An authorised officer may confiscate food specified in such a notice, and may dispose of the food in a manner determined by the authorised officer.

Division 5 — Licences, etc to sell liquor

Licences, etc to sell liquor

108. (1) Subject to this section, a person must not sell liquor —

- (a) unless the person is the holder of a temporary liquor permit; or
- (b) if the liquor is sold in liquor premises - unless a liquor premises licence is in force in respect of the premises,

and in accordance with any conditions to which the permit, or licence, is subject.

(2) Subsection (1) does not apply to the Administration.

Temporary liquor permits

109. (1) A person who wishes to sell liquor otherwise than in liquor premises (for example, at a fish fry or picnic) may apply, in writing or orally, to an authorised officer for a temporary liquor permit to be issued to the person.

(2) Such an application must be accompanied by the prescribed fee, if any.

(3) The authorised officer may issue to the applicant a temporary liquor permit, either unconditionally or subject to conditions (including conditions relating to the period or periods for which the permit is effective), or may refuse to do so.

(4) An authorised officer may at any time cancel such a permit.

(5) The refusal to issue, or cancellation, of such a permit does not affect a person's right under section 110 to apply for a liquor premises licence.

Liquor premises licences

110. (1) A person who wishes to obtain a liquor premises licence must apply in writing to the executive member.

(2) Such an application must be accompanied by the information for liquor premises licence applications specified in the Code and by the prescribed fee, if any.

(3) The Regulations may make different provision in relation to fees for applications in respect of different classes of liquor premises.

(4) The executive member may require an applicant for a liquor premises licence to provide, in addition to the information referred to in subsection (2), such other information as the executive member considers necessary.

(5) After considering such an application, the executive member may issue to the applicant a liquor premises licence, either unconditionally or subject to conditions, or may refuse to do so.

(6) In considering whether to issue a liquor premises licence, the executive member must have regard to the extent to which the liquor premises comply with the constructional standards for liquor premises specified in the Code.

(7) In considering whether to issue a liquor premises licence, the executive member may have regard to relevant considerations that are not specified in subsection (6), but a decision to refuse to issue a licence, or to specify conditions in a licence, is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection (6).

Cancellation of liquor premises licences

111. (1) Subject to this section, the executive member may, by written notice served on the holder of a licence issued under section 110, or on the occupier of the liquor premises to which the licence relates, cancel the licence.

(2) In considering whether to cancel a licence, the executive member must have regard to the matters specified in subsection 110(6).

(3) In considering whether to cancel a licence, the executive member may have regard to relevant considerations that are not specified in subsection 110(6), including —

- (a) the extent of compliance, in relation to the liquor premises, by the holder of the licence or by other persons, with conditions specified in the licence; and
- (b) whether an authority under the *Liquor Act 1960* has been cancelled, or is otherwise not in force, in relation to the liquor premises,

but a decision to cancel a licence is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection 110(6).

Period of effect of liquor premises licences

112. A liquor premises licence has effect, unless the licence is cancelled under section 111, from the date on which the licence is issued until the next following 30 June.

Saving of other laws

113. The provisions of this Division are additional to, and not in derogation of or in substitution for, any other law in force in Norfolk Island relating to the sale of liquor, whether passed or made before or after the commencement of this section.

Division 6 — Hairdressing premises licences

Hairdressing premises licences

114. (1) A person must not carry on business as a hairdresser except in hairdressing premises in respect of which a hairdressing premises licence is in force.

(2) A person who wishes to obtain a hairdressing premises licence must apply in writing to the executive member.

(3) Such an application must be accompanied by the information for hairdressing licence applications specified in the Code and by the prescribed fee, if any.

(4) The executive member may require an applicant for a hairdressing premises licence to provide, in addition to the information referred to in subsection (3), such other information as the executive member considers necessary.

(5) After considering such an application, the executive member may issue to the applicant a hairdressing premises licence, either unconditionally or subject to conditions specified in the licence, or may refuse to do so.

(6) In considering whether to issue a hairdressing premises licence, the executive member must have regard to —

- (a) the extent to which the hairdressing premises comply with the constructional standards for hairdressing premises specified in the Code; and
- (b) the extent to which the hairdressing hygiene standards specified in the Code are capable of being complied with in, or in relation to, the hairdressing premises.

