

THE TERRITORY OF HEARD ISLAND AND MCDONALD ISLANDS

Environment Protection and Management (Amendment) Ordinance 1990

No. 1 of 1990

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Heard Island and McDonald Islands Act 1953*.

Dated 9 November 1990.

BILL HAYDEN
Governor-General

By His Excellency's Command,

R. KELLY
Minister of State for the Arts, Sport, the
Environment, Tourism and Territories

An Ordinance to amend the *Environment Protection and Management Ordinance 1987*

Short title

1. This Ordinance may be cited as the *Environment Protection and Management (Amendment) Ordinance 1990*.¹

Principal Ordinance

2. In this Ordinance, “**Principal Ordinance**” means the *Environment Protection and Management Ordinance 1987*.²

Interpretation

3. Section 4 of the Principal Ordinance is amended by omitting “an air-cushion vehicle” from the definitions of “vehicle” and “vessel” and substituting “a hovercraft”.

Ordinance to bind the Crown

4. Section 6 of the Principal Ordinance is amended by inserting in subsection (1) “of the Australian Capital Territory,” after “States,”.

Plans of Management

5. Section 8 of the Principal Ordinance is amended by omitting from paragraph (3) (b) “a date of publication of that notice,” and substituting “less than one month after the date of publication of the notice,”.

Access to the Territory

6. Section 12 of the Principal Ordinance is repealed and the following section substituted:

Access to the Territory

“12. (1) Subject to subsection (2), a person who knowingly or recklessly enters the Territory is guilty of an offence punishable, on conviction, by a fine not exceeding:

- (a) in the case of a natural person — \$10,000 or imprisonment for 5 years or both; or
- (b) in the case of a body corporate — \$50,000.

“(2) A person may enter the Territory:

- (a) in accordance with a permit; or
- (b) during the course of an emergency, involving possible loss of human life or injury to persons, or risk to the safety of an aircraft, a vehicle or a vessel; or
- (c) in the performance of the duties of that person as an inspector.”.

Introduction of diseased organism or live poultry

7. Section 13 of the Principal Ordinance is amended by inserting “knowingly or recklessly” after “who”.

Acts prohibited within the Territory

8. Section 14 of the Principal Ordinance is amended:

- (a) by omitting from subsection (1) “A person who, except in accordance with a permit:” and substituting “Subject to subsection (2), a person who, knowingly or recklessly:”;
- (b) by omitting “enters the Territory,” from paragraph (1) (e);
- (c) by omitting subsection (2) and substituting the following subsection:

“(2) A person does not commit an offence under subsection (1) if the act in question:

- (a) was done to avoid possible loss of human life or injury to persons, or risk to the safety of an aircraft, a vehicle or a vessel; or
- (b) was done in accordance with a permit issued under this Ordinance, the *Endangered Species Ordinance 1980* or the *Migratory Birds Ordinance 1980*”.

Permits

9. Section 15 of the Principal Ordinance is amended by omitting from subsection (4) “fees” and substituting “fees, not exceeding \$50,”.

Contravening conditions of permits

10. Section 18 of the Principal Ordinance is amended by inserting “knowingly or recklessly” after “who”.

11. After section 19 of the Principal Ordinance the following section is inserted:

Delegation of powers

“19A. The Minister may, by instrument signed by him or her, delegate to a person all or any of the powers conferred on the Minister by sections 15 and 19, other than the power to approve a form of application for a permit.”.

Appointment of inspectors

12. Section 20 of the Principal Ordinance is amended by omitting from subsection (3) “a certificate” and substituting “an identity card that bears a photograph of the holder and contains a statement”.

Return of inspectors’ certificates

13. Section 21 of the Principal Ordinance is amended:

- (a) by omitting “a certificate” and substituting “an identity card”;
- (b) by omitting “that certificate” and substituting “that identity card”.

Review of decisions

14. Section 23 of the Principal Ordinance is amended:

- (a) by omitting from subsection (2) “in writing served personally or by post on” and substituting “, served in accordance with subsection (2A), notify”;
- (b) by omitting from subsection (2) “notify that applicant or permit holder of the decision so made,” and substituting “of the decision”;
- (c) by inserting after subsection (2) the following subsection:

“(2A) A notice under subsection (2) shall be served on the applicant or permit holder, as the case may be, within 28 days of the making of the decision to which it relates, and may be served:

- (a) personally; or
- (b) by post; or
- (c) if the person to be served is not present in a State or internal Territory, by radio, telephone or other electronic means.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 16 November 1990.

2. No. 1, 1987.