(7) In considering whether to issue a hairdressing premises licence, the executive member may have regard to relevant considerations that are not specified in subsection (6), but a decision to refuse to issue a licence, or to specify conditions in a licence, is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection (6).

Cancellation of hairdressing premises licences

115. (1) Subject to this section, the executive member may, by written notice served on the holder of a licence issued under section 114, or on the occupier of the hairdressing premises to which the licence relates, cancel the licence.

(2) In considering whether to cancel a licence, the executive member must have regard to the matters specified in subsection 114(6).

(3) In considering whether to cancel a licence, the executive member may have regard to relevant considerations that are not specified in subsection 114(6), including —

- (a) the extent of compliance, in relation to the hairdressing premises, by the holder of the licence or by other persons, with conditions specified in the licence; and
- (b) the extent of compliance, in relation to the hairdressing premises, by the holder of the licence or by other persons, with the hairdressing hygiene standards specified in the Code,

but a decision to cancel a licence is not unreasonable for the purposes of Part 9 because regard was had only to matters specified in subsection 114(6).

Period of effect of hairdressing premises licences

116. A hairdressing premises licence has effect, unless the licence is cancelled under section 115, from the date the licence is issued until the next following 30 June.

Hairdressing hygiene standards

117. A hairdresser must comply with the hairdressing hygiene standards specified in the Code.

PART 8 — VEGETATION

Interpretation

118. (1) In this Act, unless the contrary intention appears —
- “noxious weed” means a plant of a species specified in the Code as a noxious species;
 - “pine cone” means the fruit of the Norfolk Pine (*Araucaria heterophylla*), and includes the seed of the Norfolk Pine;
 - “protected tree” means a tree of a species specified in the Code as a protected species;
 - “take”, in relation to a tree, means to destroy, fell, injure, remove or ring bark the tree;
 - “timber” means —
 - (a) a live or dead tree or sapling of any species, including a species specified in the Code as a protected species;
 - (b) the fruit or seeds of such a tree or sapling; or
 - (c) green or dead wood from such a tree or sapling,
 but does not include wood that has been milled or is otherwise not in its natural state.

(2) For the purposes of this Part, the topping, lopping or trimming of a protected tree does not, when carried out in accordance with good silvicultural practice, constitute injury to the tree.

Application to Administration

119. This Part does not apply to the Administration, but the executive member must strive to ensure, so far as is practicable, that an activity undertaken by the Administration in relation to timber or noxious weeds shall be generally consistent with the conservation values and minimum standards, if any, specified in the Code in relation to activities of that kind.

Taking of protected tree requires approval

120. (1) Subject to this section, the taking of a protected tree requires approval.

(2) The taking of a protected tree of a particular species does not require approval if the tree is less than the minimum height, measured from the highest point of the ground surrounding the base of the trunk of the tree, specified in the Code in relation to protected trees of that species.

(3) The taking of a protected tree does not require approval if the tree is taken from an approved private forest.

(4) For the purposes of this section, an approved private forest is a forest —

- (a) in respect of which a forest management plan has been approved by an authorised officer; and

- (b) during the continuance of such an approval.

Conditions – to take a protected tree

121. Conditions that may be imposed on approval of an application to take a protected tree may include a condition requiring the instructions of an authorised officer to be complied with in relation to the taking of the tree.

Taking of timber on Crown land requires approval

122. The taking of timber that is on Crown land (other than land held under lease from the Crown) requires approval.

Conditions - taking timber on Crown land

123. (1) Conditions that may be imposed on approval of an application to take timber that is on Crown land (other than land held under lease from the Crown) may include —

- (a) in relation to timber (including pine cones) that, in the executive member's opinion, has a commercial value - a condition imposing a royalty on the timber taken, or to be taken, calculated by reference to the quantity of the timber;
- (b) in relation to timber that, in the executive member's opinion, is fit only for use as fuel - a condition imposing a fee of not more than one fee unit in respect of each month for which the approval remains in force; and
- (c) a condition requiring the instructions of an authorised officer to be complied with in relation to the taking of the timber.

(2) A royalty or fee referred to in subsection (1) —

- (a) is in addition to the fee, if any, prescribed under subsection 24(3) in relation to the making of an application to take timber that is on Crown land; and
- (b) is a debt payable to the Administration.

(3) Subsection (1) does not prevent the executive member from selling by public tender the right to take pine cones from specified Crown land during a specified period.

(4) Such a right —

- (a) must not be granted in respect of land held under lease from the Crown, except with the written consent of the lessee; and
- (b) must be exercised in accordance with any instructions of an authorised officer.

Saw mill returns

124. (1) The executive member may, by written notice published in the Gazette, specify a timber or saw mill to be a mill to which this section applies.

(2) The owner of a mill to which this section applies must provide each month to the executive member a return in the prescribed form of timber milled or sawn at the mill during the preceding month.

Noxious weeds

125. (1) The executive member may, by written notice served on a person who is the owner or occupier of land on which noxious weeds are growing, require the person to eradicate the noxious weeds from the land within a period specified in the notice.

(2) Such a notice may —

- (a) relate to all or a specified part of such land;
- (b) require the eradication of all noxious weeds or specified species of noxious weeds; and
- (c) specify the manner in which the noxious weeds the subject of the notice are to be eradicated.

(3) A person on whom such a notice has been served must comply with the notice.

PART 9 — REVIEW OF DECISIONS**Interpretation**

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

“application for review” means an application under section 127 for review of a decision;

“application for stay” means an application under section 133 for a direction to be made under that section;

“Clerk” means the Clerk of the Court of Petty Sessions, and includes the Deputy Clerk;

“Court” means the Court of Petty Sessions;

“decision” means a decision, referred to in subsection 128(1), to which this Part applies;

“respondent”, in relation to an application for review of a decision, means the person by whom the decision was made.

Applications for review

127. (1) A person may apply to the Court for review of a decision that affects the person.

(2) An application for review —

- (a) must be in writing;
- (b) must identify the decision that is the subject of the application, and the person by whom the decision was made; and
- (c) must be lodged with the Clerk within 21 days after notice of the decision was made available to the applicant.

(3) As soon as practicable after an application for review has been lodged under subsection (2), the Clerk must provide a copy of the application to the respondent.

Reviewable decisions

128. (1) Subject to subsection (2), the following decisions are decisions to which this Part applies —

- (a) a decision by the executive member to approve, refuse to approve or impose conditions on the approval of —
 - (i) an application; or
 - (ii) a development application;
- (b) a decision by the executive member, referred to in subsection 44(8), to omit a relevant building from the Register of Uses, or to include in the Register of Uses a statement of the purpose for which a relevant building was predominantly used before the commencement of that subsection;
- (c) a decision by the executive member under 6, 7 or 8 to issue, or to include conditions in, a notice;
- (d) a decision by the executive member under Part 7 to refuse to issue, to cancel or to include conditions in a licence;
- (e) a decision by an authorised officer under subsection 24(4) to refuse to deal with, or further deal with, an application or development application;
- (f) a decision by an authorised officer under section 103 to refuse to issue, to cancel or to include conditions in an itinerant food sellers permit; and
- (g) a decision by an authorised officer under section 109 to refuse to issue, to cancel or to include conditions in a temporary liquor permit.

(2) The following decisions are not decisions to which this Part applies

-
- (a) a decision by the executive member under section 62 to specify an area or areas to be a Water Assurance Area; and
 - (b) a decision to institute enforcement action under Part 10, or to institute a prosecution for an offence against this Act.

Standing to apply for review of decisions

129. A decision is to be taken for the purposes of subsection 127(1) to affect a person if and only if —

- (a) the decision relates to land, a structure or a building owned by the person;
- (b) the decision is a decision, referred to in paragraph 128(1)(a) or (e), about an application or development application made by the person, or taken over by the person under section 23;
- (c) the decision is a decision, referred to in paragraph 128(1)(c), about a notice, and —

- (i) the notice is directed to the person; or
- (ii) in the case of a notice under —
 - (A) subsection 61(1) - the person is the owner of land that may be injuriously affected by the sewage deposit area;
 - (B) subsection 74(1) - the person is the owner of land that may be injuriously affected by the garbage deposit area; or
 - (C) subsection 88(1) - the person has an interest in the land that is the subject of the notice; or
- (d) the decision is a decision, referred to in paragraph 128(1)(d), (f) or (g), about a licence or permit, and the person is an applicant for, or, in the case of a decision to cancel a licence, was the holder of, such a licence or permit.

When time begins to run

130. Notice of a decision is to be taken for the purposes of paragraph 127(2)(c) to have been made available to a person —

- (a) when notice of the decision was served, or taken to have been served, on the person;
- (b) in the case of a decision notified by notice published in the Gazette - on the date of the publication; or
- (c) in the case of a decision, referred to in paragraph 128(1)(b), concerning the Register of Uses - on the date of publication of the Register of Uses.

Procedure of Court

131. In performing its functions under this Part, the Court —

- (a) must conduct its business with as little formality and technicality, and with as much speed, as is consistent with the proper consideration in accordance with this Part of matters before it; and
- (b) is not bound by rules of evidence, but may inform itself as it thinks fit.

Review by Court

132. (1) After considering an application for review, the Court may —

- (a) if it is satisfied that the decision to which the application relates is an unreasonable decision —
 - (i) set aside the decision;
 - (ii) set aside the decision and —
 - (A) make another decision instead; or
 - (B) remit the decision for reconsideration in accordance with any directions or recommendations of the Court; or
 - (iii) vary the decision; or
- (b) in any other case - affirm the decision to which the application relates.

(2) Where the Court has made a decision on an application for review, it must cause a record of its decision, and of the reasons for it, to be provided to the applicant and respondent as soon as practicable after the making of the decision.

(3) Subject to subsection (4), a decision of the Court on an application for review —

- (a) has the same effect, and may be enforced in the same way, as a lawful and reasonable decision made under this Act by a person who has the power to make such a decision; and
- (b) must be given effect to by a person performing functions under this Act.

(4) Unless the Court otherwise orders, a decision made by it on an application for review has effect upon a record of the decision being provided, under subsection (2), to the respondent.

(5) Subject to this Act, a decision is unreasonable for the purposes of this section if the Court considers that the person who made the decision should have made a different decision.

Applications for stay

133. (1) Subject to this section, the making of an application for review does not affect the decision that is the subject of the application, or prevent the taking of action to implement the decision.

(2) A person may apply to the Court for a direction suspending or modifying the operation or implementation of a decision pending the making or determination of an application for review made, or to be made, by the person in respect of the decision.

(3) An application for stay must be in writing and be lodged with the Clerk.

(4) Subject to this section, an application for stay must be dealt with as if it were an application for review.

(5) If the Court considers that, because of urgency or another special reason, it is impracticable to give a respondent or proposed respondent an opportunity to make representations about an application for stay, the Court may grant a stay temporarily subject to such conditions as it thinks fit as to the making of such representations.

(6) After considering an application for stay, the Court may, if it is satisfied that it is appropriate to do so for the purpose of securing the effectiveness of the hearing and determination of an application or proposed application for review, make a direction suspending or modifying the operation or implementation of the decision that is the subject of the application for stay.

(7) Subject to this section, a direction under subsection (6) has effect until —

- (a) the determination of the relevant application for review; or
 - (b) the end of the period, if any, specified in the direction,
- whichever happens first.

(8) A direction made under subsection (6) before a person has made an application for review ceases to have effect if the person does not subsequently lodge, within the period referred to in paragraph 127(2)(c), such an application.

(9) A person performing functions under this Act must give effect to a direction made under this section.

PART 10 — ENFORCEMENT

Division 1 — Offences

Scheduled offences

134. (1) If a person, by act or omission, contravenes or fails to comply with a provision of this Act specified in column 2 of Schedule 3, the person commits an offence punishable upon conviction —

- (a) by a pecuniary penalty not exceeding the penalty specified in relation to the provision in column 3 of that Schedule; or
- (b) if a period of time is specified in relation to the provision in column 4 of that Schedule - by imprisonment for a period not exceeding that period of time,

or both.

(2) Subsection (1) does not affect the operation of subsection 6(4) of the *Criminal Law Act 1960* in relation to offences committed by bodies corporate.

Acting without approval

135. A person must not do a thing for which approval is required under this Act —

- (a) without approval; or
- (b) otherwise than in accordance with conditions imposed on an approval.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

False information

136. A person must not knowingly make an oral or written statement that is false or misleading —

- (a) in connection with, or in support of, an application by the person or by another person; or
- (b) with intent to deceive a person performing a function under this Act.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

Hindering, etc authorised officer

137. A person must not assault, hinder or obstruct an authorised officer who is performing a function under this Act.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

*Division 2 — Other enforcement procedures***Enforcement of conditions and notices**

138. (1) Where —

- (a) an application has been approved subject to a condition; or
- (b) a notice directed to a particular person has been issued under Part VI, VII or VIII,

and the executive member considers that the condition or notice has not been complied with, the executive member may apply to the Court for an order that the person required to comply with the condition or notice comply with that condition or notice.

(2) Where the Court is satisfied on such an application that a person is required to comply with such a condition or notice, and has not done so, the Court may order the person to comply with the condition or notice within a period specified in the order.

(3) A person to whom such an order is directed must comply with the order.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

(4) If an application is made under this section, the person in respect of whom the application is made is not liable to be prosecuted under another section of this Act, or under another law in force on Norfolk Island, in respect of the act or omission that is the subject of the application.

Works by Administration

139. (1) If, after an order has been made under section 138, the person to whom the order is directed does not comply with the order, the executive member may cause to be carried out such works as are necessary for the order to be complied with.

(2) The cost of carrying out such works is a debt due and payable to the Administration by the person to whom such an order was directed, and may be recovered by the Administration in a Court of competent jurisdiction.

(3) No action lies against the executive member, the Administration or a person carrying out such works for anything done or omitted in good faith and without malice in, or in relation to, the carrying out or purported carrying out of such works.

PART 11 — MISCELLANEOUS**Delegation**

140. (1) The executive member may, by written instrument, delegate any of the powers and functions of the executive member under this Act, other than this power of delegation.

(2) Such a delegation may be made —

- (a) to a specified person; or
- (b) to the holder for the time being of a specified office or position.

(3) A power or function so delegated when exercised or performed by the delegate shall, for the purposes of this Act, be deemed to have been exercised or performed by the executive member.

(4) Such a delegation does not prevent the exercise of a power or the performance of a function by the executive member.

Authorised officers

141. (1) The executive member may, by written instrument, appoint persons to be authorised officers for the purposes of this Act.

(2) The executive member must not appoint a person to be an authorised officer unless the executive member is satisfied —

- (a) that the nature of the person's duties makes the appointment necessary or highly desirable; and
- (b) that the person, because of the person's experience, seniority, expertise or training, is a suitable person to be appointed.

(3) An appointment under subsection (1) is to be taken for all purposes to be valid, and is not to be called in question because of the operation of subsection (2).

Powers of entry

142. (1) Subject to this section, an authorised officer may enter land or a building for the purpose of performing a function under, or in connection with the administration of, this Act if and only if —

- (a) an occupier of the land or building consents to the entry;
- (b) an application or development application has been made in relation to the land or building and has not been disposed of, and the purpose of the entry relates to the disposal of the application;
- (c) the land or building is, at the time of the entry, open to members of the public, whether or not on payment of a fee; or
- (d) the entry is made in accordance with an entry order under section 143 or a search warrant under section 144.

(2) In spite of paragraph (1)(b), a house must not be entered under that paragraph —

- (a) except between 9 am and 6 pm on any day; and
- (b) unless reasonable steps have been taken to secure the attendance at the house of an occupier of the house.

(3) An authorised officer must not enter land or a building, or remain on land or in a building, unless the officer produces, if requested to do so, the instrument referred to in section 141 or a copy of the instrument.

Entry orders

143. (1) If a Magistrate is satisfied by information on oath that—

- (a) an authorised officer reasonably requires to enter land or a building for the purpose of performing a function under, or in connection with the administration of, this Act; and

- (b) the entry —
 - (i) is not for the purpose of searching for or seizing a thing referred to in subsection 144(1); and
 - (ii) cannot reasonably be effected under subsection 142(1), either because consent under paragraph 142(1)(a) has been refused or because the obtaining of consent would be likely to defeat the purpose of the entry, or for another sufficient reason,

the Magistrate may grant an entry order authorising the authorised officer, with such assistance and with such force as is necessary and reasonable, to enter the land or building named or described in the order and to inspect the land or building.

- (2) An entry order does not authorise the seizure of anything.

Search warrants

144. (1) If a Magistrate is satisfied by information on oath that there are reasonable grounds for suspecting that there is in or on any premises, aircraft, vehicle, vessel or place —

- (a) anything with respect to which an offence has been, or is suspected on reasonable grounds to have been, committed;
- (b) anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of an offence; or
- (c) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing an offence,

or that any such thing may, within the next following 72 hours, be brought into or on the premises, aircraft, vehicle, vessel or place, the Magistrate may grant a search warrant authorising an authorised officer named in the warrant, with such assistance and with such force as is necessary and reasonable, to enter at any time the premises, aircraft, vehicle, vessel or place named or described in the warrant, and to seize any such thing which the authorised officer might find in or on the premises, aircraft, vehicle, vessel or place.

(2) An authorised officer named in a warrant may, where it is necessary and reasonable to do so for the purposes of executing the warrant, break open doors and receptacles in or on the premises, aircraft, vehicle, vessel or place named or described in the warrant.

- (3) In this section —

“Magistrate” means a Magistrate, and includes the Chief Magistrate, holding office under the *Court of Petty Sessions Act 1960*;

“offence” means an offence against this Act.

Mode of service

145. (1) Subject to this section, where this Act requires or allows a document to be given, directed or provided to a person, or served on a person, the document is to be taken to have been given, directed, provided or served at the time the document was handed to the person or drawn to the person’s attention.

(2) The Regulations may prescribe that documents are to be taken to have been given, directed or provided to a person, or served on a person, upon compliance with a procedure, or at a time, specified in the Regulations.

- (3) The Regulations may make different provision in relation to —
- (a) documents of a particular kind; or
 - (b) recipients of a particular class.

No appropriation necessary for compensation purposes

146. In spite of any other enactment, the executive member is authorised by this section to expend moneys of the Public Account payable by the Administration under this Act in connection with the acquisition of property on just terms.

Evidentiary

147. For the purposes of civil or criminal proceedings in a Court, a copy of an approval, notice, requirement or decision given, issued or made, or purporting to have been given, issued or made, under this Act, is evidence —

- (a) that the approval, notice, requirement or decision was given, issued or made; and
- (b) of the contents of the approval, notice, requirement or decision.

Interruption of pre-existing rights

148. (1) If —

- (a) a structure is in existence on the commencement of this section;
- (b) after the commencement of this section, the structure is involuntarily destroyed (for example by fire); and
- (c) an application to construct or erect another structure in substitution for the structure so destroyed is refused after consideration of the conservation values and minimum standards specified in the Code,

the owner of the land on which the destroyed structure was situated is entitled to be compensated by the Administration for the fall in the value of the land arising from the refusal.

(2) Compensation payable under subsection (1) is to be assessed as the difference between —

- (a) the market value of the land having regard to the refusal to approve the construction or erection, on all or a part of the land, of a structure of the same type and size as the structure that was destroyed; and
- (b) the market value that the land would have had if the destroyed structure had not been destroyed.

(3) In subsection (2), “market value”, in relation to land, means the amount that would have been paid for the land by a willing not anxious buyer to a willing but not anxious seller, but does not include so much of that amount as is referable to a structure that is, or was, upon the land.

(4) The amount of compensation payable under this section, unless agreed between the executive member and the owner of land, is to be assessed by the Court on the application of the executive member or owner.

Acquisition on just terms

149. In any case where the Court or Supreme Court, or another Court exercising jurisdiction in relation to Norfolk Island, is of the opinion that the application of any provision of this Act would result in an acquisition of property having been made otherwise than on just terms, the Court, Supreme Court or other Court may determine such compensation or make such order (whether against the Administration or another person) as, in its opinion, is necessary to ensure that the acquisition is on just terms.

Making, etc of Code by Regulations

150. (1) Subject to this section, the Administrator may make Regulations, not inconsistent with this Act —

- (a) prescribing the Norfolk Island Planning Code; and
- (b) repealing or altering provisions of, or adding new provisions to, the Code.

(2) Such Regulations must not be made except after —

- (a) section 151 has been complied with;
- (b) a copy of the proposed Regulations has been laid before the Legislative Assembly; and
- (c) the Legislative Assembly has passed a resolution approving the proposed regulations.

(2) Section 41 of the *Interpretation Act 1979* does not apply to such Regulations.

Public consultation on proposed Regulations concerning Code

151. (1) Before advising the making of Regulations under section 150, the executive member must —

- (a) not less than 30 days before advising the making of the Regulations, invite, by notice published in the Gazette, the making of representations concerning the proposed Regulations; and
- (b) take such other measures as in the executive member's opinion are reasonable and practicable to ascertain the views of, and to consider any representations by, members of the Norfolk Island community in relation to the proposed Regulations.

(2) When a copy of the proposed Regulations is laid before the Legislative Assembly under paragraph 150(2)(b), the executive member must make a statement to the Assembly on the extent of the executive member's compliance with subsection (1).

(3) A failure by the executive member to make such a statement has the same effect on the operation of the regulations in respect of which the statement ought to have been made as a failure to lay the proposed Regulations before the Legislative Assembly under paragraph 150(2)(b).

(4) The effect or validity of a Regulation made under section 150 is not affected —

- (a) except as provided by subsection (3), by a failure to comply, wholly or in part, with subsection (1) or (2); or
- (b) by the contents or adequacy of a statement made under subsection (2).

Periodic review of Code

152. (1) It is the intention of the Legislative Assembly that the Code should be reviewed periodically in order to assess its effectiveness in preserving, to the greatest practicable extent, the natural environment and landscape beauty of Norfolk Island as it existed at the commencement of this section.

(2) Not more than 5 years after the commencement of this section, the executive member must conduct a review of the Code in order to give effect to the intention expressed in subsection (1).

(3) Further such reviews must be conducted by the executive member at intervals which do not exceed 5 years, beginning from the completion of the review referred to in subsection (2).

(4) A review under subsection (2) or (3) is to be initiated by —

- (a) a notice in the Gazette announcing the beginning of a review, and inviting submissions or representations to be made to the executive member on the effectiveness of the Code in achieving the aim specified in subsection (1); and
- (b) as soon as practicable after the publication of such a notice, the laying before the Legislative Assembly of a copy of the notice.

(5) A review so initiated must be conducted by the executive member —

- (a) in a manner determined by resolution of the Legislative Assembly; or
- (b) if no such resolution is made - in a manner determined by the executive member.

Other Regulations

153. (1) The Administrator may make Regulations, not inconsistent with this Act, 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.

(2) Without limiting the generality of subsection (1), the Regulations may prescribe penalties not exceeding 10 penalty units for a contravention or breach of the Regulations.

SCHEDULE 1

Section 5

Enactments repealed

Item	Enactment
1	<i>Building Act 1967</i>
2	<i>Noxious Weeds Act 1916</i>
3	<i>Public Health Act 1983</i>
4	<i>Sale of Food Act 1950</i>
5	<i>Timber Licences Act 1913</i>
6	<i>Trees (Preservation) Act 1985</i>
7	<i>Water Assurance (Easements) Act 1989</i>

SCHEDULE 2

Section 40

Additional matters for which approval is not required under Part IV

Column 1 Item	Column 2 Matter
1	<p>In relation to a house —</p> <ul style="list-style-type: none"> (a) internal alterations; and (b) additions not exceeding in area 20 square metres to the floor area of the house, where no part of the addition — <ul style="list-style-type: none"> (i) exceeds the existing height of the house; or (ii) is nearer to a boundary of the portion of land on which the house is situated than is specified in the Code, in relation to the development area in which the house is situated, as a minimum location standard for buildings.
2	<p>In relation to a building (including a shed or garage) —</p> <ul style="list-style-type: none"> (a) appurtenant to a house; and (b) required for a purpose incidental to the use of the house as such, any — (c) internal alterations; and (d) additions not exceeding in area 20 square metres to the floor area of the building, when no part of the addition — <ul style="list-style-type: none"> (i) exceeds the existing height of the building; or (ii) is nearer to a boundary of the portion of land on which the building is situated than is specified in the Code, in relation to the development area in which the building is situated, as a minimum location standard for buildings.
3	<p>The construction or erection of a building (other than a house, but including a shed or garage) —</p> <ul style="list-style-type: none"> (a) appurtenant to a house; (b) required for a purpose incidental to the use of the house as such; (c) not exceeding 20 square metres in floor area; (d) no part of which is more than 15 metres from the house; and (e) no part of which is nearer to a boundary of the portion of land on which the house is situated than is specified in the Code, in relation to the development area in which the building is situated, as a minimum location standard for buildings.

Column 1 Item	Column 2 Matter
4	The construction, erection or alteration (except in the Burnt Pine Development Area) of a gate, fence, wall or other means of enclosing land not exceeding 1.5 metres in height.
5	The construction, erection or alteration of — (a) an inground swimming pool; or (b) a tennis court, incidental to the use of a house as such, and no part of which is nearer to a boundary of the portion of land on which the house is situated than is specified in the Code, in relation to the development area in which the house is situated, as a minimum location standard for buildings.
6	The painting or re-painting of the exterior of — (a) a house; or (b) a building referred to in item 3.

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SCHEDULE 3

Section 134

Offences

<u>Column 1</u> <u>Item</u>	<u>Column 2</u> <u>Offence provision</u>	<u>Column 3</u> <u>Maximum pecuniary penalty expressed in penalty units</u>	<u>Column 4</u> <u>Maximum period of imprisonment, if any, expressed in months</u>
1	Subsection 50(1)	50	
2	Subsection 61(4)	20	
3	Subsection 63(1)	50	
4	Subsection 63(2)	50	
5	Subsection 63(3)	50	
6	Subsection 71(1)	40	
7	Subsection 71(3)	20	
8	Subsection 71(4)	20	
9	Subsection 71(5)	40	
10	Subsection 71(6)	40	
11	Subsection 73(1)	10	
12	Subsection 73(2)	5	
13	Subsection 73(4)	10	
14	Subsection 74(3)	20	
15	Section 75	20	
16	Section 76	30	
17	Section 80	2	
18	Subsection 84(1)	60	12

<u>Column 1</u> <u>Item</u>	<u>Column 2</u> <u>Offence provision</u>	<u>Column 3</u> <u>Maximum pecuniary</u> <u>penalty expressed in</u> <u>penalty units</u>	<u>Column 4</u> <u>Maximum period</u> <u>of imprisonment, if</u> <u>any, expressed in</u> <u>months</u>
19	Subsection 95(1)	20	
20	Subsection 98(1)	40	
21	Subsection 101(1)	40	
22	Subsection 107(1)	10	
23	Subsection 107(2)	10	
24	Subsection 108(1)	40	
25	Subsection 114(1)	20	
26	Section 117	20	
27	Section 124	5	
28	Subsection 125(3)	20	

NOTES

The *Environment Act 1990* as shown in this consolidation comprises Act No. 11 of 1990 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Environment Act 1990</i>	11, 1990	Parts 1, 2, 3; and Divisions 1, 2, 4, 5, and 7 of Part 6; and Division 1 and 3 of Part 7; and Part 9, 10, 11; and Items 3, 7 of Schedule 1; and Items 1, 2, 3, 4, 5, 17 and 20 of Schedule 3 commenced 31.12.1990	
<i>Statute Law (Miscellaneous Provisions) Act 1995</i>	13, 1995	27.7.1995	
<i>Bores and Wells Act 1996</i>	19, 1996	20.8.1996	

Table of Amendments

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

Provisions affected	How affected	
2(3)	ad	13, 1995
5	rs	13, 1995
68	rep	19, 1996
69	rep	19, 1996

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